Resource consents

Notification decisions & public interest

24 September 2024



About notified resource consents

 Notified consents allow members of the public, specific people or groups to give feedback on applications that adversely affect them.

 The RMA enables the use of land, unless a plan or National Environment Standards restricts it.



Who makes the decision?

- Council's planner prepares a report. Public notification is addressed first and then limited notification is then addressed if public notification is not required.
- Planners must move through a sequential mandatory step-by-step process in making the notification decision – prescribed in the RMA.
- Planners must only consider the <u>adverse effects</u> of the development for notification assessments - not any positive effects.



Options for notification

Publicly notified consent

- if the application adversely affects the wider environment, including the broader community, to a 'more than minor' extent.
- invites people to make a submission, present at a hearing and have their submission taken into account when making a decision on a resource consent application.



Options for notification

Limited notified consent

If specific persons will be adversely affected by the proposal (the applicant is given the opportunity to seek their written approval first).

- a fact and degree assessment is made by the planner if a person or group is affected in a 'more than less than minor" manner
- just because some people and organisations may have an interest in a proposal, does not mean they may be affected.
- case law has shown that an affected person is one who is 'affected in a manner different from the public generally'.
- being 'interested' in a manner different from the public generally has not been enough.



Options for notification

Non-notified consent

- if national standards or the district plan has rules that preclude notification.
 - Note: Plan Change 2 introduced 32 rules that precluded notification
- if the application will have 'no more than minor' adverse effects on the environment and there are considered to be no 'adversely affected persons'



Special circumstances

Defined under case law:

- for cases which are out of the ordinary
- for unusual or exceptional circumstances, but may be less than extraordinary or unique
- public opinion may be a contributing factor but will not be determinative – it is not the criteria



MfE statistics for 2022/23

37,996 resource consent applications were processed in NZ.
KCDC – 187 resource consent applications

The proportion of new consents notified was 2.36%.
KCDC - notified 0.53% of applications

Councils continued to grant over 99% of all new applications.
KCDC - granted 100% of applications



Elected members & concerned neighbours



CONFUSING BOUNDARIES

There may be an unclear distinction between your role as an elected representative and the role of Council staff and management.



COMPETING DEMANDS

Balancing the demands of constituents, council staff, and other stakeholders is hard, particularly if Council's priorities are unclear.



COMPLEX PROCESSES

Navigating decision-making processes, committees, and protocols can be extremely difficult, especially if you have a pressing concern.



COMPLICATED RELATIONSHIPS

Building productive relationships with community, staff, and other Councillors is tricky - especially with politics and personal agendas.

Responding to community requests: a guide for councillors and executive management, Alicia McKay: www.aliciamckay.co.nz



Operational intervention can lead to:

DUPLICATED EFFORT

Some enquiries are double-handled when customers who are impatient or dissatisfied with the official response turn to Councillors.

DECREASED EFFICIENCY

When established processes are disrupted and undermined, the resolution of more important issues may be impacted.

DELAYED OUTCOMES

Ad-hoc issue management creates disorganisation and overload in operational teams. This can lead to delays in service delivery.

INCREASED WORKLOADS

Demanding instant or urgent turnaround on individual issues creates time pressure on operational staff who already have a full workload.

LOST TRUST

Intervention shows mistrust in the expertise and judgement in operational staff – and undermines their rust in governance too.

LOW MORALE

Operational staff are undermined and demoralised when they are bypassed by elected members, affecting morale and productivity.

REDUCED ACCOUNTABILITY

Intervention creates confusion amongst staff and managers about who is responsible for a specific issue.

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Redirect & Reply



REDIRECTION

If the request is complex or beyond your jurisdiction, escalate it to the appropriate department or person.

Let them know what to expect.

Dear [Constituent],

Thank you for reaching out to me regarding [issue]. I understand the importance and urgency of this matter, and I'm committed to helping you find a solution.

To ensure the quickest and most efficient resolution, the best option is to submit a service request to [council website/service request portal/operational department contact].

This will allow Council's operational teams to assess the issue and provide a timely and appropriate response.

As an elected member, I am here to represent your interests and provide a voice for our community. However, it is important that operational issues are addressed through the appropriate channels to maintain fairness and efficiency for everyone.

I appreciate your understanding and look forward to hearing about the resolution of this matter

Sincerely,

[Councillor]

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And finally...use your 'Rules' lever

Every time you find yourself frustrated with a decision or outcome, redirect that frustration toward the structures that led you there:

- What is the policy involved?
- What opportunity is there to change the ground rules?

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