

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**

**82 Solar access to existing north-facing habitable room windows**

- (1) This regulation applies if—
  - (a) a building is to be constructed on an allotment; and
  - (b) a north-facing habitable room window or part of a window of an existing dwelling on an adjoining allotment is—
    - (i) within 3 m of a boundary of the allotment on which the building is to be constructed; and
    - (ii) oriented towards the boundary; and
    - (iii) will be situated below the eaves or the top of a parapet of the building being constructed.
- (1) The proposed building must be set back from the boundary not less than the distance specified in Table 82 for a distance of 3 m from each side of the window or that part of the window that is within 3 m of the boundary.

**Table 82—Setbacks from north-facing habitable room windows**

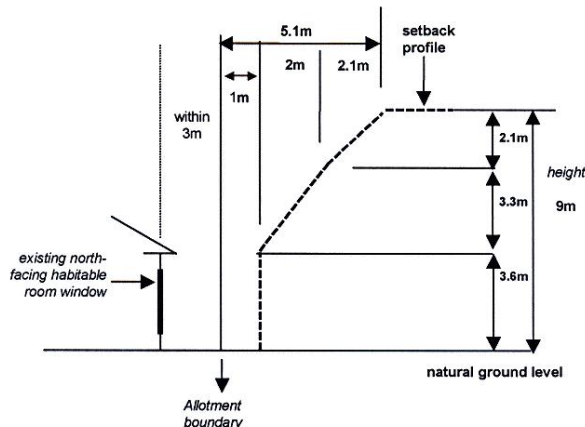
| <i>Building height at any point</i>     | <i>Minimum setback from side or rear boundary at that point</i>                                       |
|---|---|
| 3-6 m or less                           | 1 m   |
| More than 3-6 m but not more than 6-9 m | 1 m plus an additional distance calculated at the rate of 600 mm for every metre of height over 3-6 m |
| More than 6-9 m                         | 3 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 (2) by not more than 500 mm and to a height not exceeding 2.5 m—
  - (a) flues and pipes;
  - (b) domestic fuel tanks and water tanks;
  - (c) heating and cooling equipment and other services.
- (4) A rainwater head may encroach into the setback distance required by subregulation (2) by not more than 500 mm.
- (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.

**Note**

The following diagram illustrates the operation of aspects of regulation 82.

**Regulation 82: Solar access to existing north-facing habitable room windows**

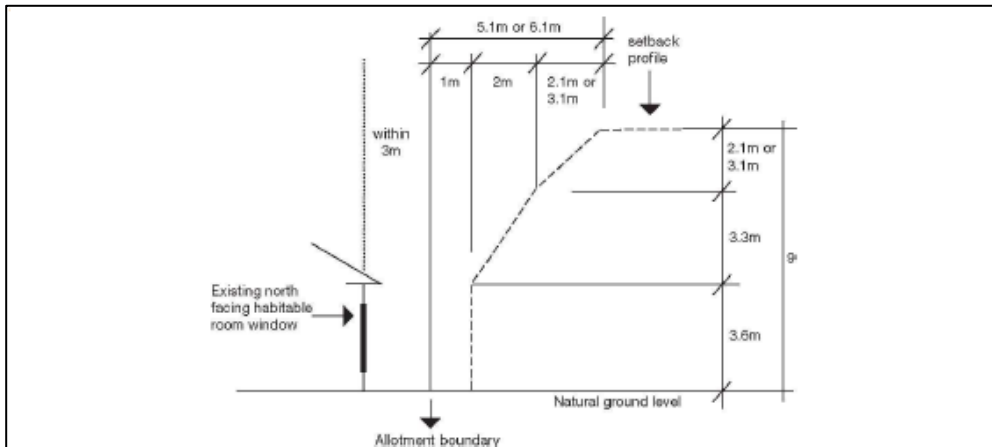
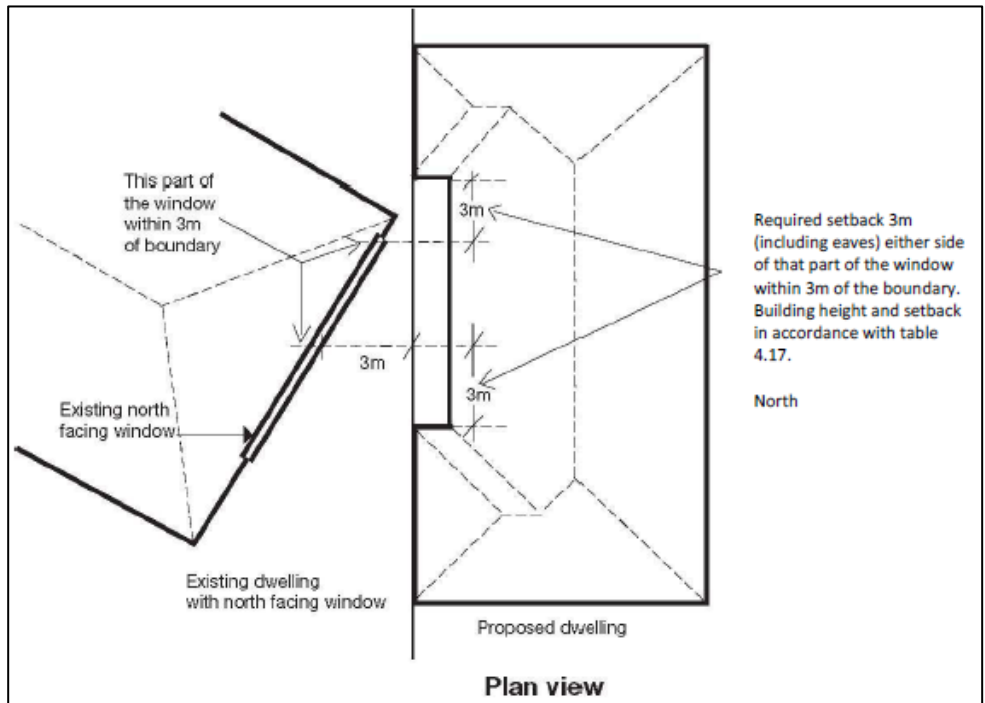


**REGULATION OBJECTIVE**

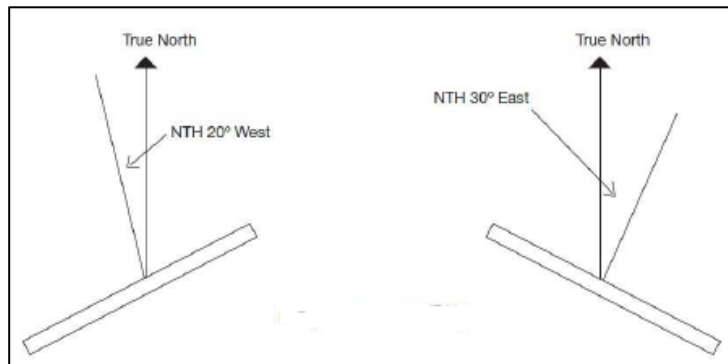
The purpose of this regulation is to protect the energy efficiency of existing dwellings which receive passive solar heating

**REGULATION NOTES**

**Regulation 82(1)(b)** refers to a window oriented towards the boundary. A window is regarded as being oriented towards the boundary if the plane of the glazing is less than 90° from the line of the boundary. The 3m is measured to the face of the glazing and not the frame of the window. Only the part of the window that is within 3m of a boundary



**Regulation 82(2)** - This regulation defines the orientation of a north facing window. The diagram below shows the orientation from north of a "north facing window".



## **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 82 of the Building Regulations 2006, if –

- (a) the building will not impact on the amenity of existing dwellings on nearby allotments; and
- (b) 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](http://www.vba.vic.gov.au) or contact the BAB on (03) 9285 6400.

## REPORT & CONSENT PROCESS

