Boards of inquiry

This information sheet explains:
who is on a board | how the board is selected | how they make their decision

When the Minister decides a proposal is nationally significant, it may be directed to an independent board of inquiry for a decision. The Minister for the Environment selects a board for a land-based proposal. The Minister of Conservation selects a board for a coastal proposal. The Ministers will work together to select a board when a proposal contains both land and coastal matters. To make its decision, a board will consider submissions and hold a hearing if there are people who wish to talk about their submissions.

Who is on a board of inquiry?

A board must have between three and five members, selected by the Minister. A board can be chaired by either a retired High Court Judge, or a current, former or retired Environment Court Judge. The rest of a board’s members are selected based on factors such as:

- local knowledge
- understanding of the Resource Management Act 1991
- expertise in areas relevant to the proposal
- knowledge of tikanga Māori.

How is a board selected?

The Minister selects the board with this process:

1. The Environmental Protection Authority (EPA) contacts possible board members on behalf of the Minister to see if they are interested and available to serve on a board. They are asked questions to find out if they have any conflict of interest relating to the proposal.
2. The EPA contacts possible chairpersons for the board in consultation with the Principal Environment Court Judge and the Chief Justice.
3. The Minister seeks the views of the local council on potential board members.
4. The EPA sends options for the chair and members of the board to the Minister for a decision.
5. The Minister appoints the board through the Appointment and Honours Committee process.

The board of inquiry hearing

The applicant and any submitters who wish to talk about their submissions are given that chance at the hearing. Expert witnesses may also appear. The length of a board of inquiry hearing depends on various factors, including the number of people who wish to speak at the hearing. If you plan to speak at the hearing, you will be advised how long the hearing will be, and when you will need to appear.

“The board makes its decision independently of the EPA or the Minister”

Footnote: 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 the board of inquiry process and does not provide legal guidance. The EPA strongly suggest you take legal advice if you are uncertain about any aspect of this information.
How does a board make a decision?

A board must make a decision on an application within nine months of public notification, unless an extension is granted by the Minister.

To make an independent and robust decision on the proposal the board considers:

- the application documents
- the reasons the Minister chose a board of inquiry to consider the proposal
- all submissions received on the proposal
- information provided by the council
- the expert evidence
- all evidence and views presented at a hearing.

The board may also visit the area relating to the proposal.

The board then makes its decision by applying the relevant parts of the Resource Management Act 1991 to the proposal.

The board’s decision is made

After the hearing, the board makes a decision and writes a draft report. The decision is made independently of the EPA, the Minister, or anyone else. The draft decision is sent out to a number of people including the Minister, the applicant, the submitters, the councils involved and to owners and occupiers of land that is affected by the decision. These people have 20 working days to send comments to the EPA, on minor and technical points of the report only. The draft decision is published on the EPA website at www.epa.govt.nz

The board considers the comments received and makes its final decision. The final report is sent out to the applicant and all submitters. It is also posted on the EPA website at www.epa.govt.nz

If the applicant or submitters consider there are legal issues with the decision, they can appeal to the High Court on points of law only.