

A7

applying for resource consent

A7.1 Resource Consents

A7-1.1 General

- A7-1.1.i A resource consent is legal approval to undertake an activity that is not permitted by a rule in a Regional Plan, Proposed Regional Plan, or that contravenes the Resource Management Act.
- An application for resource consent is required where a discharge to air is:
- a) a controlled activity, or
 - b) a discretionary activity (including a restricted discretionary activity), or
 - c) a non-complying activity.
- Discharges to air that cannot meet the standards, terms, or conditions of permitted activities will fall into one of the above categories (refer to Chapter A6 for details). Consent applications for prohibited activities (see AQr.20) cannot be accepted.
- A7-1.1.ii Applications for resource consent must be made in writing to the Council and be accompanied by the application fee. Various procedural steps are required before a decision on the application can be made. These include checking the adequacy of the information supplied and the assessment of effects, deciding whether the application should be notified or not, and if required, arranging notification, receiving submissions, and arranging prehearing meetings and hearings. The Act sets time limits for the various steps.
- A7-1.1.iii In this plan, resource consents only relate to discharge permits to air in terms of section 87e.
- A7-1.1.iv Unless specified otherwise a resource consent lapses after a period of 5 years if it has not been given effect to. Consents may be limited in time, with a maximum of 35 years.
- A7-1.1.v Consents can be granted for 'one-off' activities or generic activities.

A7-1.2 Information to be Included with Applications

- A7-1.2.i Every application for a resource consent must provide a full description of the proposal and sufficient information to enable the Council and the general public to understand the nature of the proposal and its effects. Further information may be requested where the application contains insufficient material to enable an appropriate understanding of the nature of the proposal and its effects. Processing of an application may be postponed until the necessary information is received.
- A7-1.2.ii The Council has the power under section 92 of the Act to require further information from the applicant for a resource consent in particular cases, so this list is not necessarily exhaustive.
- All applications must include:
- a) names and addresses of all applicants and owners and occupiers of the land
 - b) address or location and full legal description, including a current copy of certificate of title for the land
 - c) reference to any other resource consent required with respect to the proposal
 - d) plans drawn to a metric scale (either 1:250, 1:200, 1:100 or an approved alternative) with a north point
 - e) any other matter set out in Appendix AQ1 for
 - i) non-complying small-scale burners
 - ii) large-scale fuel burning appliances
 - iii) industrial and trade premises or processes
 - iv) outdoor burning
 - v) agrichemical spraying
 - vi) intensive farming
 - vii) waste management

A7-1.3 Assessment of Effects

- A7-1.3.i Applications must include an assessment of any actual or potential effects that the activity may have on the environment and the ways in which adverse effects may be mitigated. The Assessment of Effects must be of such detail that is consistent with the scale and significance of the likely actual and potential effects of the proposal. In the case of a controlled activity, the assessment needs to cover only the matters over which control is reserved, as stated in the relevant rules. These are stated in the controlled column of the Rule Table, and in the rules that precede the Rule Table, in each zone chapter. Similarly, for a restricted discretionary activity the assessment need only cover those matters over which discretion has been restricted.
- A7-1.3.ii The Fourth Schedule of the Act sets out the matters which should be addressed in an Assessment of Effects. In preparing such an assessment, consideration should be given to any positive effect as well as any adverse effect. In addition to those matters specified in the Fourth Schedule, assessments should include, where appropriate, an assessment of effects on:
- a) adjacent activities in terms of any effects as a result of the discharge of dust, odour, smoke or other contaminants

- b) the social, economic and cultural well-being of the community
- c) any special localities, areas, buildings, objects, sites or natural features of special value identified in the Plan
- d) amenity values of a locality
- e) natural hazards
- f) any relevant matter in the assessment criteria for the rule in question
- g) any other relevant matter.

A7-1.4 Notification

- A7-1.4.i All resource consent applications have to be publicly notified, except as provided in sections 93 and 94 of the Act. Under this Plan, applications will generally not be notified in these cases:
- a) Controlled activities.
 - b) Restricted discretionary activities where the Plan states that resource consents will be considered without notification or obtaining written approval of affected persons, under section 94(1A).
 - c) Discretionary activities and non-complying activities where any adverse effect on the environment will be minor and where written approval is obtained from every person whom the Council is satisfied may be adversely affected by the granting of the resource consent.
- A7-1.4.ii Under c) where the Council considers that a proposal may have more than a minor adverse effect on the environment, or where written approval cannot be obtained from every person whom the Council considers may be adversely affected, an application will be required to be publicly notified.
- A7-1.4.iii In some circumstances limited notification is mandated under the Act. This means the application need not be publicly notified, but persons deemed to be adversely affected by the proposal do have to be served notice.
- A7-1.4.iv Applications that include sufficient information will be notified within 10 working days of being lodged with the Council. Notice of the application will be sent to people whom the Council considers are likely to be directly affected by the proposal and other parties to those specified in the Act. Notice will also be advertised in an appropriate newspaper and displayed on the site. Submissions on an application may be made by any person, who must lodge them with the Council within 20 working days and serve them on the applicant.

A7-1.5 Hearings

- A7-1.5.i A hearing is a meeting where the Council (or a committee, or a commissioner, or someone to whom decision making has been lawfully delegated) hears an explanation of a proposal and the reasons for submissions. Hearings are generally held when submissions have been received in respect of a resource consent application, a plan change or a review of the Plan.
- A7-1.5.ii A prehearing meeting may be held to clarify, mediate, or facilitate resolution of matters and issues before a hearing. The Council may,

on its own initiative, or upon request, invite applicants and submitters to meet each other and other people as the Council thinks fit.

- A7-1.5.iii Advance notice of the date, time and place of hearing is always given. The applicant and any person who has lodged a submission or persons representing them, will be given the opportunity to express their point of view. The Resource Management Act sets out various requirements for hearings. It requires that unnecessary formality be avoided, tikanga Maori be recognised where appropriate, questioning of parties and witnesses is restricted to questions from the chairperson and members of the hearing body, and cross examination is not permitted. (See Sections 39 to 42A and 100 to 103.) A degree of formality will often be necessary to ensure that everyone gets a fair hearing and the principles of natural justice are observed.
- A7-1.5.iv Following the hearing the Council will make a decision and indicate its reasons in writing.

A7-1.6 Decisions

- A7-1.6.i In making its decision the Council is required to have regard to various matters stated in section 104 of the Act. The full section should be read. The following matters from section 104 will be relevant: Part II of the Act; the effects on the environment of allowing the activity; any relevant regulations, national policy statements, New Zealand Coastal Policy Statement, Regional Policy Statement, objectives policies and rules of any relevant Plan, Proposed Plan, designations or heritage orders, and other matters that are relevant. (This paragraph does not attempt to give a full description of the Council's decision making process.)

A7-1.7 Conditions of Consent

- A7-1.7.i The Council, in granting a resource consent, may include one or more conditions which are considered appropriate (see Section 108 of the Resource Management Act 1991). The conditions may include:
- a) Any matter to avoid, remedy or mitigate adverse effects likely to arise from the activity and to assist in achieving the desired outcomes identified in the Plan.
 - b) Requirements to ensure positive effects to offset any adverse effect.
 - c) Bonds or covenants or both to ensure performance or compliance of any conditions imposed.
 - d) An administrative charge in respect of processing applications, monitoring and supervision of resource consents.
 - e) Notice that some or all conditions may be reviewed at some time in the future.
 - f) Conditions requiring the consent holder to carry out certain monitoring regarding the effects of their activities.
 - g) Any other condition that the Council considers appropriate.

A7-1.8 Appeals

A7-1.8.i An appeal may be made to the Environment Court against the whole or any part of a decision of the Council on a resource consent application (See sections 120 and 121 of the Resource Management Act 1991.) There is a limited time to appeal. If you are not sure about your rights or the procedures in relation to appeals, you are advised to seek qualified advice.

A7-1.9 Objections

A7-1.9.i Applicants who are dissatisfied with a decision of the Council may in certain circumstances lodge an objection and obtain a further hearing by the Council. The full circumstances for objections are set out in section 357 of the Act.