

assume you agree with the application. If you decide to withdraw your consent you can telephone the Resource Management Department but you should also send in a brief letter recording the withdrawal of the consent. The withdrawal of the consent may mean the application has to be notified. It is also preferable if you advise the applicant of this withdrawal.

What if I do not support the application?

If you do not support the approval of the proposal you are quite within your rights not to sign the form. There is no compulsion to give your consent, nor is there a certain time frame in which you must decide whether to give a consent 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 are within your rights to discuss the application with the applicant. You may wish to give your approval conditionally ie subject to certain things being done by the applicant. However, conditional consents will only be accepted by Council where the condition relates to a relevant Resource Management matter. Council planners are able to give advice on the types of conditions that can be included in conditional consents.

What will happen if I decide not to give my consent?

If you decide to withhold your consent and the applicant is not prepared to change the proposal to exclude the effects it has on you, it is likely the application will have to be notified. This is a significantly more costly and time consuming process and this may be of concern to the applicant. Alternatively the applicant may decide to withdraw the application.

The Council is aware than in some instances people have had difficult and ongoing disputes with their neighbours as a result of disagreements over obtaining written approvals. This is unfortunate but in some situations this may happen. The potential for such a dispute would hopefully be less where the discussions and negotiations are reasonably related to the effects of the proposal and not some other unrelated matter.

What if I am the applicant?

If you are making an application for resource consent you should always ask the Council to identify who they consider to be adversely affected (if anyone). It is also important to ensure neighbours you approach **sign all the appropriate papers**, otherwise the neighbours' approvals will not be valid and you will have to re-visit all concerned.

As an applicant trying to obtain neighbours' approvals you also need to 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 slightly to meet their concerns but still meet your objectives. Keep an open mind.

What can I do if a neighbour will not give their consent?

On the odd occasion 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 for the proposal. If this is not possible then the application must be notified. Alternatively, an option might be to completely re-think the proposal and to design it in a way that does not affect the 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.

Who can help?

If you are required to obtain neighbours' consents by the Council or if you are approached by someone who requires your consent, think carefully about the process. If you have any concerns or questions you can ring the Council's Resource Management Department to discuss these with a Council planner. Alternatively you may wish to seek professional advice from a solicitor or resource management consultant.

**Contact number for the Council's Resource Management Department is
Phone (03) 218 7259 Fax (03) 218 9460**

Neighbours' Written Approvals

Under the Resource Management Act 1991



 *People First*
Southland District Council
Te Rohe Pōtae O Murihiku

What are they and how do they affect the resource consent process?

Neighbours Consents - What are they, and how do they affect the resource consent process?

If you or your neighbour are proposing to develop, use or subdivide your land you need first to check with the Council about whether the proposal is permitted by the District Plan.

What is the District Plan?

The District Plan is a document which seeks to guide the way the environment of the Southland District is developed. The Southland District Council initiates the Plan and its contents are finalised through the public having their say about the guidance it gives through submissions and cross-submissions. The District Plan seeks to control any negative effects of development.

What is a resource consent?

Where someone wishes to develop in a way which does not comply with the District Plan, they require Council permission to do so and this is known as a resource consent. If they obtain such a consent they are able to develop in accordance with the consent and any conditions attached thereto.

This whole process is set down in the Resource Management Act 1991. An application for resource consent can be considered in one of two ways. Applications are either publicly notified or non-notified.

How is a notified application dealt with?

A notified application is advertised in the newspaper and copies of the application are sent to surrounding neighbours. Anyone has the opportunity to make a submission to the Council on the project. These applications are usually considered at a Hearing where Councillors hear the opinions and evidence of the applicant, submitters and Council staff and then they make a decision on whether the application should be granted or refused. This type of application takes approximately 3½ months to process and generally costs more than \$5,000.

How is a non-notified application dealt with?

If an application is to be considered as non-notified the Council must be satisfied;

- that the adverse effects associated with the proposal are minor, **and**
- that the adjacent owners and occupiers affected by the proposal are in agreement with the proposal going ahead.

An applicant should not assume that if they get all the affected owners and occupiers' consents that the application will be non-notified. If the Council considers the adverse effects of the proposal are more than minor then the application may still need to be notified.

A non-notified application is usually processed within a month and at a cost of \$550 plus disbursements.

What if I am one of these neighbours?

If you are approached to sign a written approval form (sometimes called a neighbours' approval form) you need to understand the place that approval has in the processing of the application. If the Council decides you may be adversely affected by a proposal on an adjoining or nearby site then it is up to the applicant to obtain your written consent to the proposal. If you sign this 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 the application.

How is it that I am identified as an affected neighbour?

In deciding whether or not anyone is affected by a proposal the Council has to consider what the District Plan is trying to achieve, and that the adverse environmental effects of the proposal may be. A few examples may help you to understand what the processes are.

- if your neighbour proposes to build right up to your boundary instead of setting the building back by the amount required in the District Plan then it is likely only your written approval will be required and not other neighbours, as the rule seeks to reduce the visual dominance of the building on your outlook, to enable access to daylight and to provide for a degree of privacy
- if your neighbour proposes to set up a business in their house which will attract visitors to the site then all the adjoining neighbours' written approvals may be required
- if you propose to establish a gravel quarry, written approvals are likely to be required from all parties which Council considers could be adversely affected by noise, dust or any other environmental effects.

The range of neighbours' consents required depends very much on the issue involved and each application has to be considered independently as the circumstances of each application are unique. In most cases the Council will require the approval of both the owner and the occupier (eg tenants) of a property.

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 forms. **You should always insist on signing the written approval form, the application itself (including plans) and the assessment of environmental effects which accompanies the application.** The applicant is required to show you all these documents. This is also a safeguard for you so that you are quite clear what you are agreeing to.

What if I change my mind?

You should also remember that you are quite entitled to change your mind after you have signed a written approval form. If you decide to withdraw your consent you can do so but you must do this before the application has been considered by Council otherwise the Council will