

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

86 Private open space

- (1) If—
 - (a) an allotment is in a zone of a planning scheme specified in Schedule 6; and
 - (b) a schedule to that zone in the planning scheme specifies a minimum area and dimension for private open space—

a Class 1 building on that allotment must have private open space of at least the area and dimension specified in that schedule.
- (2) If subregulation (1) does not apply, a Class 1 building on an allotment must have private open space—
 - (a) of not less than 80 m² or 20% of the area of the allotment, whichever is the lesser; and
 - (b) which includes an area at the side or rear of the building—
 - (i) that is at least 25 m² with a minimum dimension of 3 m; and
 - (ii) that has convenient access from a habitable room (other than a bedroom).
- (3) 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 OBJECTIVE

To provide adequate private open space for the reasonable recreation and service needs of residents

DECISION GUIDELINES

The reporting authority may give its consent to an application for a building permit for a single dwelling, which does not comply with regulation 86 of the Building Regulations 2018, if –

- (a) the location of the private open space maximises the solar orientation of the allotment; or
- (b) the availability of, and access to, public open space or communal open space would lessen the demand for private open space on the allotment.

Your submission should outline how the proposed works meets the above guidelines. The proposal must meet at least one 'or' statement (not all will be applicable) and all 'and' statements.

Please note meeting these guidelines does not guarantee the Report & Consent will be approved.

ASSESSMENT CRITERIA

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

- Adjoining Owners Comments
- Ability to comply with the Regulation
- How the proposal meets the Decision Guidelines

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

