

Resource Consent Hearings Guidelines

A resource consent hearing is a public meeting to give all parties a fair opportunity to present facts and to make their views known on an application for resource consent.

The Resource Management Act 1991 (the Act) covers the hearing process generally from Sections 100 to 103B.

You can talk with the RMA Hearings Facilitator about your hearing and any questions about the resource consent hearing process.

Hearings Panel

A Hearings Panel is made up of either three Councillors (Council Hearings Committee - one of whom will act as a Chairperson) and/or an Independent Commissioner. Their role is to listen to arguments for and against a proposal put forward by the applicant and submitters, and make a final decision after the hearing.

Inability to Attend

If you are a submitter at a hearing, but are unable to attend the hearing, please advise the RMA Hearings Facilitator or the Resource Management Officer processing the application.

Pre-Circulation of Evidence (Section 103B)

As an **applicant** all of your evidence for a hearing is required to be pre-circulated to all parties before the hearing, Section 103B outlines these timeframes. The Hearings Meeting Notice (which advises of the hearing date) will provide details of the due dates for providing evidence (no later than 10 working days before the hearing).

As a **submitter** at a hearing your evidence for a hearing is only required to be pre-circulated to all parties before the hearing if you have an expert witness appearing with you/ on your behalf, Section 103B outlines these timeframes. The Hearings Meeting Notice (which advises of the hearing date) will provide details of the due dates for providing evidence (no later than 5 working days before the hearing).

Council evidence at a hearing will be pre-circulated to all parties before the hearing (no later than 15 working days before the hearing).

Circulation of evidence is by way of email, and will also be available on the Council website through Property Files by the dates detailed in the Hearing Meeting Notice.

Presentation Aids

Council Chambers has two television screens which are able to be used for presenting pdf documents, PowerPoint presentations, photos or videos. Please contact the RMA Hearings Facilitator, prior to the hearing, to organise this for you.

Translation/Interpretation Services

If you or your witnesses intend on giving evidence or making a statement in Maori (or any language other than English), or are intending to invoke the provisions of Section 42 of the Act (Protection of Sensitive Information), please contact the RMA Hearings Facilitator **at least 7 working days prior to the hearing**.

On The Day Information

If you are taking part in a hearing, please report to Council's Reception where a Customer Services Officer will direct you to the hearing venue. This is usually in Council Chambers on the first floor (other venues may also be used). This will be outlined on the Hearing Meeting Notice sent to you which advises of the hearing date and time. You can enter at any time and sit in the public gallery at the rear of the chambers or in the designated seats for either submitters or the applicant. You are advised to be there at least 5 or 10 minutes before the hearing so proceedings can start on time. A photo has been supplied to show seating arrangements (see picture over the page). The RMA Hearings Facilitator will be on hand if you require assistance.

As a result of the Covid-19 pandemic Council has changed its practice in respect of the process on the day of the hearing. There is to be no provision of hard copy documents at the hearing. All documents previously tabled at the hearing must now be provided electronically prior to the hearing. Please see the additional evidence due date on the hearing notice.

Car Parking

For hearings held at the Council Chambers the Alfred Street metered carpark is available at the back of Council.

Hearing Proceedings

The Committee Chairperson or Independent Commissioner will introduce the application and ask the parties to identify themselves. If you have time constraints, mention them at this stage and they will be accommodated, if possible.

The hearing begins with the applicant and their witnesses presenting their submissions/evidence, after which the Hearings Panel (and submitters, through the Chair) are able to ask questions of clarification. Cross examination is strictly prohibited.

Next, submitters and their witnesses present their submissions/evidence. When the Hearings Panel has questioned them, the applicant will be given the opportunity to ask questions (again, of clarification only) through the Hearings Panel Chair.

The Resource Management Officer will have the opportunity to speak to their Section 42A report on the application and any other Council witnesses in attendance.

The applicant has the right of reply to points raised by, or on behalf of, submitters and the Resource Management Officer. This should be limited to responding to outstanding matters raised during the hearing, not introducing new matters. The Hearings Panel will either adjourn or officially close the hearing at the end of the day's proceedings.

Deliberations

The Hearings Panel undertakes deliberations and decision-making and writing in a non-public setting.

Decision on Applications

Parties to an application will be notified of the decision on the application, irrespective of whether they supported or opposed it, or whether they attended the hearing. A decision is required to be issued within 15 working days after the official close of the hearing, but under certain circumstances the Act allows for that period to be extended if needed using Section 37.

Resource Consent Hearings Fees

Applicant

Under Sections 36(1) and 36AAB(2) of the Act, a hearing deposit fee will be required to be paid prior to the hearing to avoid the hearing and/or the decision release being delayed. An invoice for the hearing deposit fee will be forwarded to you on confirmation of a hearing date.

Please inform the RMA Hearings Facilitator when payment has been made to avoid the hearing or the release of your decision being delayed.

The final cost of processing the application is based on actual time and costs in accordance with Council's charging policy. If actual costs exceed the fee you paid when lodging the application and the hearing deposit fee an invoice will be issued (if actual costs are less, a refund will be made).

Submitter

There is no cost to a submitter making a submission on an application other than what it will cost in providing printed copies of their evidence at the hearing.

Appeals

Your status as an applicant/person making a submission provides you with certain legal rights with regard to the decision.

For your general guidance, Sections 120 and 121 of the Act provide information with regard to appeals.

If you wish to exercise your right of appeal, a "Notice of Appeal" is required to be lodged with the Registrar of the Environment Court and served on Council within 15 working days of notice of the decision being received. The address of the Environment Court is PO Box 2069, Christchurch 8140.

If you are intending to exercise your rights regarding the decision, it is strongly recommended that you seek legal advice.



For further information please search online for the Ministry for the Environment Guidelines: "An Everyday Guide to the RMA: Appearing at a council resource consent hearing"

<http://www.mfe.govt.nz/rma/processes-and-how-get-involved/everyday-guide-rma>

For further assistance, please contact:

**RMA Hearings Facilitator
Marlborough District Council**