



Ministry for the  
**Environment**  
*Manatū Mō Te Taiao*

→ AN ESSENTIAL REFERENCE FOR PEOPLE PREPARING AN AEE

# A Guide to Preparing a Basic Assessment of Environmental Effects



A GUIDE TO PREPARING A BASIC ASSESSMENT OF ENVIRONMENTAL EFFECTS



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## Preface

So the council has said you need to apply for a resource consent. They've given you the application form and you've filled it in as best you can. You'd really like to tick the box that says "I attach a copy of an assessment of the effects on the environment" so you can lodge the application. So what is an assessment of effects? How do you prepare one? Should you tick the box and lodge the application anyway?

The simple answer is no. An assessment of environmental effects (AEE) must accompany your application for resource consent.

An AEE is the *process* of preparing a written statement identifying the effects of your proposed activity or activities on the environment. If your proposal is going to have negative effects, it is also the process of identifying how these can be avoided or reduced.

Preparing an AEE is a valuable way of recognising possible problems that may slow or stop the council processing your application. It will help you understand the potential effects of your proposed activity on the environment. It can also be used to get people involved in assessing those effects openly and positively. This gives people confidence that your assessment is being done in a sound and unbiased way, and reduces the chances of new issues being raised after you have lodged your application.

This guide tells you about the AEE process including:

- » why resource consents are needed (Section 1)
- » what an AEE is, why it's needed and how comprehensive it needs to be (Section 2)
- » the process for preparing an AEE – how to go about it and how the AEE should be drafted (Section 3)
- » tips on how to keep your application's processing costs to a minimum (Section 4)
- » the relevant sections from the Resource Management Act (Appendix 1)
- » an example of a basic AEE (Appendix 2).

## 1 Introduction

### Why do I need to get a resource consent?

The Resource Management Act 1991 (RMA) requires that regional and district councils administer the use, development or protection of natural and physical resources so they are sustainably managed.

One of the key ways the RMA seeks to promote sustainable management is to ensure all the effects of a proposal, both positive and negative, are considered before an activity is allowed to happen. This means that any potentially adverse effects can be controlled; if they can't be controlled, serious consideration can be given as to whether the activity should be allowed.

### Who is responsible for deciding if an activity can be undertaken?

Regional councils, district councils and unitary authorities are required to produce plans setting out how resources (water, air, land and the coast) can be used. The plans show the resources that need to be protected within your community and the rules with which you need to comply before resources can be used. They also give guidance on how nuisances, such as noise and odour, need to be controlled. These plans also set out whether resource consent is required for a particular activity or whether it is permitted to be carried out without resource consent.

Regional councils are generally responsible for consents relating to discharges (air and water) and activities that occur below the mean high water springs mark. District councils are generally responsible for consents relating to land, including subdivision. Unitary councils carry out both district and regional council functions. In some cases, you will need a consent from both a regional and district council. For example, the regional council may control large areas of earthworks so it can assess the pollution effects caused by runoff. Meanwhile, the district council may want to assess the same work for how it will look once the excavation is complete, or perhaps because some trees need protecting.

Where consents are required by more than one council, discuss your applications with both councils as early as possible. In some cases, they may prefer to consider the applications together.

### What sort of consent do I need?

There are six types of consent categories and these are generally ranked according to the expected effects they might have. The categories are:

- » **Permitted** – permitted activities are allowed 'as of right' subject to complying with any conditions set out in the plan. A permitted activity is the only category that does not require you to apply for resource consent.
- » **Controlled** – a council must grant consent if you apply for a controlled activity unless it has insufficient information to determine whether or not the activity is a controlled activity. The council may grant consent subject to conditions that must be complied with. These conditions may only be imposed when they relate to matters specified in the plan.
- » **Restricted discretionary** (also known as **limited discretionary**) – a council may grant or decline consent for a restricted discretionary activity. If granted, conditions may only relate to matters specified in the plan.



- » **Discretionary** (also known as **unrestricted discretionary**) – a council can grant or decline an application for a discretionary activity. If granted, it can impose conditions in relation to any matter that helps to control any of the activity’s potential adverse effects.
- » **Non-complying** – a council can only grant an application for a non-complying activity if its adverse effects are minor, or if it is consistent with the plan’s objectives and policies. If it grants consent, the council can impose conditions in relation to any matter that helps to control the activity’s potential adverse effects.
- » **Prohibited** – you cannot apply for a resource consent for a prohibited activity.

There is one other type of activity: a **restricted coastal activity**, which is either a discretionary or non-complying activity that is listed in a regional coastal plan as a restricted coastal activity. The Minister of Conservation issues consent for these activities.

## Why is the status of the activity important?

Knowing the status of an activity and the type of the consent required is a critical step in determining the effects of an activity and, therefore, the basis of the AEE.

The activity’s status should give you an indication of what needs to go into the AEE:

- » controlled or restricted discretionary applications – by stating the area of discretion, the council’s plan also states the effects it is concerned about. Your AEE need only address these effects
- » discretionary or non-complying activities – for these activities, your AEE may need to be more substantial. This is because all your activity’s environmental effects (not just those stated in the plan) determine the degree of impact, and hence the comprehensiveness of your AEE.

If your activity is non-complying, it is worth establishing why. It may have been predetermined as likely to have a significant impact, or the council may simply have not anticipated it. In this case, even though the activity is non-complying, its effects may still be minor. This may make a difference to the level of AEE required.

## When do I apply for a resource consent?

If you need a resource consent, you must obtain it before undertaking your proposal. If you start before consent is granted, you risk prosecution.

## How is a resource consent processed?

Once lodged, your application may be processed as ‘notified’, ‘limited notified’ or ‘non-notified’. Which one of these categories your application will be processed as will depend on the following:

- » the type of resource consent you require
- » whether the effects are more than minor (automatically notified)
- » whether you have written approvals of affected persons
- » what the plan says about the notification of your proposed activity.

The timeframe for processing and the costs will vary depending on the path that the consent takes. The preparation of the AEE will help determine this path. If the path the consent is likely to take is critical to your project, and you want the application to be processed without notice, you will need to factor this into the proposal so the proposal's effects (as recorded in the AEE) are minor.

This will also apply if you do not wish to obtain written approvals from affected persons. In this case, you will need to design the proposal so there are no adverse effects.

### **What are the consequences of not including an AEE, or of including an inadequate one?**

The council will not accept your application unless it is accompanied by an AEE.

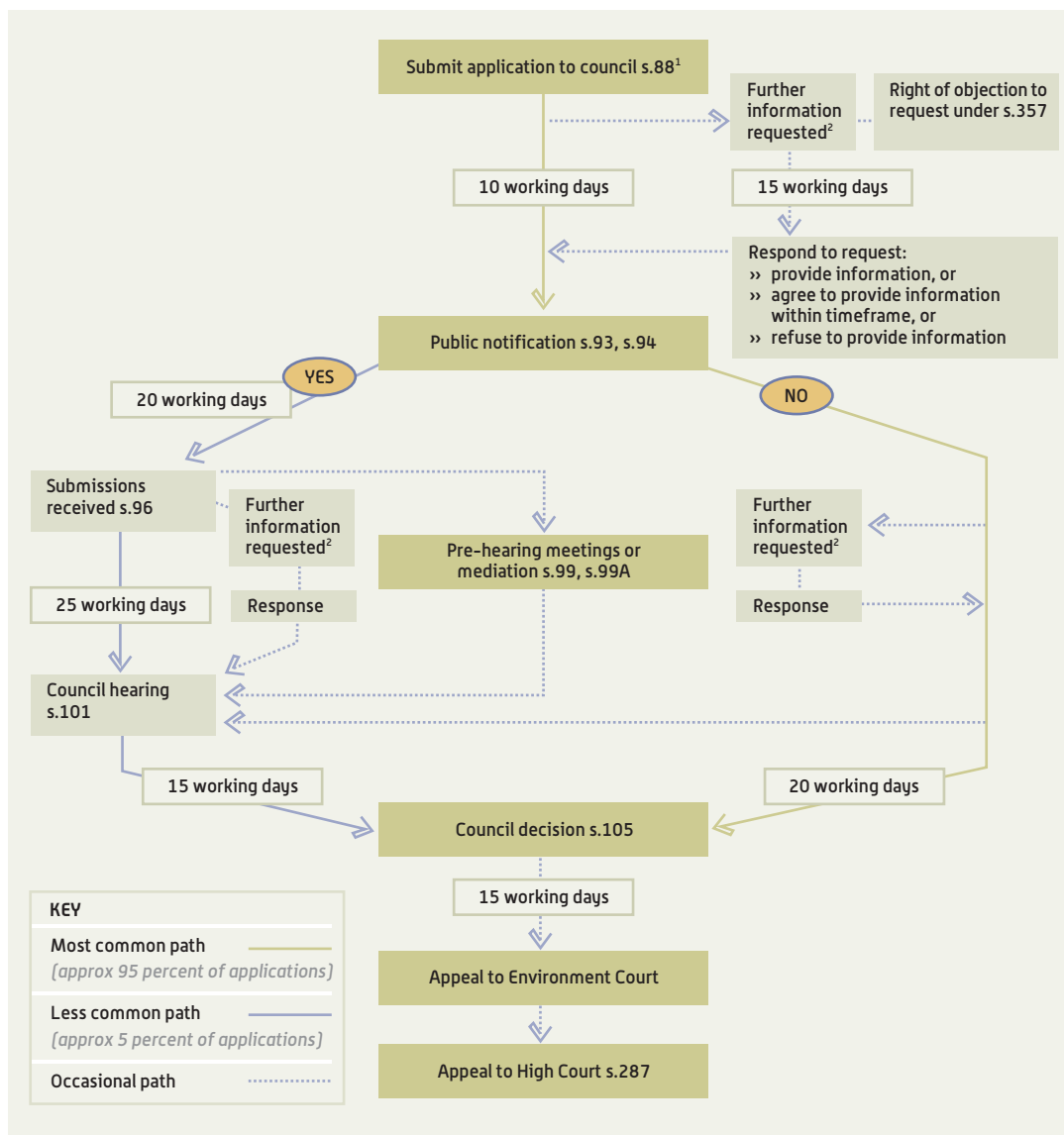
An inadequate AEE:

- » could create the need for changes to your proposal
- » could increase processing costs
- » could cause delays as the council may put the application 'on hold' and request further information. In this case, you must either provide the information or write to the council agreeing or refusing to provide the information, within 15 working days of the date of the request
- » increases the chance of the application being notified or requiring written approvals from affected persons as the council cannot confirm the effects are minor and people may or may not be adversely affected
- » reduces the chance of the council granting consent.





Figure 1: Processing resource consents – stages and timeframes



Notes:

1. Council may return the application if the AEE is incomplete or if there is insufficient information required by regulations (s.88(3)).
2. An applicant who received a request for further information must, within 15 working days of the date of request, either provide the information, or tell the council in writing that they either agree or refuse to provide the information. If they agree to provide the information, the council will let them know a reasonable timeframe within which they will have to provide the information. However, if the applicant does not object to, or subsequently appeal against the request for further information, they must provide the information no later than 10 working days before the hearing of an application (ss.92 and 92A).

## 2 The Theory: What you Need to Know Before Getting Started

### What is an AEE?

You have confirmed with the council that you need to make a resource consent application and you know the type of consent(s) you need. You now need to prepare the resource consent application. A critical part of this is the preparation of the assessment of environmental effects (AEE). You need an AEE to get a decision from the council on whether you can do what you want to do.

An AEE should be seen as part of the process of shaping your proposal, or what you want to do, rather than a task to do once you have all your plans prepared. An AEE helps you identify the effects of your activity early on in the process and, if necessary, allows you to incorporate measures to reduce any adverse effects. It identifies who you should consult and, if required, from whom you should obtain written approval. It is used as the basis for the council's decision on whether to notify and grant an application, and, if granted, whether to impose any conditions to address any outstanding effects.

The final outcome of the AEE process is an accurate and objective statement about the effects of your proposal on the environment. This statement will have taken into account whether the proposal has avoided, mitigated or remedied any adverse effects on the environment and people.

### What needs to be included in an AEE?

Your AEE should include the following (unless the council's plan states otherwise), as set out in section 88 and the Fourth Schedule of the RMA:

1. A description of your proposed activity.
2. An assessment of the actual and potential effects on the environment of your activity.
3. Where the above effects are likely to be significant, a description of available alternatives.
4. A discussion of the risk to the environment from hazardous substances and installations.
5. For contaminants, an assessment of the nature of the discharge and sensitivity of the receiving environment to the adverse effects and any possible alternative methods of discharge, including discharge into any other receiving environment.
6. A description of how the adverse effects may be avoided, remedied or mitigated.
7. Identification of the persons affected by the proposal, the consultation undertaken, if any, and any response to the views of any person consulted.
8. Where an effect needs to be controlled, a discussion of how it can be controlled and whether it needs to be monitored. Where appropriate, a description of how this will be done and by whom.

While an AEE is mandatory, the Fourth Schedule should be used as a guide rather than a blueprint for its preparation. The council's plan is also likely to list the information you need to supply.



## What is an effect on the environment?

Under the RMA, the definitions of 'effect' and 'environment' are very broad. This means you need to look very closely at your proposal. Any effects – whether positive or negative, long or short-term, or when combined with each other – need to be identified. It is unlikely an activity will have no adverse effects. If the council requires a resource consent for your activity, it is because it anticipates the activity may have some effects needing to be controlled. Appendix 1 contains the RMA definition of these terms.

## How do I identify effects?

Councils may have their own checklist to help you identify effects. This can be a useful guide, but it is important not to see this as ticking boxes or filling in blank spaces. It can be helpful as a starting point to group headings under types of effects. For example, what are the effects on the following:

- » land, water, and flora and fauna
- » people
- » infrastructure
- » traffic and parking
- » cumulative effects?

Note: 'Cumulative effects' are referred to in the definition of 'effect' in section 3 of the RMA as effects that can build up over time or occur in combination with other effects.

## How do I rank or quantify an effect?

Once you have identified the effects of your proposal (including any short-term or temporary effects), you need to make an assessment of the magnitude of each effect. A simple scaled rating could be as follows:

1. No effect
2. Minor effect
3. Major or significant effect
4. Critical effect.

At this point, you may then want to consider whether you will either modify the proposal or introduce measures to reduce the effects. This is what is often referred to as avoiding, remedying or mitigating adverse effects.

A completed example showing the effects that have been identified and the ranking or magnitude of these effects is shown in Table 1 on page 25.

## What is meant by avoid, remedy or mitigate?

'Avoid', 'remedy' and 'mitigate' are terms used in the RMA. While they are not defined in the RMA, they are mechanisms you need to consider when you have identified that your proposal may generate adverse effects. Adverse effects must be avoided, remedied or mitigated irrespective of the benefits of your proposal.

Each is a different way of addressing an adverse effect so it is acceptable. For example, a quarry has an adverse visual effect. You would 'avoid' the effect if you did not quarry or if the quarry was located where it couldn't be seen. You would 'remedy' the effect if you filled the hole in. You would 'mitigate' the effect if you planted trees around the hole. All three actions may address the adverse effects, but in the long term only one or two are likely to be acceptable to the community. The AEE process works out whether an effect needs to be addressed and the best way of doing this.

## What's minor and what's not?

A consideration of what is minor is important as this will determine the path your application will take. If the plan does not define how the council interprets 'minor' you could use this guidance from the case of *Bethwaite v. Christchurch City Council* (CO85/93)<sup>19</sup>:

*"The word minor is a comparative word meaning lesser or comparatively small in size or importance. Minor is less than major but could be more than simply minute or slight. Adverse effects could also be made minor by means of conditions – although the necessity to impose stringent conditions to mitigate off-site effects may indicate that the suitability of the site is marginal and the effect on the environment may be more than minor."*

The council will make the final decision on whether the proposal is minor for the purpose of determining if it should be publicly notified, but your AEE will be used as a factor in the council making this decision.

## How much detail should I include?

The comprehensiveness of your AEE should be proportional to the potential effects of your proposed activity. It does not need to be exhaustive, but should provide enough information for the council to evaluate the potential effects. You should be able to work out how much effort is required by looking at the issues identified in the council's plan and the activity's status in the plan (see Steps 6 and 7 in Section 3 of this guide). Council staff will be able to provide guidance, but remember they cannot prepare the AEE for you, as this is your responsibility. Some councils prepare checklists to help you prepare your AEE. Use these as a starting point, rather than just filling in the blanks.

## How can the plan be used to identify potential effects?

The matters that the council will assess will depend on what type of consent is required. This should be your starting point. The plan will state the significant resource management issues of concern and may contain assessment criteria. You can use these to identify the types of effects you may need to address. These criteria will not be exhaustive and will need to be discussed in relation to your



proposal. Most plans will contain explanations for rules or activities. These can often be a good guide for determining the types of effects that may be generated. If your proposal cannot comply with a rule, you can use the plan's objectives and policies to help identify the purpose of the rule, and how your proposal fits in. Step 4 in Section 3 of this document shows how you can use the plan in this way.

Some councils may not have an 'operative plan' but instead could have a 'proposed plan' (the new one the council wants to introduce). The importance given to each plan will depend on a number of factors, but mainly how far the proposed plan has progressed towards being made operative. This will also apply where a council has a 'variation' or 'plan change' that relates to your proposal. You should discuss this with the council.

### How can the plan be used to identify potentially adversely affected parties?

The plan will give you a guide to the likely effects your activity may generate (but remember, every proposal is different, and it may not necessarily generate the types of effects that are indicated in the plan). Once you have established the potential effects, you are likely to have a good idea of who, if anyone, may be adversely affected by your activity. Some plans state that certain activities will be non-notified and do not require any approval from affected parties. This is mostly likely to be the case with controlled or restricted discretionary activities.

### What is the permitted baseline?

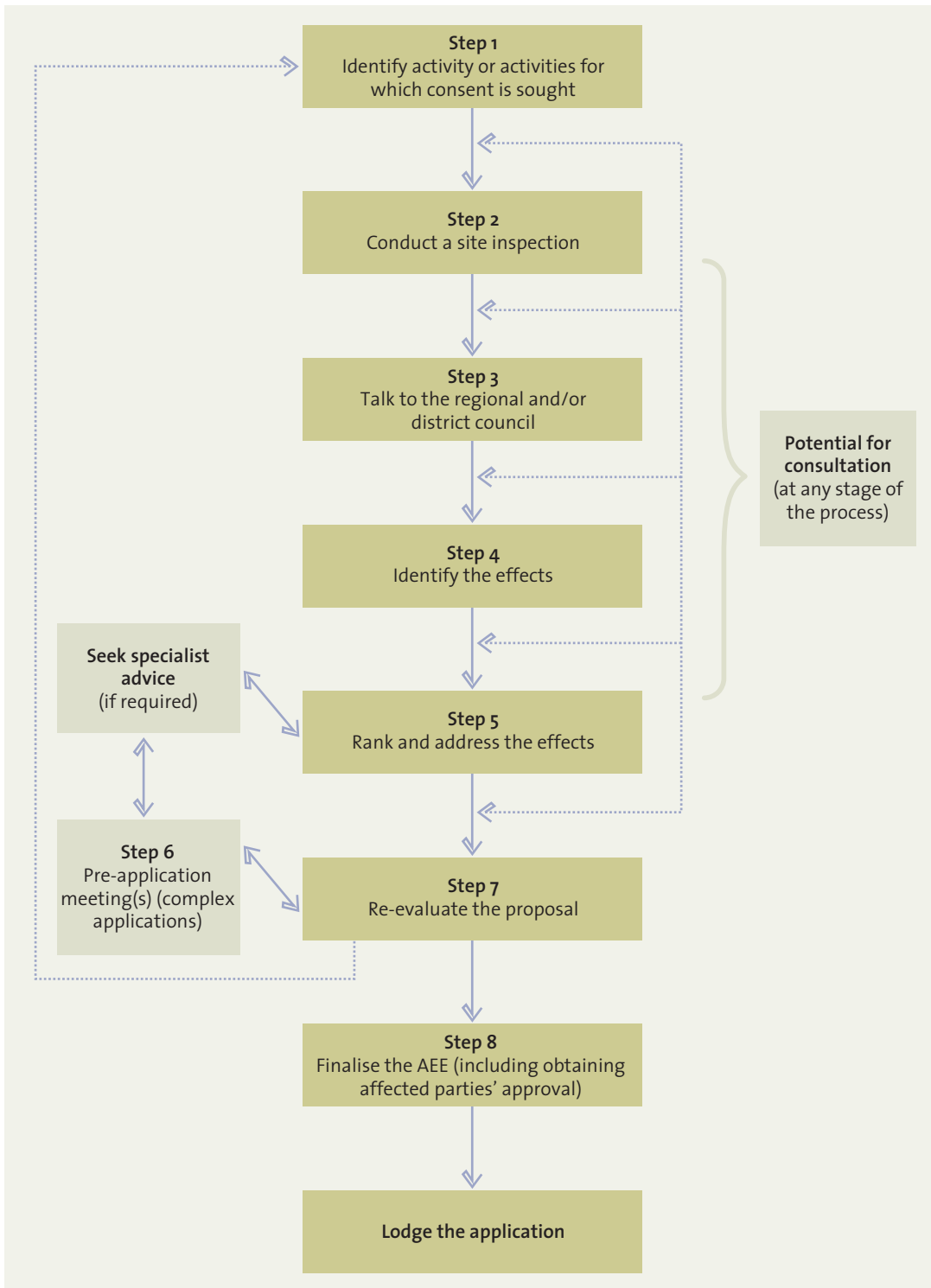
The permitted baseline is a term developed through case law and refers to what is permitted to occur on the land as of right or without resource consent.<sup>1</sup> Any consideration of effects is therefore in comparison to what could occur on the land as a permitted activity. This requires a good understanding of the various rules in the district or regional plan. In some instances, it is appropriate to only consider those effects that are generated over and above those which are permitted, or in other words, the permitted baseline. This is likely to be the case with simpler applications where the activity is permitted but there are only one or two minor infringements. The permitted baseline is not a mandatory test, but it is a discretion that the council may exercise. For this reason, it should not be relied on, except in very clear cases.

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<sup>1</sup> The development of the permitted baseline test can be traced back to a comment made by the Court of Appeal in *Bayley v Manukau City Council* [1999] 1 NZLR 658 where the Court suggested it is not sufficient for a consent authority to assess a proposal against the environment as it exists, but that it must go further and assess the proposal against the environment "as it would exist if the land were used in a manner permitted as of right by the plan" (Chapman Tripp, 27 September 2001).

### 3 Putting it into Practice

Figure 2: Steps for preparing an AEE





## How do I go about preparing an AEE?

The following eight steps will help you prepare an appropriate AEE. How long it takes will depend on the size and scale of your project and the nature of the effects.

Once the process is complete you should be able to draft an AEE that:

- » contains an accurate description of the activity
- » contains an accurate description of the site and locality
- » contains an effects checklist that ranks the effects and discusses how any adverse effects may be avoided, remedied or mitigated
- » outlines any consultation you have undertaken and its results
- » clearly identifies any restrictions on your proposed activity where these have been agreed to resolve affected parties' concerns
- » (where significant effects are likely to occur) identifies alternatives you will have considered and why they were rejected
- » identifies any proposals for monitoring potential and actual effects.

### Step 1: Identify the activity or activities for which you are seeking resource consent

Fully understanding your activity is central to preparing an AEE. Your application needs to include an explicit description of the activity for which you are seeking consent. Remember, if it is not identified in the application it may not be included in your consent. The AEE must be clearly and logically linked to this description and should not address issues outside it. Think about your proposal and how it will change the site you intend to use/develop or protect. For example:

- » Will earthworks be required? On what scale? Will access need to be provided or improved?
- » Will the site drain properly? Are stormwater and drainage required? Where will these go?
- » Will any existing buildings or vegetation need to be removed? How many and of what species?
- » Will you be discharging water or waste into the sea, river or lake or onto land, or taking water from a water body? How much discharge will you create?
- » How much water will you need? Will it affect the cultural values of iwi?
- » Will your proposal make noise, generate additional traffic or produce any odour or dust?
- » Will the use vary over time? Will the work be undertaken in stages and, if so, how will these differ?

## Step 2: Conduct a site inspection

The purpose of the site inspection is to check the site is appropriate for what you are proposing. Even if you already own and perhaps live on the site, it will be important to do a thorough site inspection. Council officers are also likely to make a site inspection when assessing your application.

### What sorts of things do I need to look for?

This will depend on what you are trying to do. However, you will need to consider some basic things about the site and whether it is suited to your proposal:

#### Natural features:

##### What does the site look like?

- » Is it a regular or unusual shape?
- » Is it flat or sloping?
- » What and where is the vegetation?
- » Are there any significant trees or habitats?
- » Is there any evidence of archaeological sites, historic buildings or contaminated land?

##### Does the site contain any unusual features that may affect development potential?

- » Are there any watercourses, gullies, wetlands, coastal areas?
- » Are there any areas of slippage?
- » Are there areas where water collects?

#### Adjacent uses:

##### What is on the neighbouring properties and the surrounding area?

- » Are the buildings close? What are they used for?
- » Has a particular type of design been adopted in the area?
- » Is the activity consistent with other uses in the area (eg, business/residential type activities)?
- » Are the surrounding activities likely to generate, or be sensitive to your generation of, noise, odour, heavy traffic, etc? Will this vary at different times of the day or during the week?
- » Are there other users of the same resource (eg, air/water) in the vicinity?





### **Physical features:**

#### **How will water and sewerage be provided for on the site?**

- » Is there access to council services?
- » If not, is the soil of a suitable type and the size of the site sufficient to accommodate on-site waste disposal facilities?
- » How will vehicles access the site?

#### **What buildings are already on the site?**

- » What are they used for?
- » Are their layout and orientation important for sun access or to maximise views?
- » Is the site fenced or paved?

### **What do I do after I've looked at the site?**

After the site inspection, decide whether you need to tailor your proposal to fit the physical constraints provided by the site itself or by adjacent buildings or development. List the effects identified from your site visit that may need to be covered in your AEE.

### **Step 3: Talk to the regional and/or district council**

You may have already telephoned the council and determined that your proposal is likely to require a resource consent. You may have been given some general information on what needs to be included with your application and the process that it may take. However, actually visiting the council and talking with council staff is an important step that should be taken before you proceed further, even if it means travelling some distance.

Council staff will not prepare your proposal for you. However, they will give you the information you require to lodge an application for resource consent. They can also help you identify the sort of consent(s) you require, whether there are any particular limitations on your site that are known to them and what sort of information you will need to provide.

Some words of warning: information given at the pre-application stage is not binding on the decision-makers. This is because your proposal may change through the AEE process and the council will not have the full information until you have lodged your application. Staff at the council will not be able to tell you whether your application will be approved or what conditions may be attached.

### **What you need to know before meeting with the council:**

- » Know what it is you would like to do.
- » Make general enquiries about whether you are likely to need a resource consent and if there are any particular issues to consider.

- » Carry out a site visit and know what the surrounding environment is like.
- » Know whether you need to make an appointment.
- » Know whether and how much the council will charge you for any information.
- » If required, order site files in advance so they are available when you go to the council.
- » Know who the people are you need to talk to at the council – eg, planner, engineer, subdivision officer or an iwi liaison officer – and whether you can see them all at the same meeting.

#### **When you go to the council:**

- » Tell council staff exactly what you want to do.
- » Confirm what consents will be required. For controlled activities, find out what the plan retains control over. For restricted discretionary activities, find out what matters the plan limits the council's discretion to.
- » Ask staff to explain the timeframes for processing resource consent applications. This will give you an idea of how long your application may take to be processed.
- » Ask what issues are identified by the plan. Get a copy of the relevant provisions or confirm the copy you have is the most up-to-date and correct.
- » Ask what information is required by the plan and get a copy of these requirements. Many councils also have specific checklists. Ask for a copy of these.
- » Most councils will have their own application forms. Get an application form.

#### **Other questions you should ask when you go to the council:**

- » Will consents be required from both district and regional councils? The council can refuse to process your application unless all consents are applied for.
- » How have other similar applications been processed recently and have they raised any particular issues?
- » Is consultation with iwi/hapū groups considered to be appropriate? If so, the council will provide the appropriate contacts. (It is good practice, but not mandatory, to consult tāngata whenua about the possible effects of your proposal.)
- » Does the council know about any constraints or limitations on the site? For example, is it a known archaeological or historical site? Is it subject to flooding, stability problems or contamination? If you have had a LIM (Land Information Memorandum) report for the site, take this with you as it is helpful in identifying known constraints and limitations.
- » Is the council aware of any special vegetation, habitats or scenic sensitivity on, or near, the site?
- » Can you connect into the council's sewerage and stormwater services?



- » Ask whether the council considers that particular people are likely to be affected or whether anybody's approval will be required. You need to make your own decision about whether to talk to your neighbours or any interest groups about your proposal; nevertheless, the council may be able to give some guidance.
- » Ask whether the council staff consider it necessary to hold a pre-application meeting (for complex applications only – see step 6). It is a good idea to record your discussions, including those with the council and people you have consulted.
- » Ask if specialist assessments (eg, traffic engineer, landscape architects) may be required.

## Step 4: Identify the effects of your activity

### What if I don't think there are any effects?

The definitions of effects and environment are very broad (see Section 2 and Appendix 1 of this guide). If a resource consent is required, it is because the council has anticipated that the activity is likely to have an adverse effect or effects on the environment.

### So how do I go about identifying the likely effects of my proposed activity?

As you go through the steps of preparing your AEE, the issues may change or new issues may be brought to light. For example, consulting with other parties and obtaining specialist advice may often result in new or changed issues. These issues may also change your proposal.

#### Develop your own understanding of the proposal:

The site and locality are important in determining the effects of your activity. At this stage, you may need to take another careful look at the site and the surrounding properties to ensure you have identified all your activity's potential effects. Here are some questions to help you.

- » If you wish to discharge water, contaminants or waste, will this result in changes to the land, air, groundwater or surface water into which it is placed? Will sludge or algal growth form? Will any neighbouring sites or resources be affected?
- » If you wish to take water, will that reduce the overall flow or affect living organisms or plants in the sea, river or lake? If so, how?
- » If you wish to set up a home occupation, will that generate noise, odour or additional traffic? If so, how much and when?

Consider all the effects of your proposal. For example, if it will generate additional traffic, will there also be a need for more car parking? If you need to clear vegetation, will this mean that slips will happen and affect surrounding properties?

#### Use the provisions of the relevant plan:

You do not need to quote word for word from the plan. You should use it to identify matters you discuss in your AEE.

If your application is for a controlled or restricted discretionary activity, use the plan to identify the issues you need to address. For controlled activities, these will be the matters over which the council retains control. For restricted discretionary activities, these will be the matters to which the plan limits the council’s discretion.

If your application is for a discretionary activity but the proposal would be permitted with the exception of a minor infringement, you may be able to use the permitted baseline as part of your assessment. In this instance, you would only consider those effects relating to the particular infringement and argue that the remainder of the proposal is within the permitted baseline as it complies with all other rules in the district or regional plan.

**Example of using plan provisions to identify issues for a restricted discretionary activity<sup>2</sup>**

**Activity description:** Addition of second storey to residential dwelling in a low-rise residential area.

**Rule infringed:** Dwelling is a permitted activity if certain rules are met. The design does not comply with the height restrictions in relation to the boundary rule and therefore requires a resource consent.

**Type of consent required:** Land-use consent for a restricted discretionary activity.

**Plan provisions:** Matters over which discretion is to be exercised:  
 Conditions will be imposed on buildings and other structures in residential areas to ensure they are designed and/or located in such a way as to:

- a. respect any existing aesthetic qualities in the built form such as proportion, scale, style, unity and coherence
- b. contribute to the visual amenity of the streetscape
- c. enable reasonable on-site amenity, including privacy and access to daylight and sunlight
- d. avoid, remedy or mitigate adverse effects on the acoustic environment
- e. protect any identified heritage qualities in the residential neighbourhood.

**Explanation/reasons:** All development on a site has some effect on the adjoining site in terms of privacy, access to daylight and sunlight, and the possibility of dominance. The extent of the effect will depend on the location of buildings to boundary in relation to their bulk and the orientation of the boundary being assessed. Using yards, height and building height in relation to boundary rules will help to mitigate the effects of buildings and structures on adjoining sensitive areas such as residential. The recession plane control also protects the amenity of the street, in particular ensuring that buildings do not dominate the street.

<sup>2</sup> Adapted from plan provisions in the proposed District Plan for Manukau District Council. Note these provisions may not always be located next to each other in a plan.



<b>Possible effects:</b>	<p>Possible effects that can be identified from the above plan provisions include:</p> <ul style="list-style-type: none"><li>» reduced sunlight/daylight admission</li><li>» not in keeping with the design of the house</li><li>» out of character with the street</li><li>» reduces someone's privacy</li><li>» blocks someone's view</li><li>» compromises a known vegetative or built feature.</li></ul>
<b>Who will be affected?:</b>	<ul style="list-style-type: none"><li>» Primarily immediate neighbour.</li><li>» Wider community, depending on how the infringement is related to the road, the contour of the land and the overall building design.</li></ul>

If the application is for a discretionary or non-complying activity:<sup>3</sup> List what the objectives and policies identify as potential issues.

#### **Example of using the plan provisions to identify the issues for a discretionary activity**

**Activity description:** Water extraction.

**Rule infringed:** None: Activity is specifically provided for as a discretionary activity.

**Type of consent required:** Water permit for a discretionary activity.

**Plan provisions:** Surface waters in the Opihi River and catchment experience severe summer low flows. On frequent occasions the demand for water exceeds supply. At times there is no surface flow in parts of the Opihi River system under natural conditions. Clearance of riparian wetlands and changes in land uses have reduced the catchment's natural water storage capacity, although the extent of this reduction has not been quantified. Surface water abstraction needs to be managed to protect the aquatic habitat, fisheries and other in-stream values, while providing for adequate abstraction flows. The main ground water allocation issue relates to the interconnectedness of parts of the groundwater and surface water systems. The inter-relationship between surface and groundwaters in parts of the Waihi River Valley is different from other hydraulically connected areas because of the influence of recharge from surface waters outside of the Waihi Catchment.

<sup>3</sup> Adapted from the provisions of the proposed Opihi River Regional Plan (Canterbury Regional Council, 14 July 1995). Note that these provisions may not always be located next to each other in a plan.

<b>Objective:</b>	<p>Enable present and future generations to gain benefit from the Opihi River, its tributaries and from hydraulically connected groundwater; while:</p> <ol style="list-style-type: none"> <li>a. safeguarding their existing value for providing sources of drinking water</li> <li>b. protecting the life supporting capacity of aquatic ecosystems, significant habitats of indigenous fauna, and areas of significant indigenous vegetation</li> <li>c. safeguarding their existing value for providing mahika kai for takata whenua</li> <li>d. protecting wāhi tapu and other wāhi taonga of value to takata whenua.</li> </ol>
<b>Policies:</b>	<ol style="list-style-type: none"> <li>1. In-stream flow and abstraction regimes are to be set and maintained for the Opihi River, its tributaries and hydraulically connected groundwater to enable abstraction and use while ensuring that matters (a) to (d) in the objectives above are met.</li> <li>2. Promote efficiency in the use of water.</li> <li>3. Allocation limits will be set to protect the availability of water for existing permit holders, and still allow water to be abstracted at times of high water flow.</li> </ol>
<b>Possible effects:</b>	<p>Possible effects that can be identified from the above plan provisions include:</p> <ul style="list-style-type: none"> <li>» impact on other users</li> <li>» reduced water for abstraction</li> <li>» potential to compromise groundwater storage (drinking water)</li> <li>» impact on natural character of the river and wetlands</li> <li>» impact on plants and animals within the water body</li> <li>» impact on use of water body for traditional Māori purposes</li> <li>» disruption to flows especially in times of drought</li> <li>» broad economic value of water resources.</li> </ul>
<b>Who will be affected?:</b>	<ul style="list-style-type: none"> <li>» Other users of the resource</li> <li>» Takata whenua / tāngata whenua</li> <li>» Wider community.</li> </ul>



### **So what do I do as I identify the potential effects?**

As you identify the potential effects, write them all down one side of a page. This will be a checklist for your application, which will simply indicate to the council the issues you did look at and why you chose to address them as you did. The checklist may also identify your process for determining the exact nature of your proposal.

- » For controlled and restricted discretionary activities, the checklist will only address issues identified in the plan. You do not need to address other issues.
- » For discretionary and non-complying activities, the checklist will be as broad or narrow as necessary to identify all the potential effects of your activity.

### **What happens if the potential effects of my activity will change over time?**

For long term projects, or those whose effects change over time (for example, subdivision), you may need to prepare a different checklist for the different phases (for example, site preparation, construction, operation). Even a simple addition to a house can have different effects over time. For example, in the short-term, there may be potential noise and traffic issues; in the longer term, there may be concerns about how the final addition looks and whether it affects the neighbour's privacy. It may have different traffic generation issues throughout the project (vehicular generation as opposed to heavy vehicles).

### **What if I can't specifically identify all the effects associated with my activity or the effects are highly technical?**

If you don't understand, or are having difficulty identifying, potential effects, you may need to involve specialist advisers to help you. This will enable any necessary changes to be made to your proposal before you have made a significant investment.

You may need to obtain specialist advice on only a few aspects of your proposal. Alternatively, the specialist adviser, by themselves or in combination with others, might complete and lodge the application (including the AEE) for you. The council can also help you identify if specialist advice may be required. The council is also able to commission specialist reports for your application, but this can often result in more costs to you. Your decision on obtaining specialist advice will depend on what you are proposing and what you are comfortable with and able to comment on. You may wish to seek specialist advice if:

- » you do not understand particular effects of your proposal and therefore do not know how to address them. You might require, for example, specialist advice on cultural, engineering, landscaping or archaeological matters
- » your proposal is a significant departure from the requirements of the regional or district plan, so you have little guidance on the effects your activity may generate
- » the resource consent is likely to be complex and requires specialist project management skills
- » there is a dispute about your proposal's potential effects.

If you do need to obtain specialist advice it is important that you:

- » know exactly what you need and where they can help. You will need to obtain a summary report which addresses the effect(s) of your activity in a clear, easily understood and targeted way and which identifies any measures needed to address such effects, especially where the effects require technical or scientific analysis
- » ask around about which agencies are used and compare what is being offered
- » provide the specialist with a copy of the council's rules or requirements relating to your proposal
- » set clear timeframes for getting the material
- » ask for an estimate for the work.

**Discuss the proposal with neighbours and any potentially affected parties:**

While consultation about resource consents is not mandatory under the Resource Management Act, it is good practice and can reduce costs and delays later in the process. Consultation involves talking with people who may be interested in, or affected by, your proposal. It is an opportunity to tell people what you are going to do and an invitation to contribute to the project design/issue identification and resolution process. Consultation needs to be done early – before the AEE is written and certainly before you have finalised its detail. It can be done at any stage of the process and as often as required.

**Why should I consult?**

Early and full consultation can:

- » identify and resolve issues
- » reduce affected parties' concerns and opposition to your proposal
- » enable you to obtain written approvals from affected parties. This potentially enables your application to be processed without notification.

**What is involved?**

Consultation requires you to:

- » provide enough time and information to the consulted party so they can make intelligent and informed decisions
- » provide enough time for the consulted party to participate and for their advice to be considered
- » genuinely consider that advice, including keeping an open mind and having a willingness to change. The detail of your proposal should not be pre-determined.





### **Are consultation and gaining affected party approval one and the same?**

Consultation can be a lot wider than just seeking the written approval of potentially adversely affected parties. However, this is the least you should do. For more information see *booklet 2.2 Consultation for Resource Consent Applicants* in the Ministry for the Environment's *Everyday Guide to the RMA series*. This is available online at: [www.rma.govt.nz/](http://www.rma.govt.nz/)

### **Should I be asking people to give their approval?**

At the initial stage, you may ask affected parties to indicate if they will give their approval. They may indicate they do not wish to object to your proposal, but may also state they will only give approval if it meets certain conditions. Even if they are willing to give their approval at this stage, the plans and the AEE will not be ready for them to sign.

### **What if my neighbour wants me to do something to secure their approval?**

Sometimes you can incorporate a specific action into your proposal. For example, you might agree with your neighbour to build a fence, plant a tree or in some other way compensate for an effect. If you reach such an agreement, you must sort it out between yourselves and then include this as a restriction on your activity. Councils will not accept conditional approvals so this needs to be sorted out before you lodge your application.

### **How do I go about consulting?**

This will depend on how well you know the parties involved, the number of parties and the range of issues that need to be addressed. While they are certainly considerations, time and money should not drive the consultation process. It may involve an informal discussion with your neighbour about what you want to do, or it may be a meeting with interested/affected iwi groups, public interest groups or industry. Public meetings may be appropriate for complex applications.

### **What do I do with the results of my consultation?**

You should add any additional effects identified in the consultation to your effects checklist. Keep reviewing your proposal with a view to continuing with the application as proposed, modifying, or abandoning it.

## **Step 5: Rank the effects**

Using the checklist of potential effects, you now need to identify those which are relevant to your particular proposal and assess their significance on the environment.

### How do I rank the effects?

A simple, scaled rating should be applied to each effect. You could use the scale discussed in Section 2 (page 8). Where you identify that the effect is likely to be more than minor, you should consider whether:

- » the effect can be avoided?
- » the effect can be mitigated?
- » the effect can be remedied?

If you do not add these 'solutions' to your proposal, your application is likely to be publicly notified and/or the council may impose its own conditions on your activity to address the effect. Your application might even be turned down. If you are not entirely satisfied with the conditions the council imposes, you may have to object to them. This will result in additional time delays and costs.

If your proposal is likely to cause significant adverse effects which need to be addressed, you will need to look at alternative ways of going about it. This might raise other, more environmentally effective, ways of doing what you want to do – or it might identify this as the only way. Consider alternatives in the widest possible way. Strictly speaking, you do not need to specifically consider alternatives unless your proposed activity has significant effects. Complex applications should consider alternative locations, including the option of not proceeding. Discharge permit applications must consider alternatives, whether or not adverse effects are significant.

If alternatives do need to be considered, their identification and analysis should not aim to merely dispose of alternatives in favour of a decision that has already been made.

At this stage you will again need to review your proposal and decide whether to:

- » continue with the application for the activity you originally wanted to carry out, or
- » modify your proposal before you start to prepare the application, or
- » abandon the proposal.

You might need to obtain advice in this area, especially if there are no alternatives available.

### Will I need to prove that the modifications to my proposal are going to be effective?

Sometimes you will need to monitor an effect to make sure it remains acceptable over time. This particularly applies when:

- » there is a potential for cumulative effects
- » there is uncertainty as to whether a potential effect is going to happen
- » it is important that an identified potential effect is actually happening as predicted.

For example, with a water take you may need to monitor the actual effect on downstream plants, aquatic life or other users. If the actual effect is likely to be worse than the predicted effect the council may, in addition to monitoring, retain the ability to review and modify the conditions of your consent



relating to the volume of water taken. If the council requires ongoing monitoring, you may wish to devise a basic strategy (including suggesting conditions and contingency plans). There are a number of ways of monitoring; if you prefer one over another, you should point this out to the council and include an explanation of why you prefer this option. Even when the effects of an activity are quite clear, most councils will impose a standard monitoring condition on your consent to ensure the work has been completed as stated.

**Table 1: Example of a process for identifying environmental effects**

<b>Activity: building a new house</b>			
<b>Examples of environmental effects</b>	<b>Ranking of effect</b>	<b>Avoid/remedy/mitigate effect</b>	<b>AEE action</b>
<b>Identify possible temporary effects: noise/dust/vibrations/emissions/hazardous substances/odour/land contamination from construction</b>			
Noise from construction	Minor	Noise from construction will be minor due to the distance from the construction site to the neighbouring property.	May need specialist advice on noise levels. Mention in AEE.
Fewer parking spaces on street due to worker vehicles	No effect	The site is large enough to allow parking space for builders on site.	Mention in AEE.
<b>Identify possible permanent effects: visual effects, loss of trees and vegetation, shading neighbouring property, soil stability, privacy, stormwater/sewer capacity, traffic generation, landscape changes, effects on water quality/quantity, cultural/spiritual values on iwi, effects on heritage sites/buildings/structures/objects, pollution, loss of recreational values of land etc.</b>			
Visual effects	Significant	Negative visual effects of the new house on the natural landscape will be mitigated by extensive native planting, softening the appearance.	Need to show landscaping plan in AEE and discuss how visual impacts of the new house will be mitigated.
Loss of trees	Significant	Although some trees will be removed to construct the house, new trees will be planted as part of an extensive landscaping plan. Not all trees will be removed.	Discuss landscaping plan in AEE and show how it will mitigate effects of removing trees.
Shading neighbours property	No effect	The new house and trees will not shade the neighbour's property because of the distance between the two.	Mention in AEE.
<b>Identify possible cumulative effects: change in character, loss of urban vegetation, effects on waterways, landscape, effects on infrastructure etc.</b>			
Change in street character	Minor	Design of the house will be in keeping with the current dwellings.	Describe house and landscaping design. Show pictures of existing street character in AEE.
Disturbance to urban vegetation	Minor	Vegetation will be replanted following construction, therefore having no long term cumulative effects on urban vegetation. Restorative planting will improve the urban vegetation in the area.	Describe landscape design and ability to restore and add to urban vegetation in AEE.

## Step 6: Pre-application meeting(s) – generally for complex applications only

Potentially complex applications might need a ‘pre-application meeting’.

### When is an application ‘complex’?

In practice, a ‘complex’ application is likely to involve a situation where:

- » there is something unusual about the site or the locality
- » consents are required from one or more authority
- » a number of outstanding issues need to be clarified
- » technical information needs to be obtained and interpreted and there are a number of methods to do this. (If you need to explain the techniques used in forecasting analysis and evaluating potential impacts, agree these with the council first, as the subject matter and variations in the assumptions and preferences of each party may influence the final analysis – including whether the council accepts the report.)

Communication with council staff is also important for clarifying procedures or council positions. Some councils also like to hold meetings for certain types of applications – for example, for extensive greenfield subdivision or for mining applications.

### What’s the purpose of the meeting?

The meeting aims to get specific council feedback on your proposal so you can lodge the most appropriate application and accompanying AEE. It is really another form of consultation.

This meeting (or meetings) can also be used to agree on:

- » the information to be provided
- » the techniques to be used – including any assumptions on the acceptability of baseline data
- » any particular requirements for consultant involvement.

For the meeting to be effective, staff from specialist fields within the council are likely to attend (eg, traffic, air quality, groundwater). If you have specialist consultants on board already, they should attend the meeting. It is helpful to bring along as much information as possible about your proposal to the meeting. This may include draft concepts and photographs of the site.

### What’s the procedure for the meeting?

The procedure is between you and the council. You should ensure feedback and advice from the meeting are agreed and recorded in minutes. Ask the council staff whether you or they will arrange this, and if they have any set format or meeting protocols. The council may charge for this meeting. Ask whether this is standard practice, and about the standard rates for charging.



## Step 7: Re-evaluate the proposal

At this stage, you should formally review your proposal with a view to making the appropriate modifications. It is important to finalise the activity description and make sure you have identified all the relevant effects, including addressing all those raised in consultation or, alternatively, why any effects raised have not been progressed.

## Step 8: Finalise the AEE

Check you have all the information to draft your AEE. This means you have all the information to:

- » accurately describe the activity
- » accurately describe the site and locality
- » complete your effects checklist, including ranking and discussing how any adverse effects may be avoided, remedied or mitigated
- » identify any consultation undertaken and its results
- » clearly identify any restrictions on the consent where these have been imposed to resolve affected parties' concerns
- » (where significant effects are likely to occur) identify alternatives you have considered and why they were rejected
- » identify any proposals for monitoring potential and actual effects.

### Do I need to write the AEE into a final report or can I just give the council my checklist?

The final AEE report should clearly identify the process you have gone through. While the checklists do provide the basic requirements for the council, you should write them up so they are clearly expressed.

### Am I ready to lodge the application now?

First, you need to put the application together. To apply for a resource consent you need to:

1. Fill in the application form (available from the council).
2. Attach a complete assessment of environmental effects (an AEE) of the proposal, including the way any negative effects can be addressed.
3. Include any other information required by the plan.
4. Include plans of your activity.
5. Pay an application fee, which may be a deposit only.

Secondly, you may need to obtain approval from any affected parties. You may have already talked to affected parties to determine whether they are willing to give approval. You should now ask them to sign their approval to your proposal. Most councils have a pre-prepared form that affected parties can sign. Alternatively, they can sign a statement about both the AEE and the plans, which states they have read and understood the proposal, sighted the plans and give their approval to them.

### **Now can I lodge it?**

Yes. You can either post the application to the council or present it over the counter. The advantage of the latter is you can be certain that the council accepts the application. The council may reject an incomplete application within five working days of receiving it. If they do not accept it you can find out exactly what else is required before the application is acceptable. If the council requires more information, be certain about what is required. If the application is accepted, ask the council officer who accepts the application for a contact number and name for later enquiries.

### **Do I now just wait for my application to be granted or declined?**

The RMA requires the council to consider the effects of your proposal on the environment. If either the plans or the accompanying reports do not contain enough information to enable the council to understand the application and its effects, it will require further information.

Your application is processed in accordance with the resource consent procedure outlined in Section 1 of this guide. You can expect delays in processing if the council asks for further information. This should only happen when the information is significant to the understanding or description of the application, your activity's effect(s) on the environment or the ways any adverse effects will be mitigated. Further information should:

- » directly relate to the potential for significant adverse effects arising from your proposal
- » lead to a better understanding of your application
- » consider the implications for affected parties.

If the council requires further information, it will ask for this in writing. Someone may phone you first to discuss what is required. If you have not heard from the council within two weeks of lodging your application, you should phone to enquire about how the processing is going.

### **What do I do if I need to provide more information?**

You must, within 15 working days of the request for more information, either:

- » provide the information requested to council, or
- » tell the council in writing that you will supply the information, or
- » tell the council in writing that you refuse to supply the information.



If you agree in writing to provide the information, the council will let you know in writing a reasonable timeframe for providing the information, depending on its nature. If you do not object to, or subsequently appeal against, the request for further information, you have an obligation to provide it no later than 10 working days before the hearing of an application.

Any further information you provide must not materially change your application. If material changes need to be made, you will need to lodge another application that incorporates such changes.

#### **What if I don't think I should have to provide the information?**

You are able to refuse to provide further information and request the council to proceed with the application on the basis of the information already provided. The council must then continue to process the application and either grant or refuse it. If the council declines the application, you can appeal that decision to the Environment Court.

If your application requires public notification and you refuse to provide further information, this will not affect the notification process. Council must still notify the application and take into account submissions from adversely affected persons before granting or refusing consent for the proposed activity.

## **4 Tips on Keeping the Costs Down**

To reduce the costs of processing:

- » find out what the council charges for. If you are charged for conversations with staff, make sure you know what you want to ask before contacting them
- » ask for an estimate of the costs
- » make sure you go through a proper AEE process as outlined in this guide
- » if the council has not sought further information within 10 working days of your application being accepted, phone them to check on progress
- » before responding to requests for further information, ensure you know exactly what is required and why
- » respond to requests for further information within the statutory timeframe of 15 working days
- » before engaging specialist advice, council is required to advise you they are engaging such specialists. Ask whether you can have your advisers provide the required information
- » if your application is being processed without a hearing, ask council staff if they will advise you of their recommendation before it goes to the decision-maker. This will allow you to comment on any proposed conditions before the decision is made and may save unnecessary objections to decisions
- » if the application goes to hearing, be well prepared.

## Appendix 1: Relevant Extracts from the Resource Management Act

Section 2 of the RMA defines environment as:

*“Environment” includes –*

- (a) Ecosystems and their constituent parts, including people and communities; and*
- (b) All natural and physical resources; and*
- (c) Amenity values; and*
- (d) The social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) of this definition or which are affected by those matters:*

Section 3 of the RMA defines the meaning of “effect”. The full text of section 3 is as follows:

*In this Act, unless the context otherwise requires, the term “effect” includes –*

- (a) Any positive or adverse effect; and*
- (b) Any temporary or permanent effect; and*
- (c) Any past, present, or future effect; and*
- (d) Any cumulative effect which arises over time or in combination with other effects – regardless of the scale, intensity, duration, or frequency of the effect, and also includes –*
- (e) Any potential effect of high probability; and*
- (f) Any potential effect of low probability which has a high potential impact.*

Section 5 of the RMA defines its purpose as being to promote the sustainable management of natural and physical resources. Sustainable management means:

*Managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while –*

- (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

Natural and physical resources are defined in the RMA to include *land, water, air, soils, minerals, and energy, all forms of plants and animals (whether native to New Zealand or introduced), and all structures.*





There are a number of matters of national importance identified in **section 6** of the RMA. These have to be recognised and provided for. The full text of section 6 is as follows:

*6. Matters of national importance –*

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development and protections of natural and physical resources, shall recognise and provide for the following matters of national importance:*

- (a) The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*
- (b) The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
- (c) The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- (d) The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*
- (e) The relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga.*
- (f) The protection of historic heritage from inappropriate subdivision, use, and development.*
- (g) The protection of recognised customary activities.*

There are other matters that also need to be considered. These are set out in **section 7**. The full text of section 7 is as follows:

*7. Other matters –*

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to –*

- (a) Kaitiakitanga:*
  - (aa) The ethic of stewardship:*
  - (b) The efficient use and development of natural and physical resources:*
    - (ba) The efficiency of the end use of energy:*
  - (c) The maintenance and enhancement of amenity values:*
  - (d) Intrinsic values of ecosystems:*
  - (e) Repealed.*

- (f) *Maintenance and enhancement of the quality of the environment:*
- (g) *Any finite characteristics of natural and physical resources:*
- (h) *The protection of the habitat of trout and salmon:*
- (i) *The effects of climate change:*
- (j) *The benefits to be derived from the use and development of renewable energy.*

The principles of the Treaty of Waitangi are also to be taken into account under **section 8**. The full text of section 8 is as follows:

**8. Treaty of Waitangi –**

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).*

**Sections 93 to 95D** of the RMA set out the requirements for notification, non-notification and limited notification. The presumption is an application will be publicly notified in accordance with section 93 unless the criteria for limited notification or non-notification are met. The full text of section 93 to 94D is as follows:

**93. When public notification of consent applications is required –**

- (1) *A consent authority must notify an application for a resource consent unless –*
  - (a) *the application is for a controlled activity; or*
  - (b) *the consent authority is satisfied that the adverse effects of the activity on the environment will be minor.*
- (2) *If subsection (1) applies, the consent authority must notify the application by –*
  - (a) *publicly notifying it in the prescribed form; and*
  - (b) *serving notice of it on every person prescribed in regulations.*

**94. When public notification of consent applications is not required –**

- (1) *If notification is not required under section 93(1), the consent authority must serve notice of the application on all persons who, in the opinion of the consent authority, may be adversely affected by the activity, even if some of those persons have given their written approval to the activity.*
- (2) *However, a consent authority is not required to serve notice of the application under subsection (1) if all persons who, in the opinion of the consent authority, may be adversely affected by the activity have given their written approval to the activity.*



*94A Forming opinion as to whether adverse effects are minor or more than minor –*

When forming an opinion, for the purpose of section 93, as to whether the adverse effects of an activity on the environment will be minor or more than minor, a consent authority –

- (a) may disregard an adverse effect of the activity on the environment if the plan permits an activity with that effect; and*
- (b) for a restricted discretionary activity, must disregard an adverse effect of the activity on the environment that does not relate to a matter specified in the plan or proposed plan as a matter for which discretion is restricted for the activity; and*
- (c) must disregard any effect on a person who has given written approval to the application.*

*94B Forming opinion as to who may be adversely affected –*

- (1) Subsections (2) to (4) apply when a consent authority is forming an opinion, for the purpose of section 94(1), as to who may be adversely affected by the activity.*
- (2) The consent authority must have regard to every relevant statutory acknowledgement, within the meaning of an Act specified in Schedule 11, made in accordance with the provisions of that Act.*
- (3) A person –*
  - (a) may be treated as not being adversely affected if, in relation to the adverse effects of the activity on the person, the plan permits an activity with that effect; or*
  - (b) in relation to a controlled or restricted discretionary activity, must not be treated as being adversely affected if the adverse effects of the activity on the environment do not relate to a matter specified in the plan or proposed plan as a matter for which –*
    - (i) control is reserved for the activity; or*
    - (ii) discretion is restricted for the activity; or*
  - (c) must not be treated as being adversely affected if it is unreasonable in the circumstances to seek the written approval of that person.*
- (4) However, the holder of a customary rights order must be treated as being adversely affected if, in the opinion of the consent authority, the grant of a resource consent may adversely affect a recognised customary activity carried out in accordance with section 17A(2).*

94C *Public notification if applicant requests or if special circumstances exist –*

- (1) *If an applicant requests, a consent authority must notify an application for a resource consent by –*
  - (a) *publicly notifying it in the prescribed form; and*
  - (b) *-serving notice of it on every person prescribed in regulations.*
- (2) *If a consent authority considers that special circumstances exist, a consent authority may notify an application for a resource consent by –*
  - (a) *publicly notifying it in the prescribed form; and*
  - (b) *-serving notice of it on every person prescribed in regulations.*

94D *When public notification and service requirements may be varied –*

- (1) *Despite section 93(1)(a), a consent authority must notify an application for a resource consent for a controlled activity in accordance with section 93(2) if a rule in a plan or proposed plan expressly provides that such an application must be notified.*
- (2) *Despite section 93(1)(b), a consent authority is not required to notify an application for a resource consent for a restricted discretionary activity if a rule in a plan or proposed plan expressly provides that such an application does not need to be notified.*
- (3) *Despite section 94(1), a consent authority is not required to serve notice of an application for a resource consent for a controlled or restricted discretionary activity if a rule in a plan or proposed plan expressly provides that notice of such applications does not need to be served.*
- (4) *A rule included in a plan under subsection (3) does not waive the need to serve an application if, in the opinion of the consent authority, the grant of a resource consent may adversely affect a recognised customary activity carried out in accordance with section 17A(2).*



## Appendix 2:

### An Example of a Basic AEE

Application for Resource Consent:

Mr and Mrs J Smith

Assessment of Effects

#### 1 Introduction

This statement of effects provides an assessment of the actual and/or potential effects on the environment of the proposed development of (*insert activity description as per application form*). This statement of effects accompanies and forms part of the resource consent application.

##### 1.1 Description of the site

The 1012m<sup>2</sup> rectangular site is located on the northern side of Peak Road, Jonesville. The site rises gently from the front boundary, but towards the rear of the property falls steeply away to a gully below. There is an older style weatherboard cottage located near the road boundary of the site. The remainder of the property is covered in reasonably mature native trees and bush with little undergrowth. A parking area for two cars has been cleared to the front of the site.

A site plan is attached to the application.

##### 1.2 Description of the proposal

It is proposed to build an addition of a second storey onto the rear of the dwelling. This activity is permitted by the plan.

The height in relation to boundary rule, however, states that no part of any building shall exceed a height equal to 3m plus three quarters of the shortest horizontal distance between that part of the building and the boundary. A part of the northern wall of the proposed dwelling would exceed this control by 1.7m at the worst point of infringement. This is shown on the attached plans.

##### 1.3 Consultation

Consultation has been undertaken with all three surrounding neighbours. Neither of the neighbours on each side expressed any concern regarding the proposed addition. The written approval of the neighbours to the rear has been obtained as it is considered they are potentially adversely affected by the development – especially with respect to privacy.

## 2 Assessment of effects

A restricted discretionary activity consent is required. The plan identifies the following matters which are relevant:

» **Reduced sunlight/daylight admission**

The site is located on the northern side of the road. Because the house to the rear is located further to the north of where the addition will be located, there will be no adverse effect on that neighbour's privacy. Nor will there be any effect on the adjoining side neighbours, given the presence of mature vegetation on these sites and the distance between the dwellings. The proposed development is well within the maximum height control. Realistically, it is the topography of the land that creates the difficulty in complying with the height in relation to boundary control.

» **Not in keeping with the design of the house**

It is proposed to construct the addition out of the same style and width weatherboard cladding as is currently on the dwelling. The large windows proposed in both the upper and lower levels of the addition will break up the facade of the addition – so the addition does not look bulky when viewed from the neighbouring properties.

The addition will be finished in colours to blend in with the existing dwelling.

» **Out of character with the street**

The house design is similar to a number of dwellings in the area – most of which are reasonably substantial, double (or triple) storey homes. Due to the slope of the land, the addition would not be visible from Peak Road. It will, however, be visible from Davis Road which is across the gully. Due to the nature of the building materials proposed (ie, similar to those on the existing house), the presence of mature vegetation on site and the distance between that road and the addition, the addition will not be a dominant feature on the landscape or out of character with existing development in the area.

» **Reduces someone's privacy**

The addition takes advantage of the opportunities provided by the existing development on the site. While there are significant areas of window proposed, these generally overlook the house below – as opposed to looking directly onto it.

In any case, the neighbours have indicated that they have no objection to the proposal and their written approval has been obtained.

» **Blocks someone's view**

No one's view will be affected by the proposed addition.

» **Compromises a known vegetative or built feature**

The addition will be placed on an existing cleared area of land. It will not dominate any existing vegetation in the area.



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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 the reader is uncertain about the issues raised in the guide then direct reference should be made to the Resource Management Act and expert guidance sought if necessary.

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