

Pre-hearing Meetings

What is a pre-hearing meeting?

A pre-hearing meeting is an optional step within the resource consent application process.

It is an informal meeting held before the hearing of a notified resource consent application, with a purpose of clarifying, mediating or resolving any issues raised. It can be requested by the applicant or a submitter, or initiated by the Council itself.

A pre-hearing meeting is commonly used when it is considered likely to achieve one or more of its key purposes:

- The first of these is an improved understanding for applicant and submitters alike of what the applicant is trying to achieve and what it is that is giving concern to the submitters. An increase in understanding can lead to a change in either the application, or the submissions, or both. It can also lead to an improved environment in which any subsequent hearing will be conducted, even if application and submissions are not changed.
- The second purpose is similar to the first, although with more emphasis on seeking to resolve some or all of the differences between the parties.

One possible outcome of a pre-hearing meeting is that a hearing becomes unnecessary, or at the most just a formality, with prior expressions of difference already resolved. This may be possible in situations where there is only one, or few, submitters. Nevertheless, reaching an agreement is not compulsory for anybody and the decision on an issue can be left to the later hearing if that is the wish of any one of the parties involved. For applications involving large numbers of submitters, the main value to be gained is clarification of the issues, rather than their resolution.

Why come to a pre-hearing meeting?

A pre-hearing meeting aims to produce an 'all gain' situation - even when no agreement is reached. It has a number of benefits, including:

- Helping all parties to understand the application, the concerns it has raised, and the planning process.
- Providing an informal opportunity to share your concerns and discuss outcomes (this is not possible in the formal hearing process).
- Removing the need to attend the hearing if matters are resolved. If the meeting reaches a favorable decision, you may also find that everyone accepts the result and there are no further concerns. In this case, the applicant may be asked to change the application, or the Council staff may draft conditions to attach to the consent which resolve your concerns. On this basis, you may decide you no longer wish to pursue your submission.

For applicant and submitters alike, an attraction of the pre-hearing meeting should be that the parties have a chance to work through the issues in a relatively informal environment, at low relative cost, and have the opportunity to reach their own agreement on terms that they can all live with.

When differences are left to a Hearings Panel/Commissioner, or the Environment Court, the decision is not made by the parties but by someone else and possibly will not be to anyone's satisfaction. The process will also be more expensive.

Who attends?

A pre-hearing meeting draws together all parties (except in most cases the decision maker) and is likely to include the applicant, submitters, and Council staff and advisers. The meeting is facilitated by an independent and unbiased person appointed by the Council. This can sometimes be a Council staff member who will not be involved in processing the application.

Before the meeting you should:

1. Ensure you understand what issues are relevant under the RMA, the pre-hearing process and the later hearing and appeal processes. Discuss this with someone at the Council if you need to.
2. Establish whether there are any gaps in the information you have, or whether you need more information to understand the application better. If you need more information, contact either the Council or the applicant.
3. Establish, on the information available to you, the reasons why you want a particular result to this application.
4. Ensure you are clear about your concerns. How might this application affect you? You should prepare yourself to express these concerns at the meeting.

During the meeting you should:

1. Be positive and prepared to discuss a number of alternatives, compromises and changes. While you do not have to agree to any of these, discussing them will help everyone get a better idea of where all parties are 'coming from'. You may find that people suggest satisfactory solutions that you had not previously considered.
2. Try not to be pressured. Ask yourself, is the agreement worth making? If it's not, then don't agree to anything. Remember, you have the right to seek advice privately on any agreement you are considering before making any commitment. As a general rule, you should not be asked to sign any agreement at the meeting. However, if this happens, the agreement should be properly drafted and, if you are asked to agree to it, you should be able to reassess it in private before providing final agreement.
3. Be clear about any solutions reached. Ask for clarification if you are not sure.

After the meeting:

After the pre-hearing meeting, a report is prepared and circulated to all parties prior to the hearing being held. This report will set out the issues agreed and the issues outstanding and may also deal with matters in relation to the hearing.

If you are satisfied with the result of the meeting, you may choose to withdraw your submission. If you do this, you decline the right to speak at the hearing, and have no right of appeal of the Council's decision. So you need to be sure that your concerns have been addressed by any changes to the application, or by any conditions Council staff recommend placing on the consent. Before you take this option, you should discuss the matter with staff at the Council and ensure that the conditions you have sighted and agreed to will be endorsed by the decision-makers.

If you are not satisfied with the result of the meeting, you can still withdraw your request to be heard at the hearing. This may remove the need for a formal hearing, but the submission remains valid and must be considered by the Council when it makes a decision on the application. You also retain the right to appeal the decision.

In deciding whether you want to be heard at a hearing, you need to be aware of how the hearing process operates. A hearing can be relatively formal. All those involved state their case to a Hearings Panel or Commissioner who then make a decision. There is usually no ability to ask questions at these hearings or to discuss each other's evidence. Generally no new issues beyond the submission may be raised.

Further information

If you think a pre-hearing meeting would be useful in your case, or you would like further information regarding a pre-hearing meeting, please contact the planner responsible for processing the application on 941 8999.