

## **Summary Legal Opinion from Simpson Grierson on Boundary Adjustments for resource consent processing practise**

Following an internal review, the Council is changing how it processes resource consent applications for boundary adjustment subdivisions.

The Operative District Plan (ODP) defines “boundary adjustment” as “a subdivision to adjust the boundaries between adjoining titles where no additional titles are created”. Legal advice received by the Council confirms that for an application to qualify as a boundary adjustment, the application must seek consent to subdivide each adjoining title to adjust the boundary between them. Council’s advice also confirms that:

- applications that seek to subdivide only one existing title will not satisfy the ODP’s criteria for a boundary adjustment, even where the application proposes to subsequently amalgamate one of the subdivided allotments with an adjoining allotment; and
- titles separated by a road do not qualify as “adjoining” under the ODP, and so boundary adjustment subdivisions cannot occur across two titles separated by road.

### **What this means**

This affects the information that the Council will require to process boundary adjustment applications going forward. Applications for a boundary adjustment must include survey information for each adjoining title that is proposed to have its boundary adjusted, including measurements of the current boundaries and the proposed boundaries following the boundary adjustment. Where an application does not include survey information for one or more of the titles that will ultimately be affected, the Council will either return the application as incomplete under s 88(3A) of the Resource Management Act 1991 (**RMA**) or request further information under section 92.

### **Timing for implementation**

Under section 84 of the RMA, the Council is required to observe and enforce its district plan. In order to comply with its statutory obligations, the changes to Council’s practice have come into effect (*this change will come into effect on 1 December 2023*).

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