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## RESOURCE CONSENT GUIDE

### 1. Do you need a Resource Consent?

Every region or district/city has its own ways of dealing with resource management issues. If you wish to do something with your land, it is wise to talk to your regional or local (district or city) council. In their regional and district plans, councils identify different types of activities.

You can establish yourself whether you need a Resource Consent, and if so, which kind of consent. It is important to ask the right questions, and to give pertinent information. Interpretation of the district plan is important. You have to choose your wording carefully. Your council can assist you. They should be helpful and approachable, and have answers to the questions that you may have. If you do not have the time to deal with council yourself, or feel insecure in dealing with them, or are unsure as to what questions to ask, you may wish to seek professional help from a planning consultancy firm. This can help to reduce your exposure to risk, or save you time. Canmap Hawley is one of those firms that can assist you. We believe we can give you pertinent, honest and professional advice. Often applicants choose to obtain professional assistance from a planning consultancy. This means that you can be sure the application is adequately assessed and take into account the relevant provisions of the statutory documents.

To assist you, the activities in district plans include:

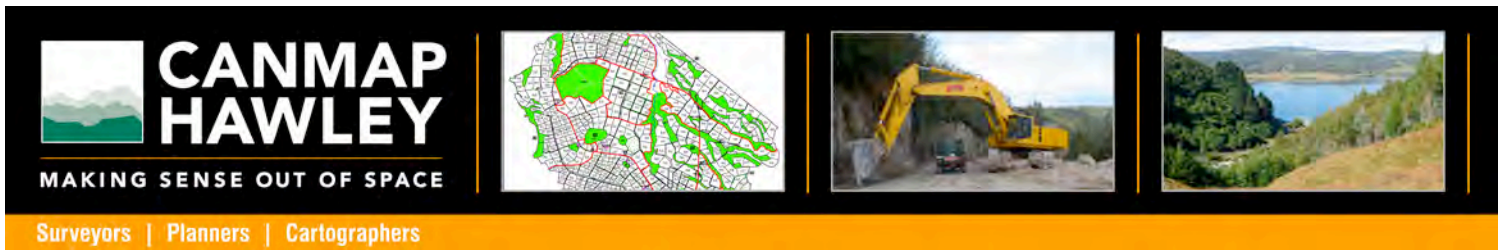
- Permitted activities - if your activity complies with standards set out in the plan for a permitted activity you do not need a Resource Consent.
- Controlled activities - you will need a Resource Consent. The council cannot decline (unless there are certain circumstances such as inundation, erosion etc) your application but may include conditions on how you carry out the activity. Conditions can only be imposed for matters the council has listed in the district or regional plan.
- Restricted Discretionary activities – you will need a Resource Consent. Council may either approve (often with conditions), or decline your application. Council must consider only those matters specified in the plan to which it has restricted the exercise of its discretionary.
- Discretionary activities - you will need a Resource Consent. The council may decide to approve (often with conditions), or decline your application.
- Non-complying activities –again, you will need a Resource Consent. The council may approve (often with conditions), or decline your application. The council must decline your application if it has more than a minor effect on the environment and contravenes the district or regional plan.
- Prohibited activities - you cannot get a resource consent for prohibited activities. They are expressly prohibited in a plan.



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Therefore, if an activity is classified in a plan as controlled, discretionary or non-complying a Resource Consent will be necessary.

## 2. How to get a Resource Consent

If you need a Resource Consent, there are a number of things you should do at the council office. These are listed below.

It is important to ask the right questions, and to give the council the right information. Interpretation of the district plan is important. You also have to choose the wording of your proposal carefully. Your council can assist you. They should be helpful and approachable, and have answers to the questions that you may have. If you do not have the time to deal with a council yourself, feel insecure in dealing with them, you may wish to seek professional help from a planning consultancy firm. This can help to reduce your exposure to risk, or save you time. Canmap Hawley is one of those firms that can assist you. We believe we can give you pertinent, honest and professional advice.

- Get the correct application form/s.
- Obtain any information they may have on the land you hold an interest in.
- Talk through your proposal with council staff. This gives you a good idea how the council will process your application.
- Find out what information they need, and how much detail is required.
- Determine the rules from the relevant plan, especially those relating to criteria the council uses when deciding on your application.
- Find out about the consent process (including the required assessment of environmental effects)- how it works and how long things take.
- Ask for an estimate of cost.

## 3. What is an AEE and why do I need one?

An AEE is a statement of the effects of a proposed activity on the environment. This statement of environmental effects is a very important component of your Resource Consent application. An AEE is a statutory requirement and must address those areas identified in the RMA. The main purpose in preparing an AEE is to provide the council with reliable information about the likely environmental effects of an activity so that the council (and potential affected parties/submitters) can make informed decisions. It also helps you to consider alternative methods, design or locations so that adverse effects on the environment may be avoided, remedied or mitigated. Put simply, it helps to:

- increase understanding of the environmental effects of what you are proposing to do





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- identify alternative ways to avoid, remedy or mitigate adverse effects on the environment
- help you take others' views into account, and
- create a better design of your proposal

#### 4. Preparation of an assessments of environmental effects (AEE)

If you are applying for a Resource Consent you must also prepare an "assessment of environmental effects" (AEE). You can establish yourself whether you can prepare your AEE. The AEE should address the effects of your intended activity, not more and not less than that. If the activity has minimal or very few effects, the AEE can be simple. Alternatively, if there are significant effects, the AEE becomes more complicated. There are tests in the Resource Management Act 1991 and relevant regional district plan as to whether the effects are minor or not. Consultation will also assist in determining the nature and significance of effects.

Your council can assist you with advice on what you will need to cover in your AEE. In some cases they will insist on professional input, in other cases they may be willing to take your word for the determination of effects.

#### 5. The consent process

It is important in your application to address a range of matters that we have outlined below. You may wish to do this yourself. Your council will give you some assistance on how to go about this. If you do not have the time to deal with a council yourself, or feel insecure in dealing with them, you may wish to seek professional help from a planning consultancy firm. Canmap Hawley is one of those firms that can assist you. We believe we can give you pertinent, honest and professional advice.

The process for dealing with Resource Consent applications is:

- Application is lodged.
- Council 'vet' it to ensure adequate.
- Carry's out site visit.
- Notification/consultation Assessment.
- Requests for further information.
- The application may need to be publicly notified.
- A report and recommendation on your application is prepared, usually by a council planning officer or consultant.
- There may be a pre-hearing and/or a hearing.



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- A decision will be made on your application. It can take about four weeks.
- You will be advised of the Council's decision in writing, and the reasons for that decision.
- You, and any people who made submissions, can appeal the Council's decision to the Environment Court within 15 working days of the decision being notified.

Decisions are officially made by the council. In practice they are usually made under delegated authority by council sub-committees, which may include council officers. Some decisions are made by officers alone. This depends on the delegation practices of councils.

In coming to a decision on a Resource Consent application, the council is required by the Resource Management Act to consider the application, and

- Part II of the Act, which outline its purpose and principles)
- Section 104, including but not limited to:
  - Any actual or potential effects on the environment of allowing the activity;
  - Any relevant policy statements or plans;
  - The nature of any discharges and the sensitivity of the proposed receiving environment, reasons for the applicant's choice, and any possible alternatives.
- Any submissions made by the public.

## 6. Notification of Resource Consent applications

Depending on the type of activity that Resource Consent is being applied for, the application may either be processed on a non-notified basis, or it will be publicly notified to allow people the opportunity to make a submission. This is an important decision which will be made by the council. It will have cost implications for you, and may also affect the chances of the application's approval.

You can establish yourself whether you can ask the council to not notify the application. Your council can assist you with information on this. They should be helpful and approachable, and have answers to any pertinent questions that you may have. If you do not have the time to deal with a council yourself, or feel insecure in dealing with them, you may wish to seek professional help from a planning consultancy firm.

Canmap Hawley is one of those firms that can assist you. We believe we can give you pertinent, honest and professional advice. The Resource Management Act says that all applications for Resource Consent must be publicly notified unless one or more of the exceptions apply. In practice these exceptions apply in the majority of situations. In general, only five per cent all applications are publicly notified.

Non-notified applications can be:



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- Applications for subdivision consent that are deemed controlled activities in a district plan.
- Applications for controlled or restricted discretionary activities where the plan makes clear that they will be dealt with without the need to obtain the written approval of affected parties.
- Applications for controlled activities where the written approval of all affected parties identified by the consent authority has been obtained.
- Applications for discretionary or non-complying activities where the consent authority is satisfied that the adverse effects on the environment will be minor and written approval has been obtained from all affected parties.

If your application is not notified, then there is no public submissions process. To see what happens further with these applications, please refer to section 11.

Proposals that will have a greater, more widespread effect on the environment are more likely to be notified than those that will not. If the council deems that the proposal has an effect on a party, and that party has not given an affected party's consent, then the application will also be notified.

If your application is publicly notified others in the community can have their say (make a submission). Submissions have to be made within twenty working days from the date of formal notification.

For the applicant a decision to notify often means more cost, a longer processing time, and a reduced chance that the application will be approved.

## 7. Public notification

Councils notify Resource Consents in three main ways:

- Circulating a notice about the application to people who are affected.
- A notice displayed at the application site.
- A notice in the Public Notices section of the daily and/or community newspaper.

Council's also have the ability to limit the extent of their notification to a defined number of parties.

## 8. Submissions to notified applications

People can make their own submissions to any application. Often they choose to obtain professional help from a planning consultancy. This means that you can be sure that the points you wish to make will be legally relevant, and take into account the provisions of the relevant plans. Canmap Hawley is one of the firms that offer people such help.

Anybody can make submissions on your application for Resource Consent that have been publicly notified. People may become aware of the application because the council has notified certain people as a directly affected party, or they may learn about it through a public notice in the newspaper or on a sign put up at the



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application's site. Making a submission provides an opportunity for the council to address any concerns submitters may have about the proposal.

However, a number of concerns unrelated to environmental matters are not appropriate to pursue under the RMA, and are not valid grounds for a submission. For example, you cannot use the submission process to object to a trade competitor's proposal on the grounds that it would affect the commercial viability of your own business.

Submissions must be lodged within 20 working days of public notification, and there is no opportunity to make further submissions.

## 9. Pre-hearing meetings

The Council may decide to hold a pre-hearing meeting. Pre-hearing meetings are seen as a "good practice" tool, and are provided for in the Resource Management Act. They can be held at any time, even before an application for a Resource Consent is lodged. They aim to clarify issues and resolve disputes in what can be an adversarial process. You do not have to attend these meetings, but they are important. If all parties do attend such a meeting, there's a chance a full hearing won't be needed; or the number of issues are reduced.

You can establish yourself whether you will attend the meeting on your own, or to be accompanied by a professional planning consultant. Sometimes it may be easier to deal directly with submitters on an informal basis. These people may be neighbours or others and you may value having a good and friendly relationship with them. In other cases a planning consultant may be of help. They are professional and dispassionate, and you may gain a better outcome for yourself. Choosing to use a consultant may also assist in maintaining or building good relationships with the other submitters. No case is the same, and you will need to apply judgment.

The following you should know about pre-hearing meetings:

- A pre-hearing is less formal, less stressful, and less contentious than a full hearing.
- Ideas and information can be exchanged, and feedback given. Sometimes, new options can be worked through.
- Sometimes the applicant and submitters can reach agreement and resolve any outstanding issues.

## 10. Hearings

The Resource Management Act does not require that hearings be held in every instance. It is uncommon for hearings to be held for non-notified applications. In addition, many notified applications no longer result in a hearing, due in no small part to of pre-hearing meetings process. A hearing is only held when the consent authority considers it necessary or an applicant or submitter requests to be heard.

You can establish yourself whether you will address the hearing yourself, or seek the help of a planning consultant. It will depend on the complexity of the application, your familiarity with council procedures and



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statutory Planning documents and your ability to present a case in a formal public, and somewhat adversarial setting. The alternative is to be accompanied by a professional planning consultant, who are familiar with the format of these hearings, and who know what kind of information is required.

If a hearing is required it is generally held within 25 working days from the close of submissions. If applicants and submitters do not wish to be heard, a hearing is not held. Procedures will vary between different councils; but you will have at least ten days notice of the date, time and location of the hearing. You can attend the hearing whether or not you wish to speak in support of your application. Hearings are expensive to all parties, so it is essential that your case is well prepared and focused on the actual issues.

Councils generally prepare a report, which includes recommendations on an application. As an applicant you will receive a copy of any report on your application five working days before the hearing. You will have the chance to comment on the report at the hearing.

## 11. Joint Hearings

Under the Resource Management Act all relevant Resource Consents should be applied for at the same time. This applies even where these are required by different consent authorities (eg the regional and district council may require separate consents be sought for the same activity). This enables councils to consider the potential effects of the entire activity, rather than looking at specific aspects. In these cases the RMA encourages joint hearings for Resource Consent applications relating to the same proposal lodged with more than one authority, or combined hearings for more than one application relating to the same proposal lodged with the same authority. Where more than one consent authority is involved, the regional council generally acts as the co-ordinating agency. Joint and combined hearings enable all elements of a relatively complex proposal to be dealt with simultaneously, thereby significantly speeding up the process.

## 12. Hearing procedures

The hearing is conducted by a panel, generally councillors and/or specially appointed expert commissioner/s. Each council has its own procedures, which must be appropriate and fair.

Most often, applicants present their case first. Each submitter then presents their case. Applicants and submitters can be represented by a Planning Consultant, lawyer or other consultant, and they both have the right to call witnesses. Applicants normally get the right of reply. Although cross-examination is not allowed, the hearing panel may ask questions to clarify any matters presented.

Written or spoken evidence in Maori may be received but most councils need some advance warning so translation can be arranged.

## 13. The council's decision

A decision will generally be made within fifteen working days following the hearing, or within twenty working days of the closing of submissions if no hearing was held. If the application was not notified, then a decision



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must be made within twenty working days from the day the application is lodged with the council. Any requests for further information “stops the clock” until the information is received.

You will receive a written copy of the decision, along with the reasons for it.

If an applicant or submitter is unhappy with the decision, they have the right to appeal the decision to the Environment Court. You must appeal within 15 working days of receiving the council decision.

You may wish to make this decision yourself, but appeals to the Court are costly. The Court may require you to pay the cost of the Court and other parties involved, if the Court believes your case has no merit, or is badly conducted. Both legal advice and planning consultancy help is generally required.

#### **14. Resource Consent conditions**

Many consents may be granted subject to conditions the applicant has to fulfil in order to undertake the proposed activity. For example, you may be given permission to build a shop providing you include some kind of parking for customers. Very often, the conditions of the Resource Consent will be monitored to ensure compliance, as will the effects of the activity on the environment.

The imposed conditions may be reasonable or not. There are possibilities to object to conditions, if they are not reasonable, or do not relate to the (potential) effects of the proposed activity.

As qualified and professionally recognised (by the New Zealand Planning Institute), we are in the best seat in the house to guide and advise you to ensure that your decisions are informed ones and to make the process as smooth as possible.

*\* This guide has been based on information provided by the Ministry for the Environment. More information from the Ministry can be found on their website: [www.mfe.govt.nz](http://www.mfe.govt.nz)*

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