

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

75 Building height

- (1) If—
 - (a) an allotment is in a zone of a planning scheme specified in Schedule 6; and
 - (b) that zone, or a schedule to that zone, specifies a maximum height for buildings—
the height of a building on that allotment must not exceed the relevant height specified in that zone or schedule (as the case may be).
- (2) If subregulation (1) does not apply, the height of a building must not exceed—
 - (a) 10 m if the slope of the natural ground level at any cross section of the site of the building that is wider than 8 m is 2.5° or more; and
 - (b) 9 m in any other case.
- (3) If a wall is constructed in accordance with regulation 80, and despite regulation 79, any part of a building on the allotment that is within 1 m of a side or rear boundary and that is adjacent to the wall must be constructed so as not to exceed the height formed by a line that connects—
 - (a) any point at the top of the wall; and
 - (b) any point at a height of 3.6 m at a setback of 1 m from the boundary.
- (4) 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

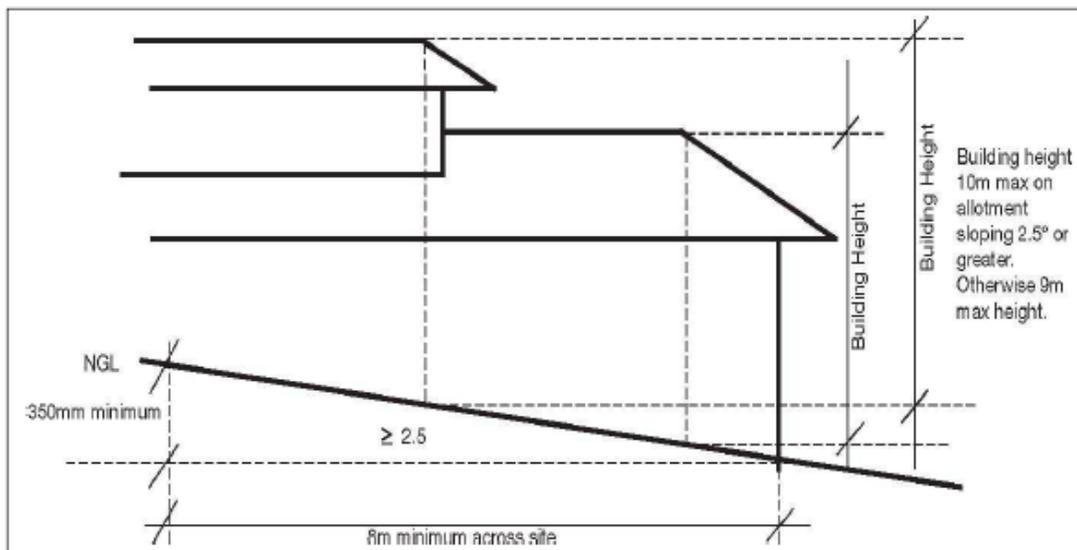
The purpose of this regulation is to protect the amenity of adjoining allotments and the street character from excessively bulky and high buildings.

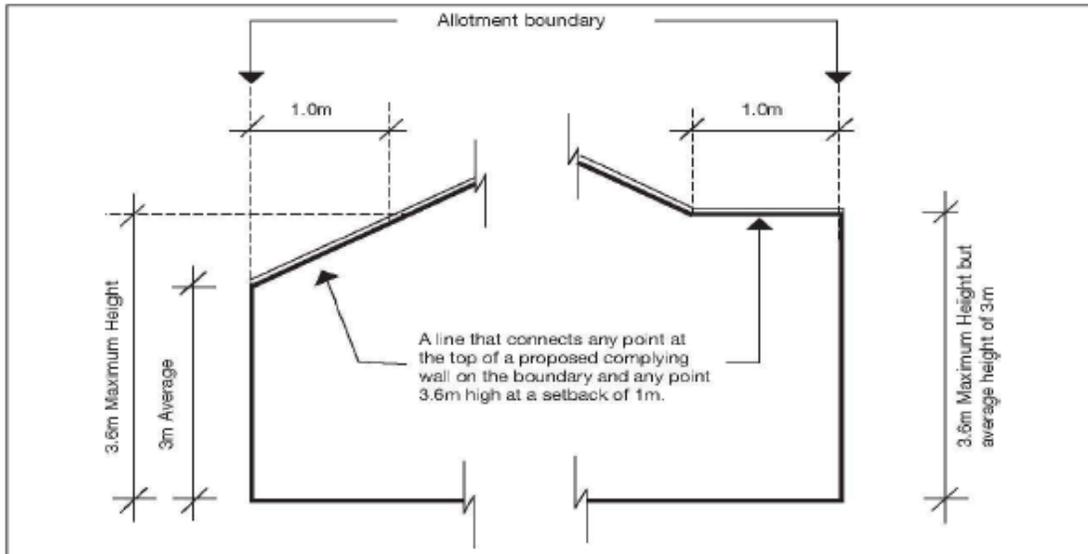
REGULATION NOTES

Regulation 75(2) - Sub-regulation (2)(a) allows a maximum building height of 10m where the slope of the ground is 2.5 or more across an 8m section of the building site. This is equal to a ratio of 1:23 or, expressed as a rise or fall over the 8m section is equal to 350mm. The drawing below illustrates aspects of regulation 75(2)

Elevation Regulation 75(2) Building height - 8m minimum associated steps, ramps or landings that form part of the porch or veranda must also be within the 2.5m encroachment distance allowed.

Regulation 75(3) - The purpose of this regulation is to provide a building envelope or height control for that part of a building that is within 1m of a boundary and adjacent to a wall on the subject boundary. The following diagram illustrates the operation of the regulation. No matter what the height of the proposed wall on the boundary a right to achieve a building height of 3.6m at a 1m setback applies.





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 75 of the Building Regulations 2018, if –

- the height will be more appropriate taking into account the prevailing heights of existing buildings on nearby allotments; or
- the height will be more appropriate taking into account the preferred character of the area, where it has been identified in the relevant planning scheme; and
- the height is consistent with a building envelope that has been approved under a planning scheme or planning permit and or included in an agreement under section 173 of the **Planning and Environment Act 1987**; and
- the height will not result in a disruption of the streetscape; and
- the height is consistent with any relevant neighbourhood character objective, policy or statement set out in the relevant planning scheme.

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

