

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.

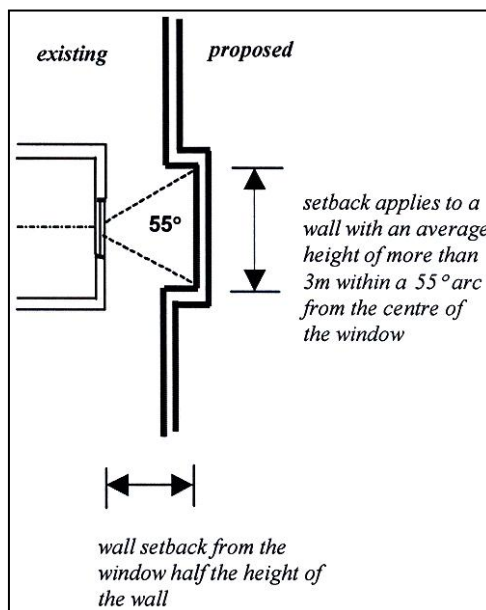
EXTRACT OF REGULATION

81 Daylight to existing habitable room windows

- (1) A building must be set back from a habitable room window in an existing dwelling on an adjoining allotment to provide for a light court to the window that has a minimum area of 3 m² and a minimum dimension of 1 m clear to the sky.
- (2) The area of the light court required under subregulation (1) may include land on the adjoining allotment.
- (3) A wall or carport with an average height of more than 3 m opposite a habitable room window in an existing dwelling on an adjoining allotment must be set back from that window at least half the height of the wall or carport if the wall or carport is within a 55° angle in the horizontal plane about a vertical axis through the centre of the window.
- (4) For the purposes of subregulation (3), the angle may be swung to not less than 35° from the plane of the wall containing the window.
- (5) If the window referred to in subregulation (3) is above ground floor level, then for the purposes of that subregulation, the wall or carport height is to be measured from the floor level of the room containing the window.
- (6) 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.

Note - The following diagram illustrates the operation of aspects of regulation 81(3).

Regulation 81: Daylight to existing habitable room windows

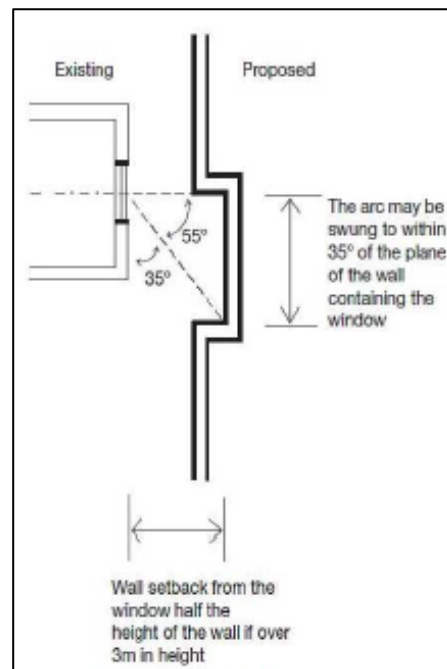
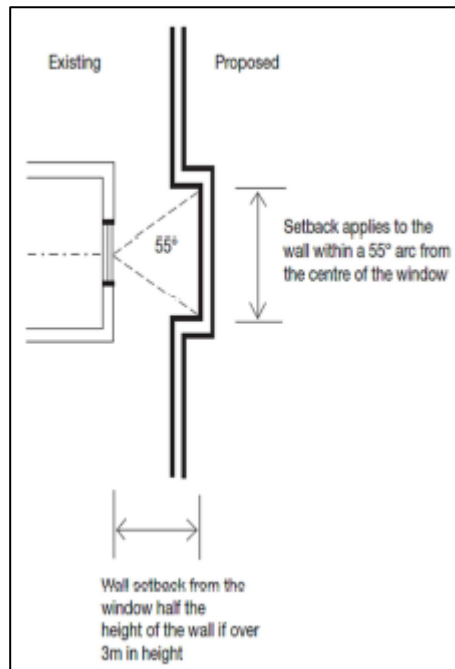
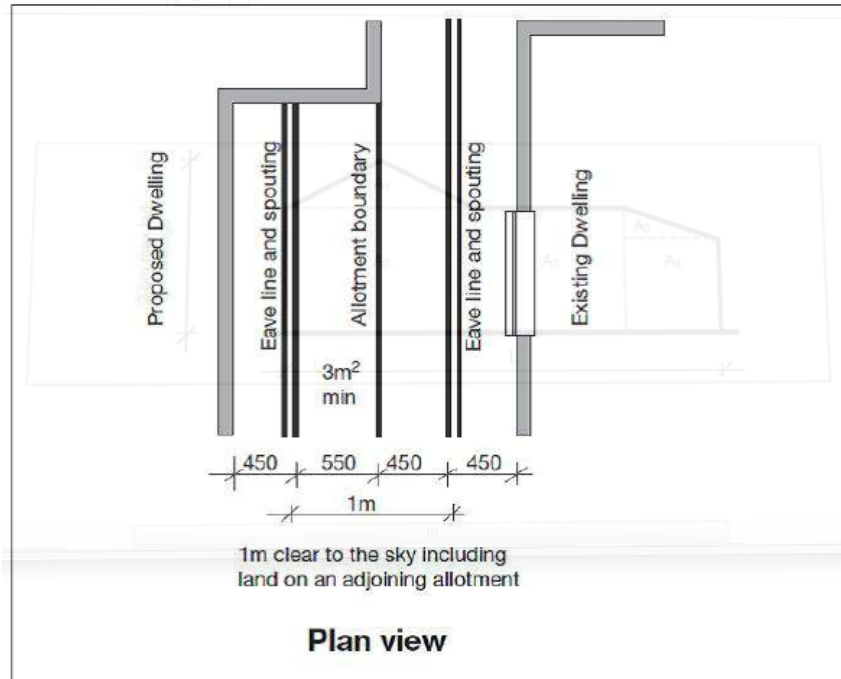


REGULATION OBJECTIVE

The purpose of this regulation is to ensure adequate daylight is provided to existing habitable room windows on adjoining allotments

REGULATION NOTES

The regulation is not related to a 'required window' under Volume Two of the Building Code of Australia



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 81 of the Building Regulations 2018, if –

- the building will not impact on the amenity of existing dwellings on nearby allotments; and
- the building 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**.

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

