

# Neighbours' Written Approvals

This information sheet provides guidance for applicants and neighbouring property owners about obtaining or providing written approval to resource consent and permitted boundary activity applications. It outlines the different ways an application can be processed and how written approvals affect the process.

## What is a Resource Consent?

The Christchurch District Plan is a document which guides the way the city of Christchurch is developed. The Plan aims to control certain negative effects of development by giving each property a zone, with rules about the type of building or land use that can occur in that zone.

When someone wishes to develop in a way which does not comply with the District Plan, they require Council permission to do so. This is known as a resource consent.

## What is a permitted boundary activity?

In some cases a development is exempt from needing a resource consent even though it does not comply with some of the rules in the District Plan.

When a proposed building only breaches "boundary rules" (e.g. setback from a neighbour's boundary, or the daylight recession plane angle), a resource consent is not needed if written approval is obtained from the owners of the properties on the other side of the boundary. Their approval is required regardless of whether the building breaches the rule by a small or large amount.

If the boundary adjoins a shared driveway, approval is only required from the owners of the property on the other side of the access.

## How are affected neighbours identified for resource consents?

For resource consent applications the Council has to decide whether anyone is affected by the proposal. There are criteria the Council must consider when making this decision, including what the District Plan is trying to achieve on that particular property.

The extent of neighbours considered to be affected depends on the rules breached and the issues involved. Each application has to be considered independently as the circumstances of each are unique.

For some applications no one can be considered affected as this is prevented by the District Plan.

## How do written approvals affect the resource consent process?

When making a decision on the application the Council is not allowed to consider any effects on neighbours who have given their written approval to the application.

## Notified applications

If the immediate neighbours are considered to be affected and they oppose the project or are not prepared to give written approval, then the application will usually go through a limited notified process.

Affected neighbours who have not provided written approval are served with copies of the application and they are able to make submissions on the proposal. For a limited notified application these neighbours are the only people who are allowed to make a submission.

If there are effects on the wider environment beyond the immediate neighbours the application is also advertised in the newspapers and anyone can make a submission.

If submissions are received, these applications are usually considered at a hearing before a Council Hearings Panel or a Commissioner. They hear the opinions and evidence of the applicant, submitters, and Council staff and then make a decision on whether the application should be granted or refused.

## Non-notified applications

A non-notified application is processed without any opportunity for people to make submissions. For an application to be non-notified the Council must be satisfied that:

- the adverse effects associated with the proposal beyond the site and any adjacent properties are likely to be minor, and
- any affected persons have given their written approval to the proposal;

or that the District Plan specifically prevents notification.

An applicant should not assume that if they get written approval from all affected neighbours that the application will be non-notified. If the Council considers the adverse effects of the proposal are likely to be more than minor, then the application will need to be publicly notified.

## Information for neighbours

### What if I have been asked to sign a written approval form?

If you are asked to sign a written approval form (sometimes referred to as a neighbour's consent form) you need to understand what it means for the processing of the application.

If you sign the form then the Council is unable to take account of any adverse (negative) effects the proposal may have on you and your property when it makes a decision on whether to grant or refuse a resource consent application. If the application is limited notified to other affected neighbours who have not given their written approval, then you will not be able to make a submission.

### **What should I do if I support the approval of the application?**

If you do support what the applicant is proposing, you may decide to sign the form. If you sign the form you also need to sign a copy of the plans. This is so that both you and the Council are quite clear what you are approving.

### **What if I change my mind?**

For a resource consent application, you are quite entitled to change your mind after you have signed a neighbours' consent form, as long as you do this before the Council has made a decision on whether to grant consent to the application. If you decide to withdraw your consent you should telephone the Resource Consents Unit of the Council as soon as possible, but you are also required to send in a brief letter or email recording the withdrawal of your consent in writing.

Written approvals for permitted boundary activities cannot be withdrawn. This is because the Council has only a short timeframe to confirm that the proposal is permitted.

### **What if I do not want to give approval to the application?**

If you do not want to give your approval to the proposal, you are quite within your rights not to sign the form. There is no obligation for you to approve it, nor is there a certain time frame for you to decide whether to give your approval or not. If an applicant gives you a date to respond by, that is usually for their convenience and is not a Council deadline. If you need more time to consider it then you should say so.

### **Can I discuss options with the applicant?**

You should feel able to discuss ways in which the applicant can change their proposal to meet any concerns you may have. It is appropriate to negotiate with your neighbour about such matters when you are discussing things that can be done to reduce the impact of the proposal on you and your property. You may wish to ask the applicant to amend their plans before you sign them.

The Council cannot accept a written approval which is conditional on certain things being done by the applicant (e.g. that they will pay for a new fence). Any conditions need to be a separate agreement between yourself and the applicant.

### **What will happen if I decide not to give my approval?**

If you decide not to give your approval and the applicant is not prepared to change the proposal to prevent the effects it has on you, it is likely that the application will have to be limited notified. This is usually a significantly more costly and time consuming process for the applicant. Alternatively the applicant may decide to amend the application to comply so that your approval is not needed, or may even withdraw their application.

## **Information for applicants**

The Council planner will assess your application soon after it has been lodged, and let you know which neighbours (if any) are considered to be adversely affected by your proposal. Please note that the final decision on affected neighbours is made by the authorised decision-maker (a senior Council officer, Hearings Panel, or a Commissioner).

It is important to ensure that:

- For resource consents, approval is obtained from both the owners and any occupiers (tenants) of affected properties.
- For permitted boundary activities, written approval is needed from the owners of all properties with an infringed boundary. Occupiers' approval is not needed.
- Where there are joint owners, all owners' signatures are required.
- Neighbours sign all the appropriate papers, including the form, plans and application documents, otherwise the neighbours' consents will not be valid and you will have to re-visit your neighbours.
- Written approvals are not conditional on any action being undertaken by you.

As an applicant trying to obtain neighbours' consents you should consider the importance of what you are asking your neighbour to do in signing such a form. Try and put yourselves in their shoes and this may help you appreciate the concerns that some neighbours may have. It is important to listen to people's reasons for withholding approval. Sometimes you will be able to change your proposal to meet their concerns but still meet your own objectives.

### **What can I do if a neighbour will not give their approval?**

Occasionally applicants and/or neighbours refuse to discuss options and this will often lead to a stalemate. The Council's hands are tied in this situation. If it has been decided that someone may be adversely affected then it is up to the applicant to get their approval to the proposal. If this is not possible then it is likely that the application will usually need to be limited notified. Alternatively, an option might be to completely re-think the proposal and to design it in a way that does not affect that neighbour. Sometimes an applicant chooses not to proceed with the application; an application can be withdrawn at any stage prior to a decision being made.

## **Where can I get more information?**

If you have any concerns or questions you can ring the Council's Duty Planner on 941-8999 or email [DutyPlanner@ccc.govt.nz](mailto:DutyPlanner@ccc.govt.nz).

Alternatively you may wish to seek advice from your lawyer. Free advice is also available on all Resource Management Act issues from Community Law Canterbury (telephone 366-6870).