

Resource Consent Hearings

for publicly notified and limited notified applications

What is a hearing?

A hearing is a formal meeting where decision-makers consider publicly notified or limited notified resource consent applications where submissions have been received.

If no submissions are received but the Council officers do not support the proposal then a hearing will also usually be held.

Do I have to wait for a formal hearing to discuss the application?

If submissions have been made on publicly notified or limited notified resource consent applications, pre-hearing meetings provide an opportunity for all parties to meet and discuss the application.

The meetings are informal and voluntary. They are led by an independent facilitator and normally include the applicant, submitters and Council Officers.

Discussion at pre-hearing meetings can help to clarify points raised in the application or submissions, and clarify resource management issues. The meeting provides an opportunity to discuss either points of agreement: for example a suitable condition that may satisfy concerns raised, or points of disagreement to be focused on at the formal hearing.

If agreement is reached among parties at a pre-hearing meeting, a more formal hearing may not be required. If clarification or agreement is reached on some issues this can save time at the formal hearing. The outcome of any pre-hearing meeting is reported to the Hearings Panel or Commissioner appointed to consider the application.

If you think a pre-hearing meeting would be useful in your case, please advise the Council planner processing the application.

Who hears the application?

Either a Hearings Panel or a Commissioner will consider an application. Commissioners are independent persons with professional expertise in the area of resource management, who have authority delegated to them by the Council to hear and make decisions on resource consent applications. Hearings Panels are usually made up of a commissioner and two elected representatives (Councillors and Community Board members).

An independent commissioner is appointed if there is a conflict of interest between the Council and the applicant, for example, if a unit within the Council is the applicant for a resource consent application.

Commissioners may also be appointed to hear, and make decisions on an application where requested by an applicant or submitter. Such requests must be made no later than 5 working days after the closing date for submissions on the application.

When and where would the hearing be held?

There is no set timeframe for when a hearing must start, but it is usually around two to four months after the submission period closes, depending on the type of notification.

Hearings must be completed no later than:

- 75 working days after the submission period closes for a publicly notified application.
- 45 working days after the submission period closes for a limited notified application.

The applicant and submitters who wish to be heard are advised of the hearing date several weeks in advance. Hearings are held on weekdays, during working hours.

An applicant can request the Council to suspend processing of their application after the close of the submission period, for example, if they need more time to prepare for the hearing. The Council will inform submitters if this happens. The maximum total length of time an application can be suspended is six months, to give all parties greater certainty about how long it will be before the application is decided.

Hearings are held in the Council's Civic Offices, or another suitably sized venue. Remote access (e.g. Zoom, Skype) can usually be arranged for participants unable to attend in person.

Provision of evidence before the hearing

The Resource Management Act requires pre-circulation of evidence before a hearing commences:

- The Council officers' reports must be circulated at least three weeks before the hearing.
- The applicant's evidence must be provided at least two weeks before the hearing.
- Any submitters who intend to produce "expert evidence" at the hearing must provide it at least one week before the hearing.

Note: Expert evidence is when submitters bring along a professional person, for example a planning consultant, traffic engineer, or other professional, to help support the points made in their submission.

The reason for circulating the evidence is so all parties have time to go through the information before the hearing, which avoids surprises and improves the effectiveness and efficiency of the hearing.

Council Officers' reports

To help the Hearings Panel or Commissioner understand an application for resource consent a Council planner prepares a report. Reports may also be prepared by specialists such as traffic

planners, environmental health officers, landscape architects or other professionals, depending on the issues involved in the application.

The officer reports are not the views of the Hearings Panel or Commissioner, but the opinions of professional people. The decision made by the Hearings Panel or Commissioner will be based on all the evidence presented at the hearing.

The officers' reports will be sent to the applicant and all the submitters wishing to be heard at the hearing.

What happens at a hearing?

A hearing gives the applicant and submitters the opportunity to present their case to the Hearings Panel or a Commissioner. The process is similar to a court hearing but not as formal.

Participants are normally heard in this order:

- Applicant
- Submitters (those in support, then those in opposition)
- Council officers (e.g. planner, traffic planner)
- Right of reply from the applicant.

If you have any special time constraints, please advise the Panel or Commissioner at the commencement of the hearing.

How do I present my evidence or submission?

This is usually done in the form of a written statement, read out at the hearing. You may present your case personally or, alternatively, you may wish to be represented by a friend or a professional person (for example a planner, surveyor, lawyer or architect). You may also bring other people to support you.

Applicants:

Applicants must provide a copy of their evidence to the Council at least 10 working days before the hearing (see page 1).

Submitters:

The Panel/Commissioner will be provided with copies of all submissions before the hearing, however it is helpful if you provide a written copy of any additional material you wish to present at the hearing to support your submission.

This can contain photographs, plans, maps and other documentation. Copies should be made available at the hearing for distribution to all parties. Please note that submitters are only required to pre-circulate their evidence before the hearing if they intend to call "expert evidence" to support their submission.

Please advise the Council prior to the hearing if you wish to use slides or other equipment or if you have any other special requirements. If you wish to speak in Māori, please advise the Council in advance.

The applicant and the submitters are not permitted to cross-examine any of the parties present. However, when it is your turn to speak you may ask the Chairperson/Commissioner to seek clarification of any matter raised during the hearing.

The Panel/Commissioner may also request further information from an applicant at a hearing and adjourn the hearing until the information is provided if necessary.

The applicant is allowed a right of reply after all parties have spoken. This is so they can comment on any matters arising during the hearing. No new evidence may be introduced at this stage.

After hearing the evidence and submissions the Panel/Commissioner may decide to make a site visit to inspect the property affected by the application and familiarise themselves with issues raised. Site visits are normally for Panel Members/Commissioners only. No other parties should be present and no new evidence can be discussed.

Once the Panel/Commissioner has heard all the evidence and visited the site, and is satisfied they have enough information, the hearing will be declared closed.

The decision

The decision is usually reserved (i.e. made in private). A written decision will be sent to the applicant and submitters within 15 working days of the close of the hearing.

The applicant, submitters, or both, can usually appeal the resource consent decision to the Environment Court (depending on the date the application was lodged). This is part of the District Court system and separate from the Council.

Appeals must be lodged with the Environment Court and a copy served on the Council within 15 working days of the date the Council's decision is received. A filing fee applies when an appeal is lodged with the Court. Information about appeal rights and lodging an appeal is sent out to all parties with the Council's decision.

If you are thinking of lodging an appeal we strongly recommend that you seek legal assistance. A failure to follow proper procedure at this stage may result in your appeal being dismissed by the Court without a hearing. The Court sometimes requires appellants to pay costs to other parties, so you need to be well informed of such issues.

Who can attend a hearing?

All hearings are public and the media and members of the public are welcome to attend. If you are about to be involved as an applicant or submitter in a hearing it can be helpful to come to an earlier hearing as an observer. Please contact the Council on 941-8999 for dates and times of hearings, or refer to the Council website for upcoming hearing dates <https://ccc.govt.nz/the-council/meetings-agendas-and-minutes>.

For more information

If you require further information about the hearing process please contact the Council's Duty Planner on telephone 941-8999 or email DutyPlanner@ccc.govt.nz.

Community Law Canterbury (telephone 366-6870) provides free advice and assistance on resource management matters and can help you in preparing your case. Alternatively you may wish to talk to your solicitor or a planning consultant.