



Written Approvals of Affected Persons

What Are They?



**DUNEDIN CITY
COUNCIL**

Kaunihera-a-rohe o Otepoti

www.dunedin.govt.nz

What is an affected party/person?

An affected person is someone who may be adversely affected in a minor, or more than minor, way by an activity.

If a resource consent application is to be processed on a non-notified basis, the Resource Management Act 1991 requires that:

- » The activity have, or be likely to have, no more than minor adverse effects on the environment, and
- » Written approval of all affected persons must be obtained.

Who decides who is an affected party/person and how?

We determine who, or if anyone, may be adversely affected by a proposal. When deciding who is affected, we have to consider what the District Plan is trying to achieve. We will consider a number of matters including:

- » The rule(s) that the proposal does not comply with, and the degree of non-compliance
- » The purpose of the rule(s), and the associated objectives and policies of the District Plan
- » Whether any adverse effects will only be experienced by people in the immediate vicinity of the subject site, or by the wider public.

For example: if someone proposes to build a garage on the side or rear boundary, then it is likely that only an adjoining neighbour's written approval will be required, not others. This is because the rule seeks to reduce the visual dominance of buildings on a neighbour's outlook, to enable access to daylight and afford a degree of privacy.

The range of affected parties depends largely on the issues involved. Each application has to be considered independently as the circumstances of each application are different. In most cases the consent of both the owner and the occupier of a property is required.

In some instances, agencies or groups may be affected by the proposal. Such agencies could include the New Zealand Historic Places Trust, the Otago Regional Council, the NZ Transport Agency, Kai Tahu ki Otago Ltd, and the Department of Conservation.

What if I am considered as being affected, what should I do?

If we decide that you may be adversely affected by a proposal on an adjoining or nearby site, it is the responsibility of the applicant, or their agent, to obtain your written approval. If the applicant, or their agent, approach you to sign a written approval form, you should fully understand what the approval form and the application is for. You must be satisfied that you have a thorough understanding of the proposal and how it may affect you.

We are unable to take account of any adverse (negative) effects the proposal may have on you and your property once you sign the written approval form. If you are unsure about your rights as an affected party, then contact our City Planning department.

What if I support the application?

If you decide to support the application, then sign the approval form. It is important, however, that you look at detailed plans of the proposal, the application and the assessment of effects. The applicant, or their agent, is required to show you all these documents. We advise that you sign all the information presented to you by the applicant. This is a safeguard for you so that you are quite clear on what you are agreeing to and we can be assured that the applicant has presented all the information which you have seen and agreed to.

Can I change my mind?

You are quite within your rights to change your mind after you have signed a written approval form as an affected party. If you decide to withdraw your written approval, you may do so and still participate only if a final decision on affected parties has not already been made. Accordingly, you need to contact us immediately if you do wish to withdraw your written approval.

To withdraw your approval, you can phone us on 03 477 4000, or the Planning Officer processing your application if you know their direct telephone number. You also need to send in a brief letter to the Planning Officer recording the withdrawal of your written approval. The withdrawal of the written approval of an affected party may mean the application has to be treated differently (as a limited notification).

What if I decide not to support the application?

If you do not want to give your written approval to the proposal, you are quite within your rights. There is no compulsion to give your approval, nor is there a certain timeframe in which you must decide whether to give an approval or not. If an applicant, or their agent, gives you a date to respond by, that is usually for their convenience and is not a legal deadline. If you need more time to consider the proposal you are within your rights to do so.

Can I discuss options with the applicant?

You are able to discuss with the applicant ways in which the proposal can be changed to meet any concerns that you may have. It is appropriate to negotiate with the applicant over things that can be done to reduce the impact of the activity on you and your property. Two common ways of doing this:

- a) By getting the applicant to amend their plans or proposal before signing the approval form, or
- b) By entering into a written agreement with the applicant (these are often referred to as side agreements). This could be in the form of a letter of undertaking, a deed of agreement, a contract or an interest recorded on the title.

Note that:

- » Side agreements do not bind us in any way
- » We will not get involved in any negotiations between you and the applicant
- » We will not accept conditional written approvals.

What will happen if I do not give my written approval?

If your written approval is not given, and the applicant is not prepared to change the proposal, it is likely that the application will be given limited notification. A limited notified application is of greater expense to the applicant and takes longer to process and affected persons have a formal right of objection by way of a submission. The decision would most likely be made by a Hearings Committee.

What should I do as an applicant?

It is important that you ask a Planning Officer at the Public Enquiries desk to identify who they consider to be affected parties/person(s) if you are making an application for resource consent. However, please note that formal confirmation of affected parties is only done once an application is lodged and then usually only after a site visit. It is also important to ensure that those whom you approach to sign written approvals must sign their initials on other appropriate documents relating to your application, such as detailed site plans drawn to scale, and assessment of environmental effects of your proposal. This minimises the risk of the affected person claiming that the application was misrepresented to them, or changed following their written approval.

As an applicant trying to obtain a neighbour's written approval, you also need to consider the importance of what you are asking your neighbour. Try and put yourself in their shoes and this may help you appreciate the concern that some neighbours may have. It is important to listen to people's reasons for withholding their written approvals. Sometimes you will be able to change your proposal slightly to meet their concerns but still meet your objectives. Alternatively, you may reach a written agreement outside the consent process (often referred to as side agreements).

Further Information

This pamphlet is one of a series about the Resource Management Act 1991 and the Dunedin City Council's District Plan.

If you have any questions please contact City Planning staff:

In Writing: Dunedin City Council, PO Box 5045, Moray Place, Dunedin 9058

In Person: Customer Service Centre, Civic Centre, 50 The Octagon

Phone: (03) 477 4000

Fax: (03) 474 3451

Email: planning@dcc.govt.nz

Website: www.dunedin.govt.nz

