

The following information is provided to assist you with completing and submitting a Report & Consent Application to Council for a request to vary this Building Regulation.

EXTRACT OF REGULATION

91 Fences on or within 150 mm of side or rear boundaries

- (1) Despite regulation 90, one or more fences that are more than 2 m in height may be constructed on, or within 150 mm of, a side or rear boundary of an allotment (other than a boundary that is a side or rear street alignment) if the total length of the fence or fences or that total length combined with the length of any wall, or carport, or wall and carport constructed in accordance with either regulation 80(2) or (3) (as the case requires) on or adjacent to that boundary, does not exceed the greater of the following lengths—
 - (a) 10 m plus 25% of the remaining length of the boundary of an adjoining allotment;
 - (b) the length of any wall or carport constructed on an adjoining allotment that is on or within 150 mm of the boundary of that allotment and that abuts those fences.
- (2) A fence constructed on or within 150 mm of a side or rear boundary of an allotment in accordance with this regulation must not exceed—
 - (a) an average height of 3 m; and
 - (b) a maximum height of 3.6 m along the boundary.
- (3) Despite subregulation (2), if a fence abuts an existing wall it may be constructed to the same height as that wall.
- (4) This regulation does not apply to a fence if the fence is provided to comply with regulation 84, or with a planning scheme that regulates the same matter as regulation 84, and—
 - (a) the fence is not more than 2.5 m in height; and
 - (b) the part of the fence between 2.0 m and 2.5 m in height has between 20% and 25% of its area open.
- (5) The report and consent of the relevant council must be obtained to an application for a building permit in relation to a design that does not comply with this regulation.

REGULATION NOTES

To ensure that the location, length and height of a fence on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings

DECISION GUIDELINES

The following information should be outlined on your submission form as part of your application:

- Why you cannot comply with the regulation
- Why you wish to construct the fence at the proposed height
- Why you wish to construct the fence at the proposed length

ASSESSMENT CRITERIA

The following criteria will be used for the assessment of your application:

- Adjoining Owners Comments
- Ability to comply with the Regulation
- Intended purpose of the proposed fence

NOTES:

WHAT IS A REPORT & CONSENT?

As set out in the **Building Act 1993** (the Act) and the Building Regulations 2018 (the Regulations), a report and consent is the process for consulting with and obtaining the approval of a reporting authority when building work may affect assets, infrastructure or amenity of the community. These include:

- Siting of a dwelling
- Building over an easement
- Building in a flood-prone area
- Fire safety matters
- Electricity sub-stations (only a report)
- Projections beyond street alignment
- Building above or below public facilities
- Precautions over street alignment (unclear)
- Installing or altering a septic tank system.

WHEN IS A REPORT & CONSENT REQUIRED?

The Act and Regulations provide specific circumstances where a report and consent of reporting authorities is required. Division 3 of Part 4 of the Regulations prescribes the reporting authorities and the matters to be reported on. Regulation 31 refers to Schedule 5 Part 2 which lists the matters that each authority reports on. These regulations are listed on the application form.

DO I NEED A REPORT & CONSENT IF I HAVE A PLANNING PERMIT?

Where a Planning Application has been assessed for siting, the Planning Scheme overrides the requirement to obtain a Report & Consent. The relevant Regulation will note if this is applicable. Please note not all Planning Permits will assess the siting as this depends on what triggered the need for the Permit. Where a Planning Permit has been issued and siting was not assessed the Siting Regulations must be complied with or a Report & Consent obtained.

CONSENTING TO AN APPLICATION

A reporting authority may consent to an application as presented or place recommendations on the consent. When placing recommendations on a report and consent the prescribed reporting authority should consider the relevance to the matter being sought the recommendation and whether the RBS can reasonably enforce the recommendation.

The Report & Consent is valid for 12 months after the date of issue. If works have not commenced within this time, Report & Consent must be reapplied for. Where works have commenced within the 12 months, the Report & Consent remains valid for those works

REFUSAL OF AN APPLICATION

A reporting authority must provide reasons for refusing an application. When a report and consent is refused, an applicant has the right to appeal the reporting authority's decision to the Building Appeals Board (BAB).

Section 144 of the Act allows an appeal to be made against a reporting authorities:

- refusal to consent to an application
- conditions imposed
- failure within a reasonable time to decide an application.

Appeals must be made within 30 days of the date the refusal was issued. An appeal can be lodged with the BAB. An application form and supporting information is to be lodged with the relevant fee. A copy of the application form can be downloaded from the Victorian Building Authority website www.vba.vic.gov.au or contact the BAB on (03) 9285 6400.

REPORT & CONSENT PROCESS

