

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

79 Side and rear setbacks

- (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 minimum setbacks from side and rear boundaries—
 - a building on the allotment must be set back from a side or rear boundary not less than the relevant setback specified in that schedule.
- (2) If subregulation (1) does not apply, a building must be set back from a side or rear boundary not less than the distance specified in respect of that boundary in Table 79.

Table 79—Side and rear setbacks

<i>Building height at any point</i>	<i>Minimum setback from side or rear boundary at that point</i>
3.6 m or less	1 m
More than 3.6 m but not more than 6.9 m	1 m plus an additional distance calculated at the rate of 300 mm for every metre of height over 3.6 m
More than 6.9 m	2 m plus an additional distance calculated at the rate of 1 m for every metre of height over 6.9 m

- (3) The following may encroach into the setback distance required by subregulation (1) or (2)—
- (a) landings with an area of not more than 2 m² and less than 1 m in height;
 - (b) unroofed stairways and ramps;
 - (c) pergolas;
 - (d) shade sails;
 - (e) eaves, fascia and gutters, if the encroachment is not more than 600 mm;
 - (f) carports that comply with regulation 80.
- (4) The following may encroach into the setback distance required by subregulation (1) or (2) by not more than 500 mm—
- (a) porches and verandas;
 - (b) masonry chimneys;
 - (c) sunblinds;
 - (d) permanent and fixed screens referred to in regulation 84(5)(d) or (6);
 - (e) flues, pipes and rainwater heads;
 - (f) domestic fuel tanks and water tanks;
 - (g) heating and cooling equipment and other services.
- (5) This regulation does not apply to a wall that complies with regulation 80.
- (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

REGULATION OBJECTIVE

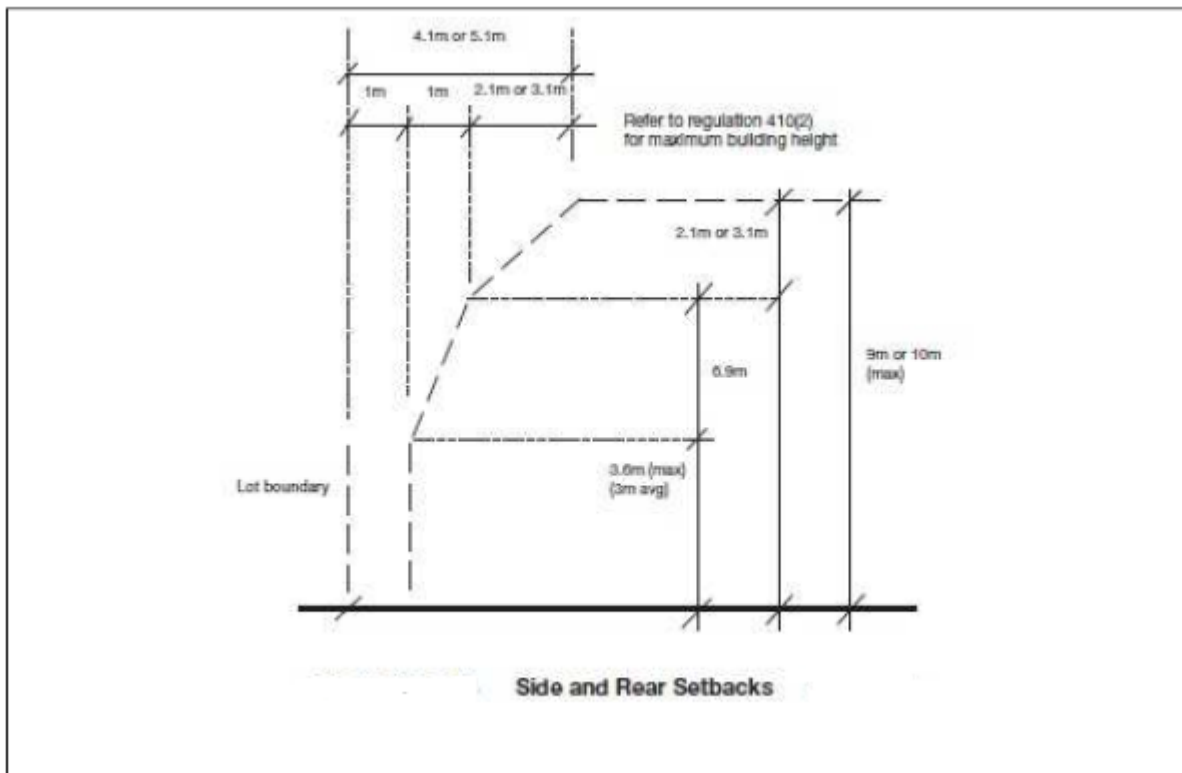
The purpose of this regulation is to provide adequate separation between buildings on adjoining allotments, particularly above ground floor level.

REGULATION NOTES

Table 79 - The envelope described in this regulation commences at a 1m setback from the boundary and allows a maximum building height of 3.6m at that point. Refer to regulation 80 for walls constructed on or within 150mm of a boundary, regulation 75(3) for that part of a building that is adjacent to a wall on a boundary and within a 1m setback, and regulation 82 for setbacks of walls opposite north facing windows.

It is advised that regulation 82 is assessed first where there is an existing north facing window as the setback required by this regulation is more onerous than that required by regulation 79.

Refer to sub-regulations (3) and (4) for allowable encroachments into the setbacks



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 79 of the Building Regulations 2018, if –

- the setback will be more appropriate taking into account the prevailing setback of existing buildings on nearby allotments; or
- the setback will be more appropriate taking into account the preferred character of the area, where it has been identified in the relevant planning scheme; or
- the slope of the allotment and or existing retaining walls or fences reduce the effective height of the building; or
- the building abuts a side or rear lane; or
- the building is opposite an existing wall built to or within 150mm of the boundary; or
- the setback will not result in a significant impact on the amenity of the secluded private open space and habitable room windows of existing dwellings on nearby allotments; and
- the setback 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 setback will not result in a disruption of the streetscape; and
- the setback 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

