

Guide to the Affected Persons Approval Form

**For those affected by a proposal or requiring approval from
neighbours**

What you need to know and How it affects the Consent Process



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Or visit our website: www.adc.govt.nz/planning**

If you, your neighbour or someone you know is proposing to develop, use or subdivide a site you should check with the Council whether the proposal is permitted by the Ashburton District Plan.

What is the District Plan?

The Ashburton District Plan is a document that guides the way Ashburton District is developed and controls how land is used. The zone a property is within will determine the rules for any building, land use and subdivision proposed.

What is a Resource Consent (RC)?

A Resource Consent is permission for someone to develop or use land in a way that does not meet the rules in the District Plan. When a resource consent is obtained, the owner(s) of the site can develop or use the site in accordance with that consent. The process for obtaining a Resource Consent is explained on the following pages.

An application for Resource Consent can be considered in one of three ways. Applications are publicly notified, notified to those that the Council consider are affected by the proposal, or not notified.

How is a publicly notified application dealt with?

If the Council considers that the negative effects of a proposal may be more than minor, the application must be publicly notified.

A notified application is publicised in the Ashburton Guardian on Wednesdays and copies of the notice are sent to neighbouring properties. Anyone has the opportunity to make a submission to the Council on the proposal. Notified applications are usually considered at a Hearing where Councillors hear the opinions and evidence of the applicant, submitters and Council staff, and then Councillors make a decision on whether the application should be granted or refused. It normally takes 3 and a half months from when the application is received to the date a decision is made. In some instances an independent commissioner is appointed to hear the application and make a recommendation to the Council.

How is a limited notified application dealt with?

If the Council is satisfied that the negative effects of a proposal on the environment are minor, but the neighbours oppose the application or are not prepared to give their written approval, then the application will be processed on a "limited notified basis". Affected neighbours are given copies of the application and they are able to make submissions on the proposal. Affected neighbours are the only people who are allowed to make a submission and the application is not advertised in the newspaper. If submissions are received, a limited notified application is usually considered at a hearing in the same way as a publicly notified application. If no submissions are received, a hearing is not generally required.

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 negative effects of the proposal are minor, and
- The neighbours affected by the proposal are in agreement with the proposal going ahead.

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

What if I am one of the neighbours?

If you are approached to sign a form giving your approval for an application for Resource Consent you need to know that if you sign it, the Council is unable to take account of any negative effects the proposal may have on you.

How does the Council decide if I am affected?

In deciding whether anyone is affected by a proposal, the Council considers what the effects of the proposal are and what the District Plan is trying to achieve. A few examples may help you to understand the process.

- 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 consent will be required. This is because the rule seeks to reduce the dominance of a building on your view, to ensure the building does not reduce the amount of sunlight you receive and to provide you with a degree of privacy.
- If your neighbour proposes to set up a business in their house which will attract visitors then the consent of all the neighbours' may be required. This is because an increase in the number of people visiting may result in more traffic, noise and other effects.
- If you live close to a commercial area and a tavern proposes to operate beyond 11pm with a band playing every night, then consent may be required from a wide area, possibly a whole block. This is because the effects of the tavern being open late, for example, noise from the tavern and people leaving, may affect a large number of people.

The reasons an application for Resource Consent is notified, limited notified or non-notified will vary according to the issues involved. The circumstances of an application are different to another and therefore the Council need to consider each case. In most situations the Council will require the consent of both the owner and the occupier (i.e. tenants) of a neighbouring property.

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

If you support what the applicant is proposing, you may decide to sign the forms. You should always sign the 'Affected Persons' form and the application itself, including the plans and Assessment of Effects. 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 an 'Affected Persons' form. If you decide to withdraw your approval you must do this before the application has been decided by the Council, otherwise the Council will assume you have given your approval. If you decide to withdraw your approval you should call and put it in writing to the Planning Department.

What if I do not support the application?

If you do not want to give your approval for the proposal, you are quite within your rights not to sign the 'Affected Persons' form. There is no requirement to give your consent, nor is there a certain time frame in which you must 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 the application then you should say so.

Can I discuss options with the applicant?

You should feel able to discuss with the applicant ways in which they can change their proposal to meet any concerns you may have. It is appropriate to negotiate with the applicant when you are discussing ways the application can be amended to reduce the effects on you.

It may be appropriate to ask the applicant to amend their plans before you sign them.

What happens if I decide not to give my consent?

If you decide to not give your approval and the applicant is not prepared to change the application to minimise effects on you, it is likely that the application will be limited notified. This is often a significantly more costly and time consuming process and this may be of concern to the applicant.

The applicant may decide to amend the application to comply with the District Plan, or even withdraw their application.

The Council is aware that in some instances people have had difficult and ongoing disputes with their neighbours as a result of disagreement over not giving their approval to an application for Resource Consent. This is unfortunate but in some situations this may happen. The potential for such a dispute can be reduced where the discussions and negotiations are related to the effects of the proposal and not some other 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 affected (if anyone). Subject to those affected approving of your proposal, you should ensure they sign the form, application, plans and other documents submitted with the application, otherwise their consent will not be valid and you will have to revisit all concerned.

Please note that the final decision of who is affected is made by the Planning staff of the Council. As an applicant wanting to obtain approval from affected persons you also need to consider the importance of what you are asking approval for. Try and put yourself in their shoes and this may help you appreciate the concerns that affected persons may have. It is important to listen to their reasons for not giving approval. You may be able to change your proposal 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 affected persons refuse to discuss options and this will often lead to a stalemate. The Council's hands are tied in this situation. If someone has decided they will be affected then it is up to the applicant to get approval from that person for their proposal. If this is not possible then it is likely that the application will need to be limited notified or notified.

Alternatively, an option might be to completely re-think the proposal and to design it in a way that does not affect others. 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?

You can obtain advice on any aspect of the Resource consent process over the telephone (03 307700) or counter at the Council Offices, 5 Baring Square West, Ashburton.

Alternatively you may wish to seek advice from your lawyer. Free advice is also available on all planning issues from Community Law Canterbury (03) 366 3870.

Written Approval Form for Person(s) affected by an Application for Resource Consent
PLEASE READ THE NOTES ON THE REVERSE AND IN THE 'GUIDE TO THE AFFECTED PERSONS APPROVAL FORM'



Resource Management Act 1991

Affected Person's Details

Full Name of Person(s): (please print)

Resource Consent No.

Of the property situated at: (address of the property of the person signing this form)

I am/we are the **OWNER(S)/OCCUPIER(S)/BOTH OWNER(S) AND OCCUPIER(S)/DIRECTOR(S)/ TRUSTEE(S)** (*circle one*) of the property.

I/We give written approval to the following:

The Applicant

Full Name of Applicant:

The Site :

Address or location of the proposed development or activity:

The Proposal

Description of proposed development or activity, including a full list of the ways it does not comply with the Ashburton District Plan.

I/We understand that as I/We have given our written approval, the council cannot take into account any effects that the proposal may have on me/us when considering the application. I can confirm that I/We have viewed the application for resource consent and signed each page of the plans.

All owners and occupiers of this property have signed the approval form. Where this form has been signed by a Trustee or under a Power of Attorney, I have supplied the necessary documentation confirming that I have the legal right to sign on behalf of the Trust/Power of Attorney.

Written Approvals

Signature(s) : _____

Privacy Information

All the information on this form is required under the Resource Management Act 1991 for the Planning Department of Ashburton District Council to process the Resource Consent application referred to. Under the Resource Management Act this information can be made available to members of the public including businesses and other organisations. The information produced may be made available to other departments of the Council. You have the right to access the personal information held about you by the Council which can be readily retrieved. You can also request the

Approval of Affected Person(s) to an Application for Resource Consent Under the Resource Management Act 1991

Introduction

What is the Ashburton District Plan?

The Ashburton District Plan is a document that guides the way Ashburton District is developed and controls how land is used. The zone a property is within will determine the rules for any building, land use and subdivision proposed.

What is a Resource Consent?

When people wish to build or use a property in a way which does not comply with rule(s) in the Ashburton District Plan, they require special permission from the Council to do so and this is known as a Resource Consent. If they obtain resource consent they are able to build or use the property in accordance with that consent. An application for Resource Consent can be considered in one of three ways. Applications are either publicly notified (allowing involvement by any person), limited notified (allowing involvement by a limited number of people) or non-notified (allowing an application to be considered without notifying anyone). This process is described in the Resource Management Act 1991.

Why is your written approval required?

If you are asked to give your written approval to someone's proposal as part of their application for a Resource Consent, you should do the following:

1. Request that the applicant (or their representative) explains the proposal clearly and fully to you.
2. Review the application and associated plans of the proposed activity provided by the applicant in order to understand the effects the proposal may have on you. If there are no plans available, you may wish to wait until they are available. You may ask for time to consider the application and associated plans.
3. Decide whether the proposal will affect you. You are entitled to ask the applicant for more information, but you should make a decision about whether you will sign the form or not in a reasonable timeframe. You may suggest changes to the proposal that

minimise the effects on you. If you do this you should only sign the version of the proposal that reflects these changes. Your Written Approval, once obtained by the applicant will usually be submitted to the Council as part of the application for Resource Consent.

4. If you are satisfied that the proposed activity will not affect you or the effects are acceptable to you, you may decide to sign this form and a copy of the plans accompanying the application. You should then return them to the applicant (or their representative). If you are willing to sign subject to some other condition(s) being met, this will need to be the subject of a civil agreement between yourself and the applicant. If you change your mind after signing the form, you may withdraw your approval at any time before the Council's decision on the application by advising the Planning Department in writing that your approval is withdrawn.
5. If you consider that you will be affected by the proposal and do not wish to sign the form, you will need to advise the applicant (or their representative).

Please note that if a property is owned by more than one person, all of the owners are considered to be 'affected persons'. If a property is rented out, the tenants are also considered to be 'affected persons'

Important Information

If you do not give your approval and the Council are of the view that you may be affected by the proposal, then the application must be publicly notified or processed on a limited notification basis, in which case you will have a formal right to object. Alternatively, the applicant may amend their proposal so that it complies with the District Plan or they amend their proposal so that it still needs Resource Consent but the Council considers that the proposal will not affect you. Please note that the decision on who is affected is made by the Council's Planning staff.

Please note that if you give your approval to the application, the Council is not able to consider any actual or potential effects the proposal may have on you. If Resource Consent is granted by the Council there is no way for either you or the Council to retract it later. You are therefore encouraged to weigh up all the effects of the proposed activity before agreeing to it.

Further written information on what you need to consider when asked to give written approval for a proposal is available from the Council or go to www.adc.govt.nz. You can also obtain advice on any aspect of the Resource consent process over the telephone (03 307700) or counter at the Council Offices, 5 Baring Square West, Ashburton.