

Deemed permitted boundary activity

This application is made under section 87BA of the Resource Management Act 1991

Read and complete this form carefully, providing all details relevant to your proposal.

If you need help to confirm if your proposal is a boundary activity, or to fill in this form, our Council consent planners can help. You can phone or email us to get a reply from our duty planner or to make an appointment with them.

Attached at the back of this form is a list of all the information you must include with your application for us to accept it. You must pay the fee required under the Tasman District Council's schedule of charges when you lodge it.

1. Applicant details

(If the site is owned by more than one person, an unincorporated trust or a partnership, then you must identify all the owners, trustees or partners)

Name:

(organisation/individual)

Email address:

Post address:

Phone:

3. Property details - application site

Address:

Name of owners:

Email address:

Post address (optional):

Phone:

2. Name and address for service

(if different from 1 or if your agent is dealing with the application)

Name:

(organisation/individual)

Email address:

Post address:
(optional)

Phone:

Phone (mobile):

4. Full description of the activity

Describe what is to be carried out on the site for example: "To construct a dwelling X metres from the boundary with 1 Smith Street, or to build a garage that does not meet daylighting requirements along the boundary with 2 Smith Street".

5. Plan

Attach plans for your proposal showing the height, shape and location of the proposed activity on the site. This must include a location plan, site plan and elevation drawings. Your plans must:

- have a north point
- be scaleable when reduced in size
- be clear
- be drawn to scale and scale stated
- show setbacks from boundary in metres
- show dimensions including building height
- show the daylight angle in accordance with the relevant TRMP rule

6. Written approval required from person or parties of infringed boundaries.

You must identify any persons or parties of an allotment with an infringed boundary. List the full name and address of each owner of an allotment, in the space provided below.

Written approval of affected person forms (see attached) and any relevant plans have been signed by the following people:

Form attached

Form attached

Form attached

Form attached

7. Declaration

I (*print full name*)

acknowledge:

- (1) I have provided the details of the activity and information required for a deemed permitted boundary activity under section 87BA of the Resource Management Act 1991, and as identified in the checklist below.
- (2) I have paid the required fee (*fees change 1 July annually - check www.tasman.govt.nz, keyword "consent fees", or contact us*).
- (3) The information provided in this application and its attachments to it are to the best of my knowledge accurate.

Signature of applicant or authorised agent

Date

Not needed if lodged electronically

Checklist of information that must be submitted with this application

Tick to show you have included all the required information.

The required fee (or evidence of payment)

A full description of the activity (see section 4 above)

Plans of the proposed activity on the site it's to occur, meeting the requirements in section 5 above.

A current record of title (no more than three months old) and including copies of any relevant consent notices, or

I ask Council to source a copy of the current record of title and have paid the extra fee required for the cost of this service

The full names and address of each owner of an allotment with an infringed boundary to which the proposed activity relates (see section 6)

Signed written approval forms (with an initialled copy of the site plan and any other relevant plan)

Information – brief guide to deemed permitted boundary activity

For more information see the Ministry for the Environment website at www.mfe.govt.nz

What is a deemed permitted boundary activity?

To be a deemed permitted boundary activity, a proposed activity must meet the following criteria:

- it requires resource consent due to the infringement of one or more boundary rules in a district plan,
- it must not infringe any other district plan rules,
- the infringement must not relate to public boundaries, and
- the owners of all allotments with an infringed boundary have given written approval to the proposal, including signing the site plans.

What is a boundary rule?

This means a district rule which refers to the distance between a structure* and one or more boundaries of an allotment* or the dimensions of a structure in relation to its distance from one or more boundaries of an allotment.

For example, a yard setback, daylight angle, or building length in relation to boundary. A maximum height rule is not a 'boundary rule'.

*Both structure and allotment are terms defined in section 2 of the RMA.

What is a public boundary?

A boundary is public if it's between an allotment and any road, river, lake, coast, esplanade, reserve, esplanade strip, other reserve, or land owned by the local authority or the Crown.

What is an infringed boundary and who is written approval required from?

'Infringed boundary' is defined in section 87AAB of the RMA as a boundary to which an infringed boundary rule applies.

To avoid having the application returned, provide all neighbours' written approvals with infringed boundaries within the application to Council. Ensure you include both a written approval form and a copy of the signed plans.

If you are unsure about anything in this form or what you think you need to do, ask our duty planners for help.

Council's duty planners can help you understand what you need so you have everything for a valid application.

Fees

Fees are set annually, and updated 1 July every year. Check our web page for the current fee, or contact us. Go to www.tasman.govt.nz, keywords "**consent fees**", see **Resource Management - processing fees and charges**.

Record of title fees search fees change to reflect LINZ costs, and are charged per document. Check with us before you lodge your application so we can advise you of the cost.

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Written approval for deemed permitted boundary activity

under section 87BA Resource Management Act 1991

Applicant's details to be completed by the applicant

Applicant name:

Details of the property with the boundary activity on it:

Address

Legal description (optional)

Full description* of the proposed activity:

*Note to applicant: You must make a full and accurate description of the activity. If this description does not cover all aspects of the proposal, the Council may require you to amend this form and re-obtain all the approvals. Also you must ensure that a copy of any plans accompanying the application are signed by all persons who sign this form. Seek advice from a Council duty planner if you are unsure whether this part of the form has been filled in correctly.

The person giving written approval must complete the rest of the form.

Note to the person giving written approval - before you complete and sign this form.

You should only sign this form if you support or have no opposition to the grant of the above boundary activity.

If you sign this form:

- (1) you cannot withdraw your written approval once you've given it, and
- (2) Council will permit the applicant to go ahead with their activity (if they supply the correct information, including all other written approvals required).

If you do not understand any part of this process, contact a duty planner at the Tasman District Council, as signing this form and the accompanying plans means you cannot change your mind later on and withdraw your written approval

Complete this section if you are the owner of the allotment with an infringed boundary

1. I am an owner* of the property at: *(insert physical address or legal description)*

* "Owner" includes all trustees of any trust owning a property and all members of any Body Corporate authorised to manage a property. It will include all members of any partnership or syndicate owning the property. It will also include any persons or entity that has entered into an agreement to purchase or lease the property.

AND

List the full names and contact details of all other registered owners:

Complete this section if you are signing this form on behalf of other persons

2. I have authority to sign this form on behalf of other persons:

- (1) list the full names of any persons you are signing on behalf of, and
- (2) provide signed written proof from each person you are signing on behalf of that you have authority to sign this form on their behalf, or evidence of signing rights if you're signing on behalf of a trust or a company.

(Note: If you are signing as a person's attorney, a copy of the Power of Attorney signed by that person must be provided.)

Written approval

Declaration

I have read and understood the information provided with this form (refer to the notes on the back page of this form).
I have read the description of the proposed activity, including a copy of the deemed permitted boundary activity application form and accompanying plans.

I confirm I understand the proposal.

I give my approval to the proposal in the deemed permitted boundary activity application and as shown on the plans.

I have seen and signed a copy of the accompanying plans.

In signing this written approval I understand the Council as consent authority will permit* the applicant to undertake the activity. **provided the applicant has supplied the correct information, including all other written approvals needed.*

I understand that I cannot withdraw my written approval for a deemed permitted boundary activity.

Signature 1:

Date:

Not needed if lodged electronically, but the accompanying plans must be signed

Full name:

Email address for service:

Phone no (day):

Postal address:*

Signature 2:

Date:

Not needed if lodged electronically, but the accompanying plans must be signed

Full name:

Email address for service:

Phone no (day):

Postal address:*

*or any alternative method of service - see section 352 of the Resource Management Act 1991.

Written approval from an owner of an allotment with an infringed boundary. Information on applications for a deemed permitted boundary activity under the Resource Management Act 1991

What is a deemed permitted boundary activity?

A deemed permitted boundary activity involves the breach of one or more 'boundary rules' in a district plan. A 'boundary rule' is a district rule which refers to the distance between a structure and one or more boundaries of an allotment, or the dimensions of a structure in relation to its distance from one or more boundaries of an allotment. Examples of these include rules requiring compliance with a yard setback, a daylight angle, or a maximum building length in relation to boundary. A maximum height rule breach is not a 'boundary rule'.

A boundary activity must not infringe any other district plan rules.

What is an infringed boundary and who is written approval required from?

'Infringed boundary' is defined within section 87AAB of the RMA and means a boundary to which an infringed boundary rule applies.

An applicant must get the written approvals from every neighbour with an infringed boundary, and must attach them all with their deemed permitted boundary activity application to Council.

Why is your written approval being sought by the applicant?

The Resource Management Act 1991 requires that the applicant must obtain the written approval from every person of an infringed boundary if they want to apply to Council for a deemed permitted boundary activity. It is the applicant's responsibility to talk to the neighbours who would have an infringed boundary as a result of their proposal.

As the neighbouring owner of an infringed boundary you can consider the proposed activity and decide for yourself whether you want to give your written approval.

What should you do if you are asked to sign this form?

If you are asked to give your written approval to someone's proposed activity as part of their application for a deemed permitted boundary activity, you should do the following:

1. Ask that the applicant (or their representative) to explain the proposal clearly and fully.
2. Study the application and associated plans they give you, and ensure you understand the effects of the proposed activity. Ask for time to consider the documents if you think you need it.
3. Decide whether the any structure enabled by the proposed infringement of the boundary rule will adversely affect you or your property. You can ask the applicant for more information if you need to make a decision about whether you will sign the form or not. You may suggest changes to the proposal if you think they would make the effects from any infringement acceptable to you. If the proposal is amended by the applicant, then you should only sign the amended version of the proposal. Written approvals obtained for a deemed permitted boundary must be submitted to the Council by the applicant as part of their application.
4. If you decide to sign the written approval form (and copy of the plans that will accompany the application), the completed and signed documents are returned to the applicant (or their representative). If you are willing to give your approval subject to some other condition or consideration being met, this will need a separate side agreement between yourself and the applicant if you want to make it certain and enforceable. The Council cannot accept "conditional approvals".
5. If you do not wish to sign the approval form, let the applicant (or their representative) know.

Important notes to person considering signing the written approval

Only sign the written approval if you fully understand the proposal. Get independent expert or legal advice if you need the proposal or the deemed permitted boundary activity process explained to you.

You cannot give a conditional written approval as part of this process.

Once you have given your written approval as part of a deemed permitted activity application, you cannot withdraw it later. You have no obligation to sign this form nor to give any reasons for refusing to.

If you do not sign this form, and the applicant wishes to go ahead with the proposal, they must make a resource consent application. As part of that consent process the Council will decide if you're an affected person (if they consider that the adverse effects of the proposed activity on you are minor or more - see s95E of the RMA).

If the Council does subsequently decide you're an affected person as part of that resource consent process, then you will have a chance to submit on the resource consent application. If it does determine that you're not affected, then you do not get to submit.