



PARTY WALL CONSENT

What is a party wall?

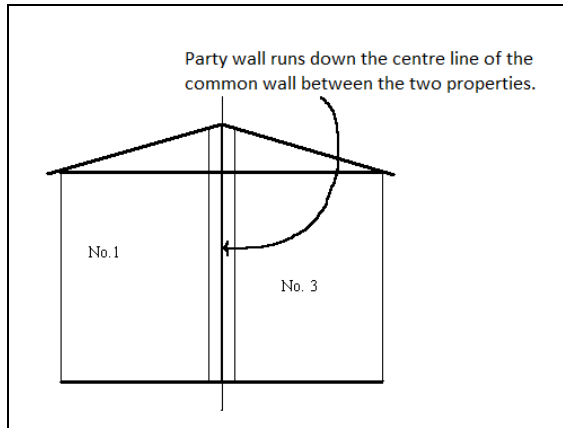


Figure 1

Why do I need the consent of my neighbour?

The North Sydney Council Area has a great many buildings which share a party wall on one or more boundaries. Any application which proposes:

- a) Demolition;
- b) Rebuilding;
- c) Extension of an existing building; or
- d) Erection of a new building;

and proposes works on a party wall or works which rely on a party wall for lateral or vertical support, must be accompanied by the written consent of all owners of all party walls involved. This consent may take the form of the signature on the development application of all owners affected or by separate letter which clearly states the nature of the works agreed to.

It is a requirement of the Environmental Planning and Assessment Act 1979 that all development applications are made by the owner or a person with the owners consent.

Why can't Council just condition this?

This is not a question of how a building can be built but a legal requirement that all owners have agreed to the lodgement of the application.

A development application cannot be determined until it has the written consent of all owners of all properties that work will take place on.

Party wall owners consent as presented to Council cannot be accompanied by conditions from the adjoining owner.

What will Council do with applications submitted where party walls are involved?

When an application is lodged, and it appears to Council that works involve a party wall, Council will look for adjoining owners consent. If there is no consent, then Council Officers examine the plans to see if the works are to be supported independently of the party wall.

Where the application does not have adjoining owners consent, but includes a design which shows that the works are to be supported independently of the party wall, these plans must be accompanied by a certificate from a qualified and practising Structural Engineer.

The required Structural Engineers certificate is to state that the design is independently supported and does not rely on the party wall for lateral or vertical support. *It is not sufficient for a Structural Engineer to state that the works will impose no additional load on the party wall.*

The development application will not be accepted by Council and will be returned to the Applicant until this matter has been satisfied. Once given in good faith owners consent cannot be withdrawn.

Extra information for your neighbour

A neighbour who gives party wall consent retains the right to make a separate submission to Council, whether in support or objection, on any aspect of the proposed development other than the use of the party wall.

It is to be noted that the extension of a party wall can be a benefit to the adjoining owner as it may facilitate their own extension at a later date. It may also improve fire safety and noise attenuation where there is no existing party wall in the roof cavity.

Council as a standard practice imposes a condition of consent requiring a dilapidation survey be lodged with the Council at the time of issue of the Construction Certificate. This provides a basis for the repair of any damage

that is alleged to have occurred during the approved works.

Party wall consent does not prevent you and your neighbour entering into any private agreement. For example, to make good any damage from the works. This is ultimately a civil matter between neighbours.

Examples of Work on Party Walls

In Figure 2 the owner of No.1 demolishes the light grey shaded area and rebuilds as shaded dark grey. No. 1 is relying for vertical support on the party wall with No. 3 and therefore needs the written consent of No. 3. No. 1 will also need the written consent of No. 3 even if demolition is not proposed as the works rely on the party wall for support.

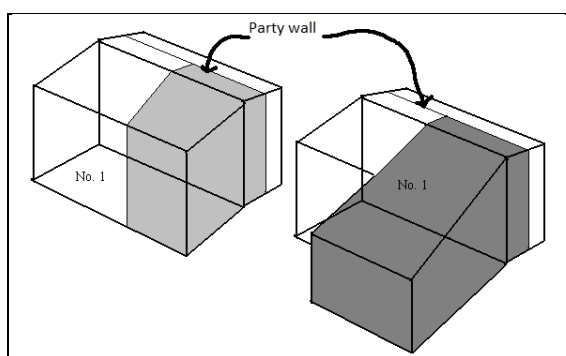


Figure 2

In Figure 3 the owner of No. 3 constructs an extension that relies on the party wall for support, therefore No. 3 needs the written consent of No. 1 in order to lodge the application.

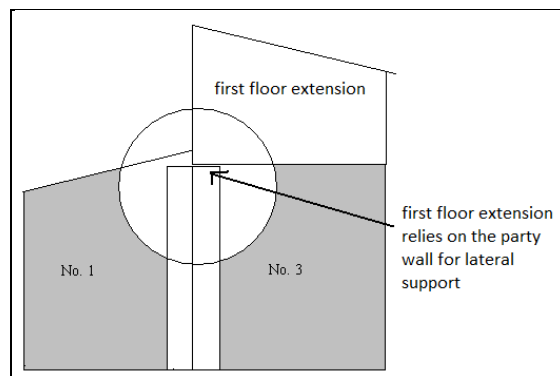


Figure 3

In Figure 4 the owner of No. 1 is unable to obtain the written consent of No. 3 for works involving the party wall. No. 1 therefore must provide details from a structural engineer which identifies how the new work will be independently supported without any reliance on the party wall. The structural engineer certifies that the new works will not rely on the party wall for vertical or lateral support. Architectural plans must be amended accordingly.

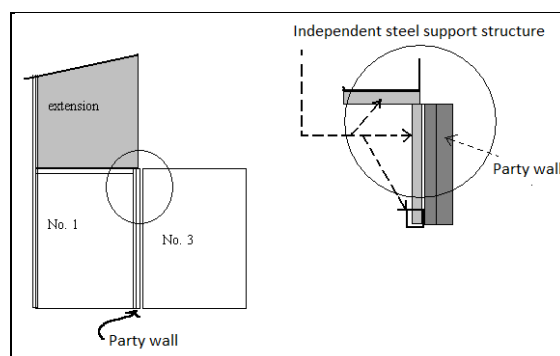


Figure 4

Further Information

Contact Council's Planning and Development Advisor by telephoning 9936 8100 or email council@northsydney.nsw.gov.au. It may also be wise to discuss this issue with your own solicitor or a knowledgeable building professional prior to giving owners consent.

OWNERS CONSENT FOR WORKS INVOLVING A PARTY WALL

I/We _____ and _____ (print names)
 being owner/s of _____ (property)
 and therefore joint owners of the party wall the subject of this development application for
 _____ (property)

have no objection to use of the party wall for either vertical or lateral support and consent to the making of the development application.

Signature

Date

Signature

Date