

## Information on Resource Management Processes

This is part of a series of information sheets that provide an overview of processes under the Resource Management Act 1991 (RMA) for resource consents, deemed permitted boundary activities, and plan-making. These fact sheets reflect changes made to the RMA through the Resource Legislation Amendment Act 2017.

### Information for applicants: Deemed permitted boundary activities

This information sheet outlines the process for applying for a deemed permitted activity under the Resource Management Act 1991 (RMA). All terms in bold in this sheet are defined under this Act.

#### Introduction

The RMA requires councils to create plans (city, district or regional plans) to help them manage the environment in their jurisdiction. These plans contain rules for activities that may have adverse effects on the environment. The rules state whether an activity is permitted, meaning you can do it as of right, or whether it requires approval under the RMA.

If your planned activity does not comply with one or more rules in the plan, the council will need to give you permission to undertake the activity. In most cases, you will need to apply for a **resource consent**.

However, if your activity is a **boundary activity** (see criteria below), it can be approved through a much simpler process, provided you are able to present the required information to the city or district council. This includes written approval(s) from the relevant neighbour(s), and some basic information about your proposed activity. Once this information has been received and assessed, the council will issue a written notice within 10 working days stating whether the proposal is permitted, meaning that resource consent is not required. This type of permission is known as a **deemed permitted boundary activity**.

Under the RMA, councils can charge a fee for your deemed permitted boundary activity application; the relevant fees and charges are on the council's website. The council does not have to process your application if a fee has not been paid for the application.

The steps below outline what you need to do to understand if your activity is a boundary activity, and how to get approval from the council.

## Step 1 – Is your activity a ‘boundary activity’?

Once you have had plans drawn up of your proposal (see the information requirements outlined in step 3), you (or the person acting on your behalf such as your architect/planning consultant) will need to work out which rules in the district plan your proposal does not comply with. This is an important assessment, in order to work out whether your proposal can be considered as a boundary activity.

Under the RMA, an activity is a ‘**boundary activity**’ if all of the following apply:

- resource consent would be required due to the infringement of one or more ‘**boundary rules**’ (see below for definition of boundary rules)
- it complies with all other **district rules**
- no ‘**infringed boundary**’ is a ‘**public boundary**’ (these terms are defined below).

The sections below provide an explanation of what a **boundary rule**, an **infringed boundary** and a **public boundary** are under the RMA.

It is recommended that you discuss your proposal with your council at an early stage, to clarify whether it is likely to meet the criteria to be a boundary activity, before lodging an application for a deemed permitted boundary activity.

### What is a boundary rule?

A ‘boundary rule’ is a rule in a District Plan relating to the distance between a structure and a property boundary (or boundaries), or the dimensions of a structure in relation to its distance from a boundary.

The definition of ‘structure’ is included in the RMA. It is: “any building, equipment, device, or other facility made by people and which is fixed to land; and includes any raft.”

Common boundary rules include yard setbacks and recession planes (sometimes known as ‘height in relation to boundary’ or sunlight/daylight plane rules). These rules are in place to ensure that activities don’t have a negative impact on the amenity of neighbouring properties.

District plan rules that do not relate to a site’s boundary are NOT boundary rules (for example, overall building site coverage or maximum height restrictions).

If you are uncertain as to whether a rule in the district plan is a boundary rule or not, the resource consents/planning team at your local council will be able to help.

#### Examples of boundary rules

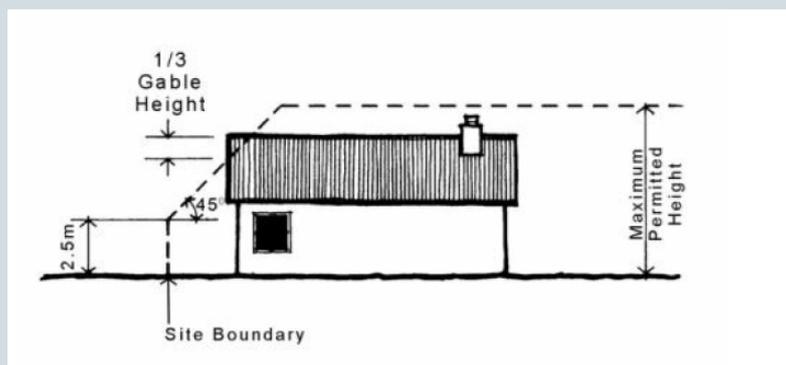
Yard setback:

*You cannot build a house (or other structure) closer than 2 metres to a boundary that you share with a neighbour.*

Height (building) recession plane:

*Recession planes are lines that proceed at an angle from the horizontal, measured from any point 2.5 metres vertically above ground level along site boundaries. The angle of the recession plane varies according to the compass orientation of the site boundary that it is measured from. The proposed building must wholly sit below this recession plane at all points along each boundary.*

Figure 1: A height (building) recession plane diagram



Source: From rule 5.6.2.8 of the Wellington City Council's District Plan.

## What is an infringed boundary and a public boundary?

An **'infringed boundary'** is the common boundary between your property and your neighbour's property where the non-compliance with the relevant 'boundary rule' occurs (defined under Section 87AAB of the RMA). The RMA definition includes extra clarification in situations where the common boundary is a private way (driveway/access path/right of way), or the infringement relates to the corner of the site.

See scenarios 1 to 4 in Step 2 for which boundaries would be an 'infringed boundary' in different situations.

A **public boundary** is a site boundary shared with any road, river, lake, coast, esplanade strip, other reserve, or land owned by council or the Crown. For example, a proposal to build a building or structure closer to the boundary with the council's legal road than a rule in the district plan allows (usually known as the front yard setback) cannot be considered a 'boundary activity'. This is because the boundary is shared with a public space (the road), as opposed to a private boundary.

Rules that restrict the dimension or distance of a structure in relation to a public boundary (ie, road) could be for traffic/pedestrian safety reasons or visual amenity in the streetscape. This is different to rules that apply to private boundaries, which are often used to control effects on neighbouring properties.

## Step 2 – Get your neighbours' written approval(s)

After you have spoken to the council, and/or you are confident that your activity is a boundary activity, you need to get written approval from the owner(s) of the neighbouring properties where the infringement(s) occurs. The form for your neighbour to complete and sign can be obtained from your council.

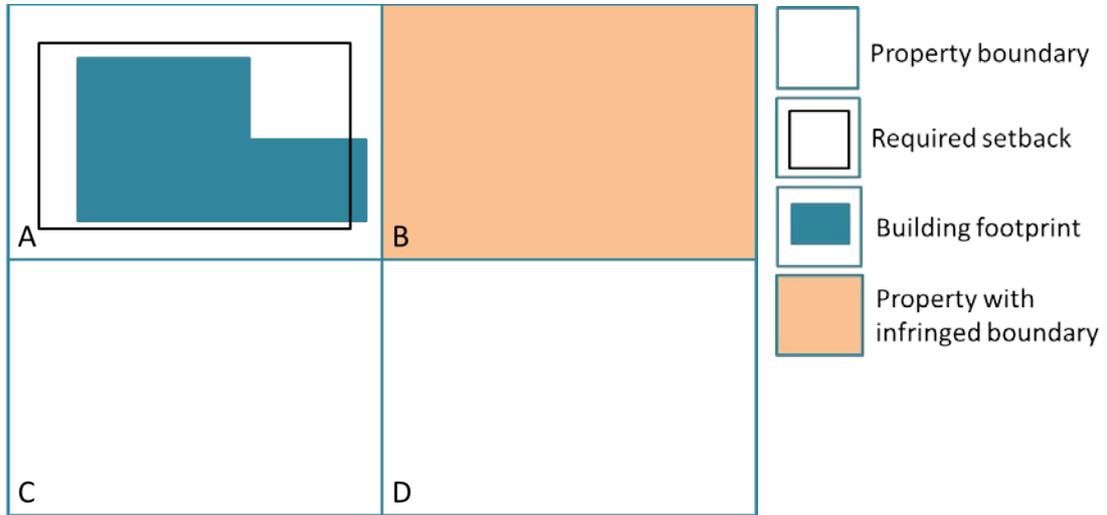
### Who do you need to get written approval from?

You only need to get written approval from the owner(s) of the **allotment(s)** (property) with the boundary where your proposed activity infringes a boundary rule. The figures below show who written approval is required from in different scenarios.

In these scenarios, a person wants to build a house on a vacant site. The relevant council plan requires all buildings to be set back a distance of 2 metres from all side and rear boundaries.

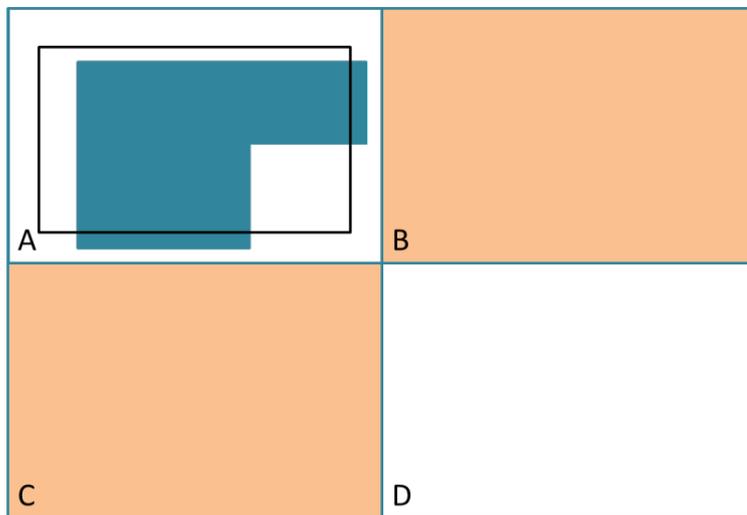
However, the proposed house will only be set back 1.5 metres from the boundary. The activity complies with all other rules in the district plan, for example site coverage and height. It does not breach any rules on boundaries that are public boundaries (for example, the road).

**Scenario 1: The proposed building is located 0.5m away from the boundary shared with allotment B and therefore infringes the boundary rule**



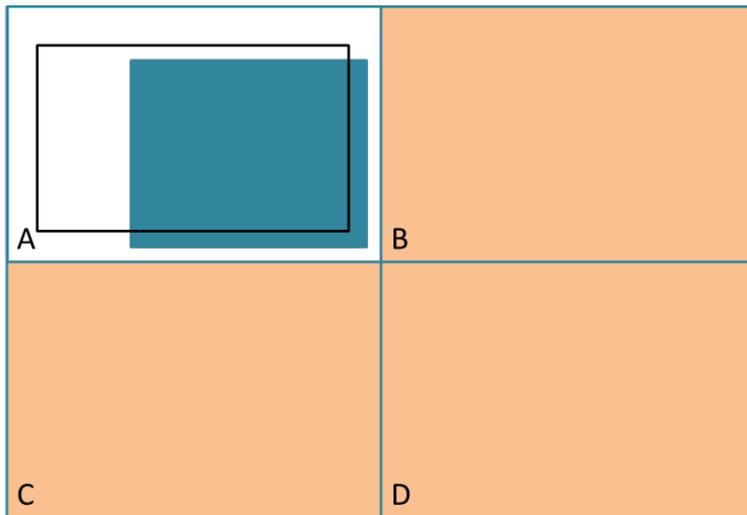
Written approval is only required from the owner of allotment B, as the rule is being infringed in relation to this boundary only.

**Scenario 2: The proposed building is located 0.5m away from the boundaries shared with allotments B and C**



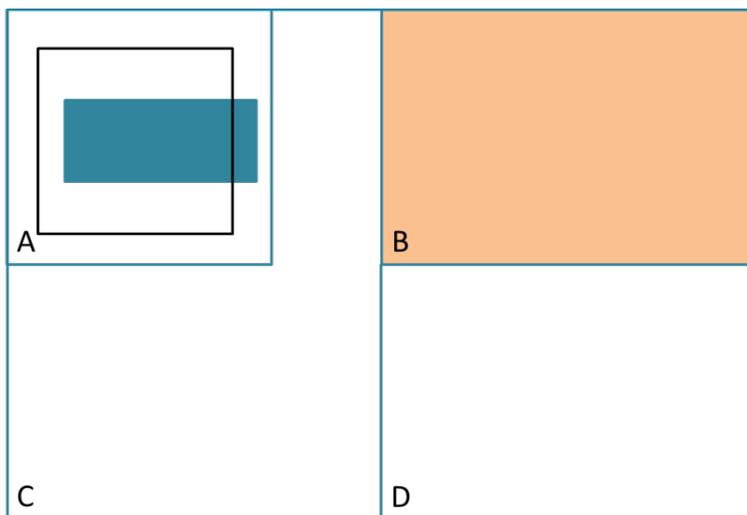
Written approval is required from the owners of allotments B and C, as the rule is being infringed in relation to both these boundaries.

**Scenario 3: The proposed building is located 0.5m away from the boundary shared with B and C, and 0.5m away from the corner of allotment D**



Written approval is required from the owners of allotments B, C and D, as the setback rule is infringed when measured from the corner of the allotment (as per section 87AAB):

**Scenario 4: Proposed building is located 0.5m away from the boundary shared with a private way**



If the rule breach involves a boundary that forms part of a private way (for example a right of way), then written approval is required from the owner of the allotment on the opposite side of the private way (as per section 87AAB).

## Step 3 – Information to submit to your council

**Table 1: Information to be supplied to your council**

Information required	Explanation/guidance
A description of the activity	<p>The description needs to give enough detail for the council to be satisfied your activity meets the criteria to be a boundary activity.</p> <p>Keep in mind your council will have to be sure your activity does not infringe any other rules in the district plan, and none of the infringed boundaries are public boundaries.</p> <p>An infringed boundary is the boundary where the rule breach is occurring (see scenarios 1–4 above).</p> <p>If the council is not satisfied that your activity is a boundary activity, they will return your application to you.</p>
A plan (drawn to scale) of the site at which the activity is to occur, showing the height, shape and location on the site of your proposed activity	<p>To show this accurately, consider providing:</p> <ul style="list-style-type: none"> <li>• a <b>location plan</b> showing the street address of the subject site, and accurately identifying neighbouring properties</li> <li>• a <b>site plan</b> identifying the shape and location (distance) of the proposed structure to any 'infringed boundary'. If the district plan has any other bulk and location rules (such as site coverage), the plan will also need to show that it complies with these.</li> <li>• <b>elevation drawings</b> of all structures to be built or altered, which show the relationship of structures to boundaries, and show the structures meet other rules in the plan as well (eg, maximum height rules).</li> </ul>
Full name and address of owners of the site	If you do not know who the legal owners of the site are, your council may be able to help with contact details, or you will need to go to Land Information New Zealand.
Full name and address of each owner of an allotment with infringed boundaries	If you do not know who the legal owners of the site, your council may be able to help with contact details, or you will need to go to Land Information New Zealand.
Written approvals (including signed plans)	<p>Written approval is required from owners of allotments with infringed boundaries (see scenarios 1–4 illustrating this).</p> <p>Owners will include any person who has agreed in writing, whether conditionally or unconditionally, to purchase the land or any leasehold estate or interest in the land, or to take a lease of the land, while the agreement remains in force.</p> <p>If you are unsure who the owners of the property are, talk to your council to find out how to get this information.</p> <p>Ask your council for the relevant form that owners will need to sign. It is also a requirement that the neighbours must sign the plans referred to above, to demonstrate they are fully aware of what you propose.</p>

## Step 4: How long will it take the council to issue the deemed permitted boundary activity notice?

Once your council has received the information it needs, it has 10 working days to provide you with a written notice permitting your activity.

Alternatively, if the council finds through their assessment that your activity is not a boundary activity (for example, if the activity breaches another rule that you might not have been aware of), or if it finds that a piece of information is missing, they are required to return your application to you. If information is missing, you can apply again and this will be treated as a new application.

If the council finds that your activity is not actually a 'boundary activity', you will need to apply for a resource consent to undertake the activity. If your neighbours who are identified as 'owner of an infringed allotment' are unwilling to provide a written approval, you will also need to apply for a resource consent to undertake the activity.

If this is the case, please refer to information sheet [Resource consents](#), or talk to your council about what you will need to do.

#### Material in this series

This is one of a series of information sheets that provide an overview of resource consent, deemed permitted boundary activity, and plan-making processes under the Resource Management Act 1991 (RMA).

Find out more:

- [Deemed Permitted Boundary Activity flowchart](#)

## Disclaimer

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