



Consultation for resource consent applicants

2.2



Disclaimer

Although every effort has been made to ensure that this guide is as accurate as possible, the Ministry for the Environment will not be held responsible for any action arising out of its use. If you are uncertain about issues raised in this guide then direct reference should be made to the Resource Management Act and further expert advice sought if necessary.

This document may be cited as: Ministry for the Environment. 2021. *Consultation for resource consent applicants. An everyday guide to the Resource Management Act: 2.2*. Wellington: Ministry for the Environment.

Published in February 2021 by the
Ministry for the Environment
Manatū Mō Te Taiao
PO Box 10362, Wellington 6143, New Zealand

ISBN: 978-1-99-003323-0

Publication number: ME 1535

© Crown copyright New Zealand 2021

This document is available on the Ministry for the Environment website:

www.mfe.govt.nz.

Contents

Introduction	4
About this guide	4
About the everyday guides	5
Consent process	6
What is consultation?	7
Why consult?	8
Consultation principles	8
Benefits of consultation	10
Improving outcomes	10
Building relationships	11
Tangata whenua	11
Who do I consult?	13
Difference between affected and interested parties	13
What determines who I should consult?	13
Examples of who to consult	14
Consultation with tangata whenua	15
How do I consult?	17
Where do I start?	17
Is consultation with tangata whenua different?	18
What next?	19
What is expected of me?	21
What can I expect in return?	23
Glossary	25

Introduction

The Resource Management Act 1991 (usually called the RMA) is the main piece of legislation that sets out how we should manage our environment. It's based on the idea of the sustainable management of our resources, and it encourages us (as communities and as individuals) to plan for the future of our environment.

The RMA means that councils set rules and requirements to manage activities ranging from building houses, clearing vegetation, moving earth, or taking water from a stream. The purpose is to ensure activities won't harm our neighbours or communities, or damage the air, water, soil and ecosystems that we and future generations need to survive.

About this guide

This guide is the sixth in a series of 13 guides called An Everyday Guide to the RMA (see more details about the series below).

Thinking about applying for a resource consent? If so, you may need to undertake consultation.

This guide complements the detailed guide, [Applying for a resource consent](#).

Some people see consultation as confusing and difficult. This guide will help you through the process, and show you how it can lead to a better result for your project.

The guide starts with a brief overview of the resource consent process and the role of the council. It then explains the foundations and principles of consultation under the Resource Management Act 1991 (RMA).

It provides general guidance on who to consult, and how. It also outlines what is expected of you as the applicant and what you can expect in return. You will find helpful comments and suggestions throughout.

You should find this guide useful if you're new to the RMA, to the consent process, or to consultation.

The guide has a glossary of RMA terms at the end. Words defined in the glossary are coloured [light orange](#).

About the everyday guides

These guides are intended to help people work with their councils. If you're dealing with the Environmental Protection Authority (EPA), a board of inquiry, or the Environment Court (see the glossary to learn more about these), you might need more technical advice from the EPA (www.epa.govt.nz) or the Environment Court (environmentcourt.govt.nz).

For more information about specific parts of the RMA process, see the full list of guides on our website: www.mfe.govt.nz/rma/processes-and-how-get-involved/everyday-guide-rma.

MORE INFORMATION

- [Applying for a resource consent](#)
- [Understanding national direction](#)

Consent process

The way your consent application proceeds depends on the scale and significance of the effects of your proposal, whether you have written approval from all the people the council considers will be adversely affected, and the type of consent you are applying for.

Officially, the consent process starts when you lodge an application with a council. But by that stage, you are likely to have a pretty clear view of what you're wanting consents for.

The best time to engage in consultation is **before** the **resource consent** process formally begins, but consultation can play a part in all steps of the consent process.

MORE INFORMATION

- [Applying for a resource consent](#)

This contains detailed information about resource consents, making an application, notifications, and other key steps in the process.

What is consultation?

When you are seeking a resource consent, consultation is the process of communicating with people or groups who may be interested in or affected by your proposal. Consulting others early can help you reach agreement that could avoid or ease opposition later in the process. This section sets out the principles of consultation.

Consulting the council

The council will help you identify what types of consent are required (if any), what environmental issues might need to be addressed, and what information is required to support your application. You might consider getting advice from planning consultants, engineers, landscape architects, and archaeologists, if the scale and significance of your proposal warrants it.

Consultation may not be just a pre-application exercise – it can help throughout the consent process, and form the basis for long term relationships with your neighbours and the community.

Consulting people who may be affected

Although the RMA does not require **applicants** to consult with anyone, it's a good idea to consult those you or the council think could be affected by your proposal. In some cases, the council may advise who could be adversely affected. The final decision on who is adversely affected, however, won't be made until after you lodge the application.

If you ask the council early on, you may be able to include any written approvals that you get from potentially **affected persons**, at the time you lodge your application. This can save time, and may mean the council can process your application on a **non-notified** basis – no **submission** or **hearing** processes).

Remember to be upfront about your intentions when contacting any potentially affected person about your application.

MORE INFORMATION

- [Who do I consult?](#)

Why consult?

Public participation is one of the key principles underlying the RMA. We are affected every day by the actions and activities of our neighbours, and by those who use the same resources as us. Therefore, we should talk with others about any plans to change our activities or resource use, and what the implications might be.

The RMA does not require you, as an applicant, to consult anyone about your application for resource consent, but sometimes there's a duty under another Act to consult. We must comply with these duties.

The RMA does require people applying for resource consent to submit a record of any consultation and the responses. This can give decision-makers the information they need to make well-founded decisions.

Of course, consultation can also help the applicant – see [Benefits of consultation](#).

You are not obliged to consult or get written approvals from affected parties before you apply, but it will usually allow the council to process your consent in a more straightforward way. Discuss these potential benefits with the council while you're preparing your application.

Consultation principles

Case law under the RMA provides a number of principles that help define good consultation:

- **Early** – consult as soon as possible, when your proposal is less 'set in concrete'. You will have more flexibility to address issues raised by those interested and affected.
- **Transparent** – be open about what you want to achieve, what scope you may have to change parts of your proposal, and why there might be elements that you may not be able to change.
- **Open mind** – keep your views open to people's responses and to the possible benefits of consultation.
- **Two-way process** – consultation is intended as a reciprocal exchange of information. It requires both you and those consulted to put forward their views, and to listen to and consider other perspectives.

- **Ongoing** – it may be that communication about your project will continue after you have lodged your application, or even after a decision has been made.
- **Agreement not necessary** – consultation does not mean that all parties have to agree to a proposal, although it is expected that they will make a genuine effort. While you may not reach agreement on all issues, points of difference will become clearer or more specific.

Benefits of consultation

At its best, consultation can improve your project and the resource consent application process.

Improving outcomes

Gaining local knowledge

Consultation may reveal information on issues (including things such as local traffic or flooding conditions) or opportunities that are important to your proposal but that you might not be aware of.

Incorporating tangata whenua values and interests

Consulting early with local tangata whenua (iwi, hapū, whanau) can help you both to understand each other's views. Consultation with tangata whenua on your proposal can result in a better application that builds positively on the knowledge and special relationship they have with the environment.

Enhanced proposals and better environmental outcomes

Consultation may provide input that will improve your project or idea and reduce its impact on the natural, physical, cultural and social environment.

Making the consent process easier

Consultation may lessen any concern, doubt or confusion people may have about your proposal (in the absence of accurate information). This can reduce potential opposition, and improve the chances of consent being non-notified and granted.

Be flexible about elements of your proposal that are likely to be of concern. Even if you cannot remove them, they may be designed or handled in a way that reduces opposition without disadvantage to your idea.

Building relationships

With neighbours and community

The resource consent process can sometimes be the start of your involvement with a community. Having a good relationship can enhance public relations, build an awareness of and market for your service or product, and help with a future project or an expansion to your current proposal.

With tangata whenua

The resource consent process may be the start of your relationship with tangata whenua of the area. Working with them to bring your project to fruition can improve the process and final product.

Promote any elements of your proposal that could have a benefit for, or work in with, the interests of neighbours, the community, and tangata whenua. Consider their needs. See your proposal from their perspective.

Tangata whenua

Understanding the Māori world view

Māori are tangata whenua (people of the land). Iwi, hapū and whānau have long histories with their ancestral territories, with interests that the Treaty of Waitangi agreed to protect. Environmental legislation, including the RMA, ensures many of the rights and obligations that tangata whenua have over land and water can continue to be exercised.

For tangata whenua, identity and wellbeing are closely interlinked with the natural world. All life is connected, and people are part of the natural order. The concept of *kaitiakitanga* (guardianship) underpins the way tangata whenua interact with the environment and manage resources in their rohe (tribal territory). Learning about these perspectives, values, and practices can result in a more considered and site appropriate proposal.

Unique to New Zealand and our national identity

Tangata whenua participation in the resource consent process is part of upholding the Treaty of Waitangi. It helps to express environmental

management concepts, relationships, and methods that are unique to our country.

Helping the council assess RMA obligations

Ensure the council can see how your proposal has addressed RMA requirements relating to Māori and the Treaty of Waitangi.

Be as responsive as you can. Identify and address issues of interest to tangata whenua groups before they are raised as a concern with the council.

Who do I consult?

This section will help you identify who you should talk to about your proposal.

Difference between affected and interested parties

A common area of confusion is the difference between people ‘interested’ in your application or proposed activity, and those who are ‘affected’.

‘Affected persons’ are determined by the council as they will experience adverse effects from your proposal that are at least “minor” and are affected in a way that is different from the general public. For example, your neighbour may be adversely affected by the shading from your proposed new building, or people close to your property may be adversely affected by noise from the proposed activity. When you have lodged your application, the council determines who may be an ‘affected person’ and can ask you to get their written approval. Your application will also be put on-hold by the council until they have received the written approval(s).

‘Interested persons or parties’ refers to a broader group than ‘affected persons’ and includes everyone who has an interest in an application, geographic area or issue. The council may suggest that you talk to ‘interested persons or parties’ before lodging your application, and who these people may be.

What determines who I should consult?

Who you should consult can depend on the type of proposal and the effects it could produce.

Statutory considerations also affect whether or not you should consider consulting some people. The RMA and regional and district **plans** specify that, in some cases, councils can only take into account certain matters when considering an application. These cases are where councils have restricted their control or limited their discretion in plans (referred to as ‘**controlled activities**’ and ‘**restricted discretionary activities**’ respectively).

The RMA also allows councils to choose not to consider the effects of activities that are otherwise permitted by their plans. In some cases, consultation may be more limited if your proposal has only limited effects beyond those of an activity that doesn't require consent.

Always think carefully about whether you should consult with tangata whenua to ensure there is due regard for their relationships with their resources and the environment, as this is a matter the council has to take into account in its decision-making.

TIP

Ask the council to guide you on who to consult, and why.

Examples of who to consult

Before you start any consultation, you need to consider:

- What kind of effects will your proposed activity create – visual effects, traffic, noise, dust?
- How far they will extend – to adjoining properties, to the whole neighbourhood, to a stream catchment?
- How big those effects are in the context of the environment – minor, moderate, significant?

Those you might consult include:

- owners, occupiers and users of adjacent and nearby land
- downstream water users
- users of the same groundwater resource
- occupiers of land who live downwind of a proposed discharge to air
- people or groups with a specific interest in the site or area (such as guardians of an estuary)
- tangata whenua (iwi, hapū, whānau)
- statutory, infrastructure and utility organisations (such as government departments, councils, and road or rail authorities).

Think carefully and widely about who you consult, to ensure it is effective. The council may identify someone as being adversely affected, and require their approval. If you are already consulting with the person, they may view your request for approval more favourably.

Consultation with tangata whenua

Tangata whenua may have a stronger interest and concern than other parties over some aspects of your proposal. Issues of particular importance include, but are not limited to, any discharges to water bodies, activities in areas of cultural significance and importance, or activities that could affect natural resources such as pounamu (greenstone), flax or freshwater species like īnanga (whitebait).

Concerns may extend to spiritual, ancestral or historical realms, such as a deep affinity with particular mahinga kai (food-gathering) areas, urupā (burial grounds), or pae o te riri (battlefields). These interests may not be readily apparent to many applicants, or to visitors to a site.

The key is understanding the nature of the connection with a place or feature (this is often referred to as the cultural value), and understanding what impact your proposal might have on that place or feature, and therefore on that connection.

Terms that may be used by tangata whenua include:

- tikanga Māori (Māori traditional rules, culture)
- ahi kaa (continuous occupation)
- mana whenua (customary rights and authority over land)
- kaitiakitanga (guardianship, stewardship, protection).

You may need to consult a number of tangata whenua groups. Much depends on the nature of your proposal, the strength of association of a group to the place or feature, whether the groups have different positions on environmental issues, and the organisational structure and decision-making processes in each group.

Sometimes tangata whenua groups do not agree about who has authority over or interest in a locality. In such cases, you should consider consulting with all the parties concerned.

Some groups you may consult include:

- kaitiaki – generally a person or group with a responsibility to safeguard an area, including fresh or marine water. Kaitiaki are likely to be mandated by an iwi, hapū or marae
- iwi – a tribe, often represented by a trust, rūnanga or iwi authority
- hapū – a sub-tribe or group of whānau (extended family groups)

- other groups – including marae, Māori land trustees, or committees established through a council.

Councils are required to keep a record of contact details for the iwi authorities who exercise kaitiakitanga within the region, as well as for any groups that represent hapū for the purposes of the RMA.

Ask the council to guide you on which tangata whenua groups to consult, and the likely issues of interest.

Te Puni Kōkiri maintains a website (Te Kahui Mangai) that provides a national list of iwi and Māori organisations with Government-recognised mandates to represent their iwi and hapū. It's a useful starting point for basic information about iwi, hapū and marae. Visit: www.tkm.govt.nz

How do I consult?

This section outlines some basic elements of consultation. However, the process will differ depending on the nature of your project or proposal, the environment, and the local community.

Where do I start?

1. Discuss the proposal with the council, who may be able to help you list the parties to consult.
2. Prepare consultation material such as:
 - a brief written description and plans of your idea/proposal
 - a tentative **assessment of environmental effects**
 - measures you would propose to avoid, remedy or mitigate those effects.
3. Consult with identified persons and groups:
 - By email and/or letter at first (usually), with an offer of follow-up contact to discuss the proposal in the following days
 - by telephone (where possible) to confirm that they've received the information you sent, and to arrange further communication (preferably face-to-face) to determine any issues
 - at an on-site meeting, where you explain your proposal.
4. Arrange further information and meetings as needed.

Your consultation material can form the basis for the assessment of environmental effects that you need to submit with your application. You should be asking those you consult whether:

- you have accurately described the potential effects of your activity
- they can identify any you have missed
- the way you propose to deal with those effects is adequate.

Identify as soon as possible whether your proposal may have a significant impact on the environment.

Try to reach agreement with the people you consult with on when they will be in a position to respond. This discussion will give you a good sense of each other's commitments and obligations. Agreed timeframes shouldn't

be too short, unless the party concerned is prepared to make an early commitment. You'll need to be flexible and open to negotiation.

A good consultation process provides builds the time others need to consider your proposals and make meaningful comments. Do not rush this phase. Rushing others to respond may not help build positive relationships.

Avoid large, public meetings because it can be difficult for you and others to communicate well. For large proposals, consider open days or evening events (advertise by letter-drop if for a large audience), one-on-one meetings, or a series of small meetings of people with similar interests.

Is consultation with tangata whenua different?

Consultation can be different for some of the following reasons:

- There may be more than one tangata whenua group for an area (iwi, hapū, whānau).
- Tangata whenua groups often work to different timeframes. They often need to reach consensus among marae committees or elders before responding. Meetings are often held on a monthly basis. Many of these meetings are voluntary and will be held during weekends, or early week evenings.
- Tangata whenua usually prefer personal contact and face-to-face meetings. They may not want to be part of group meetings with other interested parties. Protocols may apply at marae meetings including koha (donations). Ask your tangata whenua contact person for guidance if you are unsure.
- No one person may have all the information you are seeking. Sometimes information will be held only by specific families who for cultural reasons prefer that others do not speak on their behalf.
- Iwi management plans contain useful information on what matters to a particular tangata whenua group, and can help you focus your consultation efforts. Councils are required to keep a list of iwi management plans lodged with them, and make them available for public viewing.
- There may be benefit in asking tangata whenua for a report that describes the importance of a place or resource. This is sometimes called a 'cultural value report' and can clarify some of the broader issues around your proposal that have relevance to your assessment of environmental effects.

- If tangata whenua indicate that they have concerns about your proposal, it is good practice to commission a report that explains how the proposal affects them and gives their recommendations. This may be referred to as a 'cultural impact assessment', 'tangata whenua assessment', or 'cultural value assessment'. The information should be considered part of the suite of technical reports needed to make a good application.
- Depending on the nature and scale of the proposal and its effects, such reports may range from a simple letter to a substantive document. The assessment will take time so communicating early and openly can help you manage project deadlines.
- Treat the information tangata whenua share with you sensitively. This may be outlined in any protocols you establish together.
- Tangata whenua groups may need to seek reimbursement for time and costs incurred during consultation.

Try to reach agreement with tangata whenua groups on how you will engage them in your proposal. Ensure the people you speak with have the authority to represent the view of their iwi, hapū or whānau. This may involve something as simple as an email. Or it might involve developing a memorandum of understanding or protocol for ongoing communication about the operation of your project (once established), or for consultation on future projects.

Before any work is done, find out whether the group has a policy of charging for consultation or advice. If it does, ask for a schedule of fees and standard disbursements, or establish terms of reference to include costs and timeframes for completion.

What next?

- Review your proposal in light of any issues raised.
- Provide feedback (preferably in writing) to parties you consulted, discussing their perspectives and recommendations and how you have accommodated them.
- Continue communication as needed throughout the resource consent process, including further correspondence and meetings.
- Keep a full record of the consultations, and submit it to the council as part of your application, even if consultation has failed or there has been no response.

Keep copies of correspondence and make notes at meetings, so you can give the council an accurate record.

What is expected of me?

Councils expect that applicants will:

- keep in touch with council staff throughout the resource consent process
- report on any consultation, and responses from anyone consulted (as required by [clause 6\(1\)\(f\) of Schedule 4 RMA](#))
- take the lead role in consultation unless it is a major project warranting the council's direct involvement.

Interested and affected parties expect that applicants will:

- demonstrate that they will be flexible
- provide enough information and time to prepare a thoughtful, meaningful response
- consult during the earliest possible stage in the development of your ideas (rather than expecting a response to a final, inflexible version of the project)
- appreciate the time, cost and resource implications.

TIPS FOR CONSULTING

Clearly set out what limits will be put on the consultation, particularly where councils will only be considering certain aspects of the proposal.

Make it clear whether you are consulting generally, or specifically to get written approval (so the application can be non-notified).

Make personal contact in meetings and site visits to allow people to put a face to your project and show that you genuinely acknowledge their role.

As a sign of respect, have owners or senior managers of your company or organisation attend consultation meetings.

Tangata whenua also expect that applicants will:

- acknowledge the legitimacy of tangata whenua involvement
- appreciate that there may be more than one group for an area, and that different groups may have different issues

- understand that they have wide and varied interests in the environment and may be under-resourced (eg, they may need to recover any actual and reasonable costs of responding to requests for consultation)
- be open to working with tangata whenua protocols
- acknowledge that due to the need to reach consensus, tangata whenua groups may work to longer timeframes
- appreciate that their interest may extend beyond the consent process into implementation and ongoing operation of the activity (eg, visiting the site once your proposal has begun operating, and being involved in monitoring any effects).

In your consultation or draft application material, consider providing for tangata whenua groups to be involved in the implementation and ongoing aspects of your proposal.

What can I expect in return?

Applicants can expect the following responses from the different groups involved in a consultation.

Councils will:

- advise on who may need to be consulted and how do this effectively, particularly with tangata whenua groups
- keep and maintain records and details of all iwi and hapū in their region or district, and any planning documents prepared by them and lodged with the council
- make available, or at least alert you to, documentation and information to help consultation (such as iwi management plans)
- review your consultation, particularly in the lead-up to the determination about affected persons and any notification of your application
- advise where you may need to revisit your consultation.

Interested and affected parties will:

- acknowledge your investment in an idea and right to advance a proposal
- appreciate the time and cost implications you may face in consulting with them
- recognise that a proposal is just that, and may be changed before being approved
- give clear, honest and timely responses to consultation
- focus on the environmental effects of the proposal and not on issues beyond the scope of the resource consent process
- respond with positive and proactive feedback on any areas of concern.

Tangata whenua will:

- appreciate that applicants may be unfamiliar with their concerns and protocols, as well as the number of groups and different concerns they may have
- understand that as an applicant, you may not have the power or ability to resolve problems beyond the resource consent process, or the effects that could be connected to your proposal

- operate in a transparent and professional manner, by providing estimates for the costs of their involvement, and cost breakdowns in any invoices for their time
- stick to any commitments you may have jointly reached over the exchange of information, or timelines for responses.

Glossary

The purpose of this glossary is to help you understand the meaning of terms used in this guide. Some of these terms have specific legislative definitions in section 2 of the RMA.

Affected person	Is someone identified by the consent authority (usually the council) as likely to experience adverse effects of a proposal which are at least minor.
Applicant	Person applying for a resource consent, change to existing consent conditions, or a private plan change.
Assessment of environmental effects	A report that the applicant must give to the council with their resource consent application. It outlines the effects that the proposed activity might have on the environment.
Controlled activity	Activities outlined in the RMA, a plan or regulations as 'controlled' which require a resource consent. Resource consents for controlled activities must be granted except in certain circumstances.
Environment Court	A specialist court where people can appeal decisions made by councils on a policy statement or plan, or on a resource consent application; or where they can apply for an enforcement order, or seek a declaration
Hapū	Sub-tribe or group of whānau.
Hearing	Gives people who have already written submissions the chance to speak to the decision-maker, about what a council or an applicant is proposing.
Kaitiaki	A person or group with responsibility, concern or guardianship for an area or water body such as a river.
Kaitiakitanga	Guardianship, stewardship, protection, and conservation of the natural environment.
Non-notified application	A resource consent application which a council decides does not require submissions.
Plan	A plan defined under the RMA, including regional plans and district plans. Regional policy statements are also part of the wider planning framework.

Resource consent	Permission from the local council for an activity that might affect the environment, and that isn't allowed 'as of right' in the district or regional plan.
Resource Management Act 1991 (RMA)	New Zealand's main piece of environmental legislation. It provides a framework for managing the effects of activities on the environment.
Restricted discretionary activity	Means councils may grant or decline your resource consent but are limited in the matters they can consider.
Submission	Comments, opinions, concerns, support or opposition about a proposed development or activity.
Tangata whenua	In relation to a particular area, means the iwi, or hapū, that holds mana whenua over that area.
Whānau	Extended family group.
Working day	Any day except for a weekend day, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday and Labour Day, and those days between (and including) 20 December and 10 January. Note: If Waitangi Day or Anzac Day falls on a weekend day, the following Monday is excluded.