



Speaking at a hearing

This information sheet explains:

how to prepare | representation and evidence | the hearing process

If you have made a submission on a proposal of national significance you have the opportunity to speak at the hearing.¹ What does that mean? How do you prepare?

What speaking at the hearing means

Speaking at the hearing gives you the opportunity to speak about your submission in front of the board of inquiry, and to highlight the key points and concerns you have made in your submission. Speaking at the hearing also allows the board to ask you questions about your submission.

You may be able to give a joint presentation with others who have similar concerns as you, or have someone speak on your behalf.

If you do not wish to speak at the hearing, the board will still consider your written submission.

How to prepare

- Begin your preparation early and think about the key messages you want to make. Make sure these are covered in your presentation or speaking notes. The statement you read out at the hearing should stick to the matters raised in your submission.
- Say exactly what your concerns are, offer suggestions, and state exactly what you would like to happen.
- Practice reading your presentation or speaking notes before the hearing. If there is a time limit, make sure you will be within it.

More advice for speaking at a hearing can be found in a booklet produced by the Ministry for the Environment *An Everyday Guide to the RMA, 3.3 Appearing at a Council Resource Consent Hearing*. You can find this on the MfE website at www.mfe.govt.nz



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¹ Full information on proposals of national significance can be found in Part 6AA of the Resource Management Act 1991. This information sheet is intended to provide a general picture of speaking at a hearing and does not provide legal guidance. The EPA strongly suggest you take legal advice if you are uncertain about any aspect of this information.

What happens at the hearing?

The board will decide how it would like to run the hearing and let everyone know this in advance. You will find the process for each hearing under *Hearing Procedures* on the Environmental Protection Authority (EPA) website at www.epa.govt.nz. All submitters who wish to speak at the hearing are sent a copy. The board may also hold a meeting for the parties to explain how the hearing will run. This meeting is called a pre-hearing conference.

What is representation and evidence?

You can make a representation or provide evidence at a hearing, or do both. However a representation and evidence are quite different, and there are rules and limitations associated with both options.

Representation

A representation is your opportunity to talk about your submission, your opinions on the proposal and how it will affect you. You can ask for a particular decision or outcome and comment on how you feel about the proposal. You are not cross-examined or sworn in although the board may ask you questions. Representations can be made by you, your lawyer or someone on your behalf. A representation does not usually need to be supplied in advance, but the board may direct that copies of what you intend to say are provided to EPA staff when you arrive at the hearing. Check the hearing procedure on the EPA website at www.epa.govt.nz

Evidence

Members of the board aren't always experts in every field. They need good, solid facts to help them make a decision. Evidence is factual statements relating to the proposal. This can include photographs and other visual presentations.

Any person giving evidence is called a witness. As in a court, a witness is sworn in to say they are providing a true and correct record. A witness can be cross-examined by others involved in the hearing. Submitters can also be witnesses.

Expert Evidence is given by someone who is considered an expert because of their knowledge or experience in a certain field:

- When you give expert evidence you must read, understand and be able to comply with your obligations under the *Environment Court Code of Conduct for Expert Witnesses*.² As an expert witness you cannot act as an advocate for the submitter you are appearing for.

- Expert witnesses must be independent and, unless approved by the board, should not have made a submission on the same proposal. Expert witnesses can offer opinions only on matters relating to their field of expertise.
- As a submitter, you can use an expert witness (such as a planning consultant, surveyor, engineer or scientist) to present evidence about technical topics (such as heritage, soil stability or microbiology).
- Check the costs before you employ an expert witness. You may be able to share the expense with other submitters. A list of other submitters is available from the EPA or from the Friend of Submitter.

What is evidence exchange?

Copies of evidence from experts, the applicant and submitters are usually provided before the hearing. This is decided by each individual board and recorded in the hearing procedures. Having a copy of the evidence before the hearing allows you, other submitters, the applicant and the board to work out what issues are of concern.

Evidence is supplied in this order:

- from the applicant
- from submitters
- rebuttal evidence from the applicant.

Rebuttal evidence is the applicant's response to the issues raised in submitters' expert evidence.

How does cross-examination work?

Cross-examination tests the evidence of the witness.

To find out who can cross-examine a witness, check the hearing procedures for the proposal on the EPA website at www.epa.govt.nz. You will usually need to apply in advance of the hearing to cross-examine a witness.

Want to know more?

Contact the Environmental Protection Authority by phoning +64 4 916 2426.

You can also email rminfo@epa.govt.nz or visit the EPA website at www.epa.govt.nz

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² <http://www.justice.govt.nz/courts/environment-court/legislation-and-resources/practice-notes/expert-witness.html>

