Part 5 of the Building Regulations 2018 — Siting

VICTORIAN BUILDING AUTHORITY
BUILDING CONFIDENCE

PRACTICE NOTE 47-2018

This updates previous Practice Note-2006-47 issued June 2006.

This practice note was previously known as Part 4 of the Building Regulations 2006 – Siting.

Purpose

The purpose of this practice note is to provide guidance on the interpretation and application of Part 5 of the Building Regulations 2018 (the Regulations) relating to siting.

This practice note is not a substitute for making direct reference to the relevant regulations.

Background

Before building work can commence, consideration must be given to any planning controls that apply to the allotment. Planning controls are laws that set out when a planning permit is required and include restrictions on the use of land, the location and height of structures, site coverage, overlooking, car parking and other similar matters. These are referred to in this practice note as siting matters.

Part 5 of the Regulations contains requirements for siting matters that apply to the construction of single Class 1 buildings, Class 10a buildings (e.g. sheds) and Class 10b structures (e.g. fences).

The requirements in Part 5 are equivalent to those under Victoria Planning Schemes and clause 54 of the Victorian Planning Provisions (VPP).

However, the planning scheme requirements will only apply if a planning permit is required for the construction of a single dwelling or associated Class 10a building and/or if the scheme regulates a siting matter that is also regulated in Part 5.

Where the planning scheme does not apply, Part 5 of the Regulations will apply.

Where a planning permit is not required, it is the responsibility of owners, builders, building designers and buildings surveyors to ensure that buildings comply with the siting requirements in Part 5 of the Regulations.

Requirement for Information

Regulation 24 provides that an application for a building permit must contain sufficient information to show that the proposed building work will comply with the Building Act 1993 and the Regulations. Further, section 24 of the Act states that a relevant building surveyor must not issue a building permit unless they are satisfied that the building permit and building work will comply with the Act and Regulations.

The RBS must determine whether a planning permit is required for the work and, if it is, must ensure that the building permit application is consistent with the planning permit. (section 24(1)(c) and (d)).

In the case of an application to build or renovate a single dwelling or associated Class 10a building, if a planning permit is not required, the building permit application must contain sufficient details about siting matters to show that Part 5 of the Regulations or any other matter in a planning scheme that is applicable, will be complied with.

Regulation 25 says that siting information is required to be shown on an allotment plan accompanying an application for a building permit.

Regulation 25(2) requires the application to include:

- information about impermeable surfaces;
- location and dimensions of car parking spaces; and
- location, dimensions and area of private open space on adjoining allotments.

Regulation 25(2)(c)(iii) requires information to be provided about the adjoining allotment. This would include information regarding secluded private open space and recreational private open space on an adjoining allotment.

Obtaining information from councils

There will be times when it is difficult for the RBS to be certain about whether a requirement in a planning scheme applies instead of a requirement in Part 5. RBSs are encouraged to seek clarification from council if they are not confident about the siting requirement that applies or what the siting requirement is under the planning scheme.

When engaging with councils, the RBS should seek written advice from Council or make detailed notes of their conversation, including the date, who they spoke to at council and what they were told.

Definitions

The following abbreviations and definitions used in this practice note are set out for convenience. They are not intended to vary the definitions set out in the Act or Regulations.

Clear to the sky in relation to an area means an unroofed area or an area roofed with a material that transmits at least 90% of light. A number of provisions in Part 5 require a light court which is 'clear to the sky' with a minimum dimension of 1m. For the purposes of measuring the dimension of a light court, gutters or spouting cannot be included in the 1 m dimension.

Height is the vertical distance between natural ground level at the base of a building, wall or fence, and the top of the structure. For a building that would be the top of the roof. For a wall it would be where the wall intersects the roof or the top of the parapet. For a fence it would mean the top of the fence.

Chimneys, flues and service pipes are not included when measuring heights. Refer to Figure 1 – Building height and Figure 2 – Fence height.

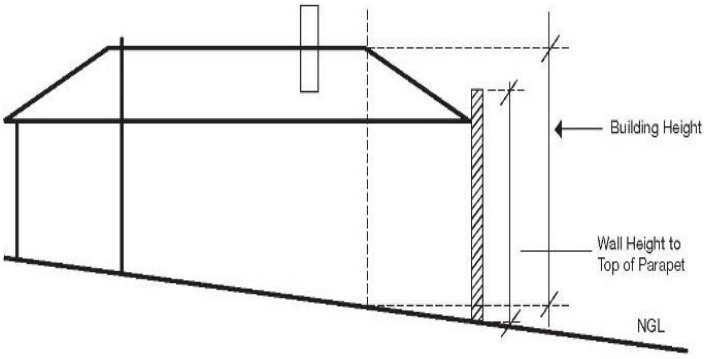


***Figure 1** Building height*

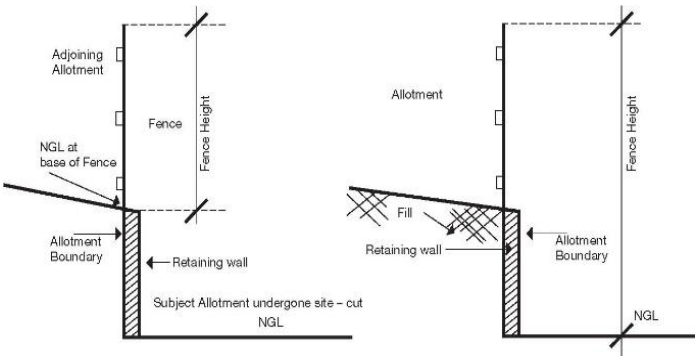


***Figure 2**- Fence height*

Natural ground level or **NGL** is not defined in the Regulations. It can be difficult to ascertain the natural ground level when the subject allotment has undergone a cut and fill or other earthworks.

Natural ground level may be taken as being any line across the allotment that connects any two points, either within the allotment, or on adjoining allotments, that can be reasonably regarded as being natural ground level. (Refer to Figure 3- Determining natural ground level).

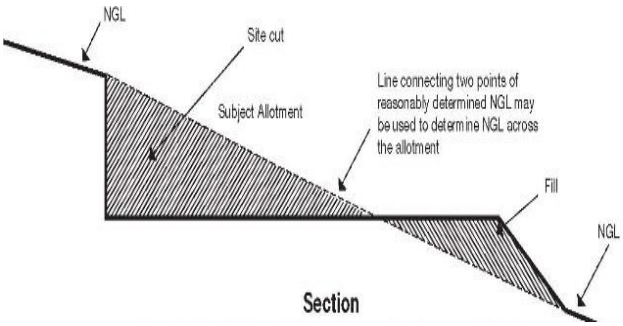


***Figure 3** Determining natural ground level*

Where a new sub-division has been subject to 'reshaping' earthworks, the new levels can be taken as the natural ground level provided that adjoining allotments have also been subject to the same earthworks or are at the same level.

Private open space means—

- an unroofed area of land; or
- a deck, terrace, patio, balcony, pergola, verandah, gazebo, swimming pool or spa. The term private open space is used in regulations 83, 84 and 86.

EGL Existing ground level

FFL Finished floor level

RPOS Recreational private open space

Division 1 – Introduction

Application – where a planning permit is required and the same matter in Part 5 of the Regulations have been assessed

Regulation 68 provides that a regulation in Part 5 of the Regulations does not apply to the construction of a building when a planning permit is required for the construction of that building and the relevant planning scheme regulates the same siting matter as a regulation.

Where a planning permit has been issued and as part of that process the siting matters in Part 5 of the Regulations have been considered, there is no need to assess them again as part of the building permit process, other than to ensure that the building permit documents are consistent with the planning permit documents (see section 24(1)(d)).

However, it is important to understand that sometimes a planning permit can be required, but the planning permit process will not include an assessment of the siting matters in Part 5 of the Regulations. In these cases, Part 5 will still apply. The RBS may need to seek advice from Council about whether the planning permit assessed the same matters that are in Part 5 to ensure that they understand clearly whether they must apply Part 5 when assessing the building permit application.

Example 1 A planning permit is required and because the allotment is subject to a neighbourhood character overlay or the lot is 300m^2 or less (or 500m^2 in some municipalities), all matters in Part 5 are assessed. The RBS does not need to apply Part 5 but they do need to ensure the application is consistent with the planning permit.

Example 2 A planning permit is issued because the allotment is in a wildfire management overlay. None of the siting matters covered by Part 5 have been considered when that planning permit was issued. Part 5 of the Regulations will apply and the RBS must ensure that the requirements in Part 5 will be reflected in the building permit for the work. Advice can be sought from the relevant council to confirm this is required.

Example 3 Under a planning permit, a 1.5m high front fence has been allowed on a corner allotment. The fence must still comply with regulation 92 which requires a maximum height of 1m within 9m of a point of intersection of street alignments. The report and consent from the relevant council would be required if the applicant wants a higher fence within 9m of the intersection.

Application – where a planning permit is not required but the planning scheme regulates the same matter as in Part 5 of the Regulations

Some regulations in Part 5 provide that where the matter regulated by that regulation is also regulated in a planning scheme set out in Schedule 6 of the Regulations, the requirement in the planning scheme must be met. This is the case, even if a planning permit is not required for the construction of that building.

The provisions that have this requirement are:

- Regulation 74 – minimum street setbacks;
- Regulation 75 – building height;
- Regulation 76 – site coverage;
- Regulation 77 – permeability;
- Regulation 79 – side and rear setbacks;
- Regulation 80 – walls and carports on boundaries
- Regulation 86 – private open space;
- Regulation 89 – front fence height.

The requirements in each planning scheme may vary and the RBS should seek advice from the relevant council about the requirements in that municipality. Alternatively, the planning scheme can be accessed and reviewed by the RBS on line.

Report and consent - Minister's Guideline 12 - Regulation 68(2)

If an applicant says they cannot meet a siting requirement in Part 5, an application can generally be made to the relevant council to seek its report and consent to a variation from the requirement. That is not possible in the case of regulations 76A (minimum garden area) and 93 (fences must not include barbed wire).

Minister's Guideline MG-12 Siting and Design of Single Dwellings is made under section 188A of the Act. It sets out considerations that a relevant council must have regard to when considering an application for report and consent under Part 5.

Application of Part 5 to existing buildings

Several of the requirements in Part 5 require an assessment of an existing building on an adjoining allotment. Regulation 69 provides that an existing building (includes an existing dwelling) is a building:

- that was in existence in its current completed form before 1 July 1994; or
- for which there is an occupancy permit, a copy of which has been given to the relevant council; or
- for which there is a certificate of final inspection, a copy of which has been given to the relevant council (but only if that part of the building can be occupied without the need for any further certificate of final inspection); or
- that has been completed (but only if the building can be occupied without the need for an occupancy permit or a certificate of final inspection).

Based on this definition, a building is not considered to be existing—

- When an extension to a dwelling is under construction and the certificate of final inspection for the completion of all the works has not been 'given' to the relevant council. For example, if a building permit has been issued for work up to frame stage and a certificate of final inspection has been issued for that stage, that building is not considered to be an existing building, as the building requires a further building permit and certificate of final inspection before it can be occupied.
- When a building permit has been issued for the construction of a dwelling and an occupancy permit is required under that building permit, but the occupancy permit has not been 'given' to the relevant council.

Each council has its own procedure for receiving occupancy permits which will determine when an occupancy permit has been given to the council.

Building Envelopes

Some allotments are subject to an agreement under section 173 of the Planning and Environment Act which creates a building envelope. These are 'approved building envelopes'.

Regulation 71(1) provides that a design for a building on an allotment which is subject to an approved building envelop that does not comply with a regulation in Part 5, is taken to comply provided that, the building envelope relates to the same siting matter. Where this occurs, the RBS must ensure that the design is consistent with the building envelope.

Regulation 71(1) does not apply to the regulations listed in regulation 71(2), if the adjoining allotment is not subject to the same agreement under section 173 of the Planning and Environment Act 1987; or is not on the same plan of subdivision as the subject allotment.

Division 2 – Single Class 1 Buildings and Associated Class 10 Buildings

Application of Division

Regulation 72 says that Division 2 of Part 5 applies to single Class 1 buildings and associated Class 10a buildings. Swimming pools and spas are not regulated under this Division.

Maximum street setback

Regulation 73 provides that a Class 1 building must not be set back more than one-third the depth of the allotment unless the allotment is equal to or greater than 0.40469 ha. This measurement is the equivalent of 1 acre or 4,046.9m^2.

As this regulation only applies to a new Class 1 building, an extension to an existing dwelling already exceeding the maximum setback is allowable.

The geometry of some allotments may make it difficult to comply with regulation 73(1) in which case the report and consent of council can be sought to allow the building to be set back more than one-third of the allotment.

Regulation 73(3) sets out how the maximum setback requirements apply to battle-axe allotments.

Minimum street setbacks

The purpose of regulation 74 is to preserve a street's character and make efficient use of the site by requiring the setback of the new dwelling to be related to the setbacks of buildings on adjoining properties.

The setbacks are measured from the wall of a building that is facing a street. For the purposes of regulation 74, a 'street' does not include a lane, footway, alley or right of way.

Regulation 74(2) Table 74, front and side street setbacks consider the setback of building on the adjoining allotment.

The regulation applies to alterations and additions in addition to the construction of a new building.

Facing means oriented towards that street, that is, the plane of the wall is 90^o or less to the street alignment. If the wall is not parallel to the street alignment, the closest part of the wall to the street alignment is the point at which the setback is measured.

Front street is determined in the context of the subject allotment and the proposed dwelling. The term 'front wall' refers to the wall that presents as the architectural frontage.

There are no prescribed setbacks from rear streets. However, regulation 79 prescribes, Side and Rear Setbacks for the building from the side or rear boundary of the allotment. Figures 4 and 5 illustrate examples of methods of measuring front and side street setbacks.

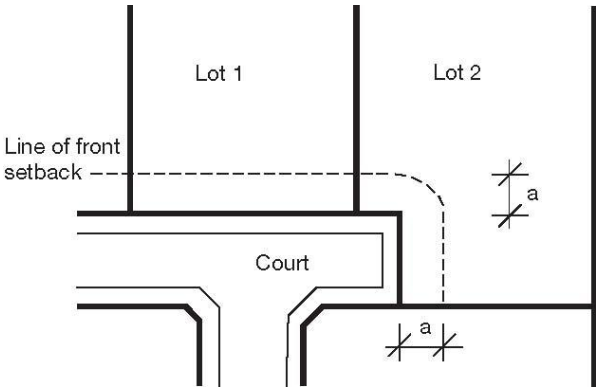


Figure 4 *Minimum street setback – Court*

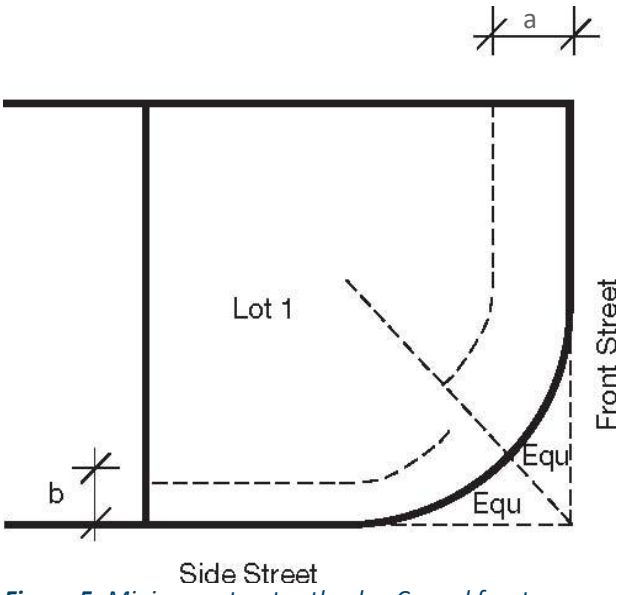


***Figure 5**- Minimum street setback – Curved frontage.*

Note – Items in Figure 4 and 5 refer to:

'a' is the line of minimum front street setback; and

'b'line of minimum side street setback.

Column two of Table 74 refers to 'front walls of existing buildings' on adjoining allotments being used to determine the average distance of the setbacks.

Carports are open structures and do not have a front wall. Garages do have a front wall. Carports cannot to be used to determine the front setback for the proposed building, however garages can be.

Declared road means a freeway or an arterial road, both within the meaning of the Road Management Act 2004.

Information about whether a road is a declared road can be obtained from the relevant council or VicRoads. Declared roads are generally maintained by VicRoads, whilst a non-declared road or any other street is usually maintained by the relevant council. The VicRoads country roadmap identifies declared roads in rural areas.

Regulation 74(3)(a) provides that a porch, pergola or verandah with a height less than 3.6m can encroach 2.5m into the required setback.

The maximum height of 800mm for any steps, ramps or landings that form part of the porch or verandah, as per regulation 74(3)(e).

Building height

The purpose of regulation 75 is to preserve the street's character and prevent excessively bulky and tall buildings.

Regulation 75(2), sub-regulation (2) allows a maximum building height of 9m for most sites.

Where the slope of the natural ground level is 2.5° at any cross section of the site of the building that is wider than 8 m, a maximum height of 10m is allowed as refer to Figure 6 illustrates when a maximum height of 10m is allowed.

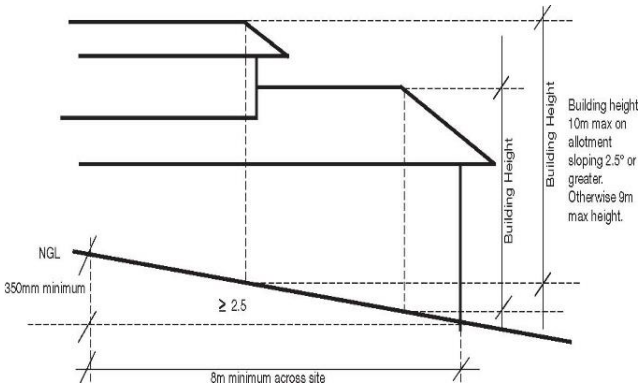


***Figure 6** Regulation 75(2) maximum building height*

The purpose of regulation 75(3) is to control the height of the part of a building that is within 1m of a boundary and adjacent to a boundary wall on the subject site. (Refer to Figure 7, illustrating the operation of regulation 75(3)).

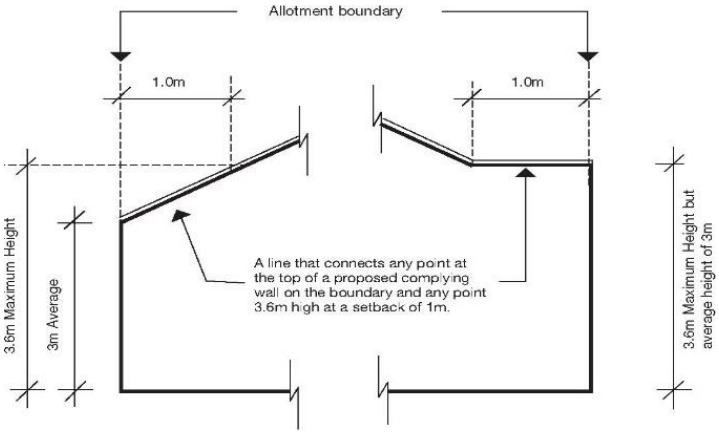


***Figure 7** Regulation 75(3) building height*

Site coverage

The purpose of regulation 76 is to prevent excessive bulk and to ensure adequate outdoor space is provided on an allotment. Regulation 76(2), when calculating site coverage, all existing buildings must be included.

Sub-regulation (3) outlines items that may be disregarded when calculating site coverage, such as unroofed swimming pools or spas, unroofed terraces, decks or patios and pergolas.

Minimum garden area

Regulation 76A came into operation on 10 July 2018. It requires a minimum garden area of 25%, 30% or 35% on an allotment with an area of 400m^2-500m^2, >500m^2-650m^2, and >650m^2 respectively.

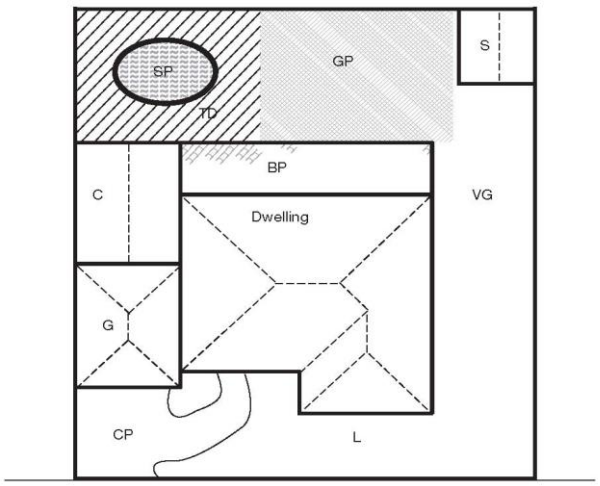
The requirement applies where the allotment is in a zone of a planning scheme that is listed in Schedule 6 of the Regulations and there is no schedule to the zone in the planning scheme that exempts from the garden area requirement. It does not apply if the allotment has less garden area than the minimum garden area required under the planning scheme applying to the allotment on 27 March 2017.

Garden area is defined in regulation 76A(3) as having a minimum dimension of 1 m and not including an area covered by a building, a driveway or an area set aside for car parking. Exceptions to this definition, set out in regulation 76A(4) include a Class 10a building not exceeding 10 m^2 in area, a Class 10b or 10c building or structure.

Permeability

Regulation 77 requires there to be a certain percentage of the site through which water can flow. The provision of permeable surfaces allows on site infiltration of storm water and reduces the amount of water entering public drainage systems.

A permeable surface is one that allows liquids to pass through it. Materials laid on a compacted base will lose their permeability. *(Refer to Figure 8-Permability).*



Permeable		Impermeable	
TD	Timber Decking (with gaps)	BP	Brick Pavers
L	Lawn	CP	Concrete Paving
GP	Grass Paver	SP	Swimming Pool
VG	Vegetable Garden	S	Shed
		G	Garage
		C	Carport

Figure 8 *Permeability*

Car parking

Regulation 78 requires that new dwellings have adequate on-site car parking. Car parking spaces can be anywhere on an allotment. However, a car parking space must be accessible from the street and be fully contained within the allotment.

Minimum dimensions for the 2 car parking spaces required are set out in the regulation. If the 2 spaces adjoin each other in a carport or garage, dimensions for the combined space are set out. Those dimensions must be calculated based on the internal dimensions of that structure as refer to Figure 9 - Carparking.

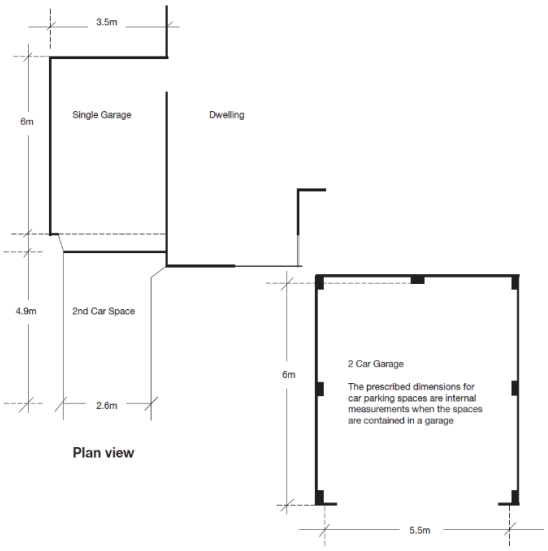


Figure 9 *Carparking.*

Side and rear setbacks

The purpose of regulation 79 is to provide adequate separation between buildings on adjoining allotments, particularly above ground floor level.

The envelope described commences at a 1m setback from the boundary and allows a maximum building height of 3.6m at that point. (Refer to Figure 10 – Side and rear setback).

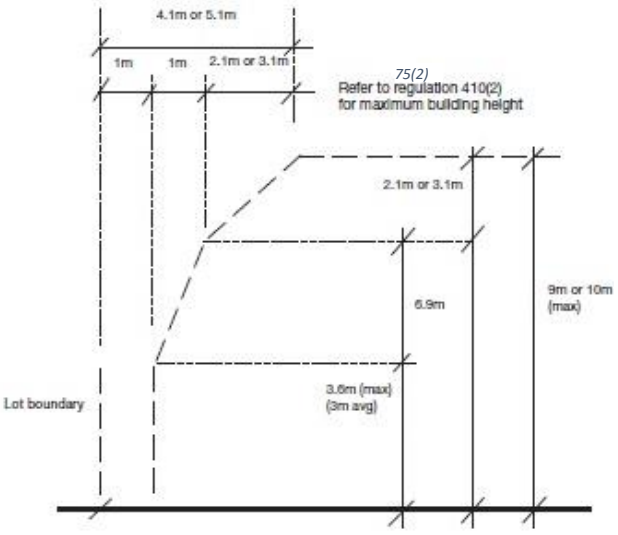


Figure 10 *Side and rear setbacks*

Refer to regulation 80 for walls constructed on or within 200mm 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.

Where there is an existing north facing window on an adjoining allotment, regulation 82 and 79 are relevant. Regulation 82 should be assessed first as the setback required by this regulation is greater than that required by regulation 79. The greater set back requirement must be applied.

Sub-regulations (3) and (4) list allowable encroachments into the setbacks.

Walls and carports on boundaries

Regulation 80 protects the amenity of adjoining allotments by limiting the height and length of walls or carports that will be on or within 200mm of an adjoining allotment boundary.

Figures 11, 12 and 13 illustrate how the requirements in regulation 80(3) apply.

The maximum allowable length of all walls built on the boundary can be calculated as follows:

$a + b + c \leq 10 + [0.25\ (d-10)]$

where d = boundary length.

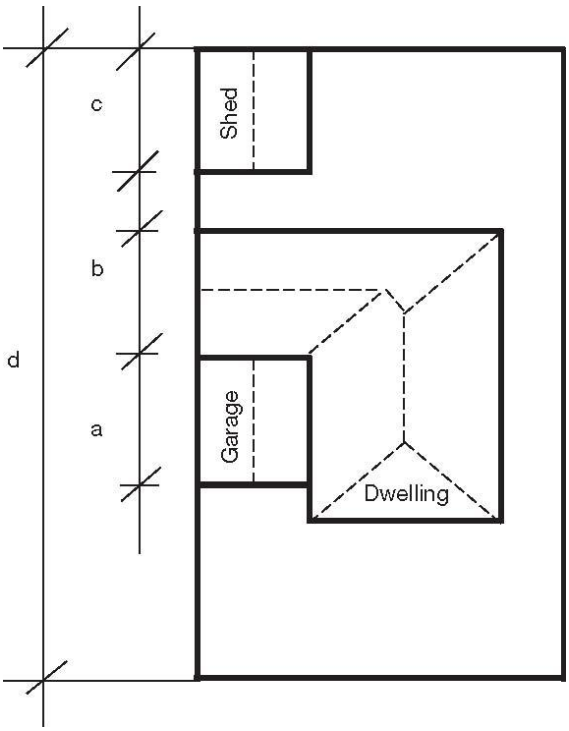


Figure 11 *- Length of walls and carports on boundaries*

The proposal in Figure 12 does not comply because:

- the portion of the proposed dwelling wall marked ‘a’ is not abutting an existing wall or a carport on an adjoining allotment; and
- the length of the proposed wall is greater than 10m plus 25% of the remainder of the length of the boundary ‘b’.

The proposal can only proceed if a report and consent is granted by the relevant council.

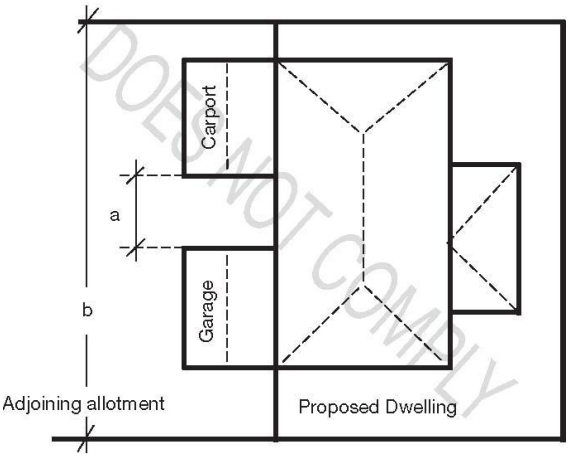


Figure 12 *- Regulation 80(3)(b) Walls on boundaries*

Figure 13 shows how regulation 80 applies when the boundary of the subject allotment is shared with 2 adjoining allotments.

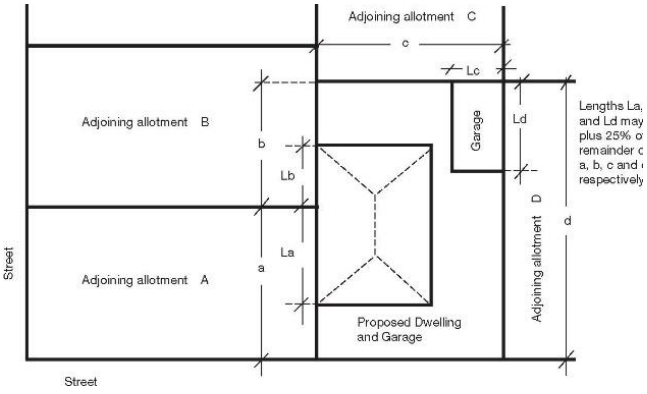


Figure 13 *-Walls on boundaries*

Height of walls on boundaries

The average height of a wall on a boundary must not exceed 3.2m. The average height is calculated by dividing the total area of the wall by the total length of the wall.

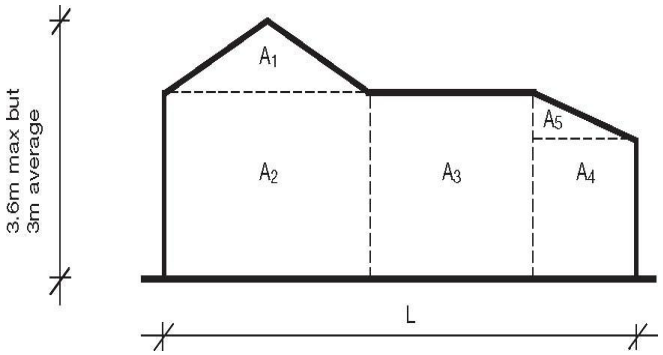


Figure 14 *Height of walls on boundaries*

The average wall height (H) can be calculated as follows:

$$H = \frac{A1 + A2 + A3 + A4 + A5}{L}$$

where A1 + A2 + A3 + A4 + A5 equals the area of the wall.

Despite regulation 80(4), regulation 80(5) allows a wall or carport abutting an existing wall or carport on the adjoining allotment to be built to the same height as the existing wall or carport. This means the proposed and existing wall or carport share the same part of the boundary.

Daylight to existing habitable room windows

The purpose of regulation 81 is to ensure adequate daylight is provided to existing habitable room windows of a dwelling on an adjoining allotment. Figures 15, 16 and 17 illustrate the operation of regulation 81.

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

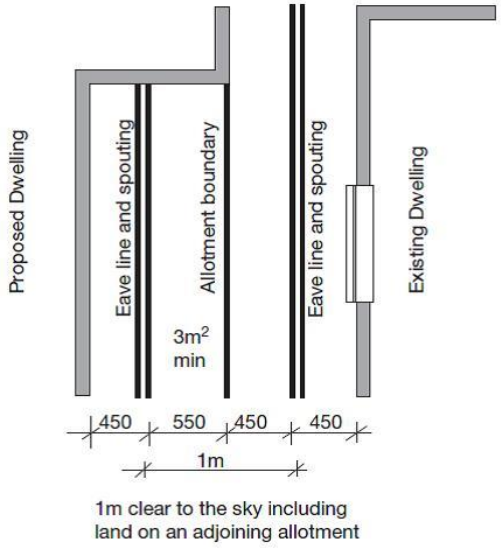


Figure 15 *-Daylight to existing habitable room windows – plan view.*

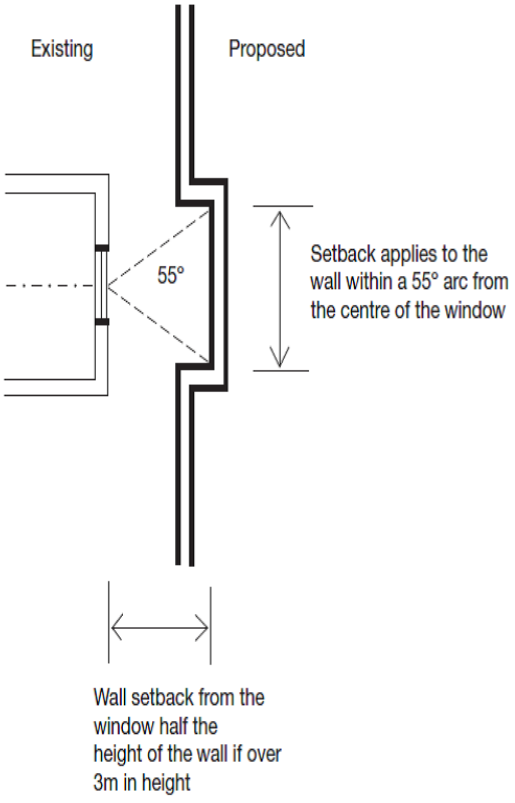


Figure 16 *- Daylight to existing habitable room windows – plan view*

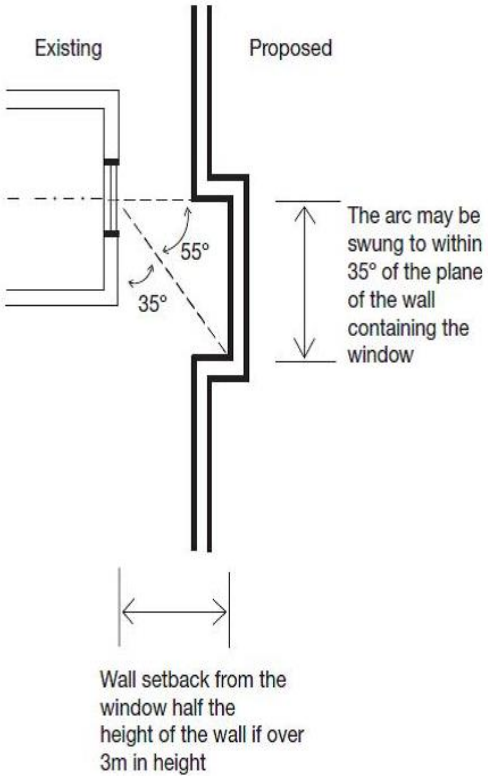


Figure 17 *- Daylight to existing habitable room windows – plan view*

Solar access to existing north-facing habitable room windows

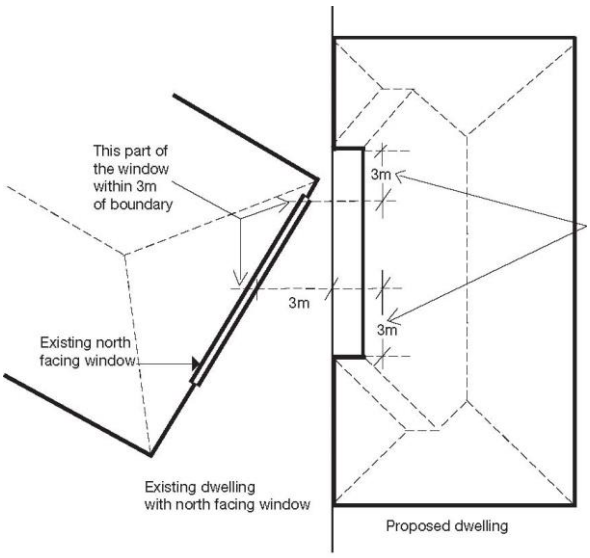
Where an existing dwelling on adjoining allotment receives passive solar heating, regulation 82 is intended to ensure that the building work on the subject allotment will not compromise this arrangement.

Windows orientated towards a boundary

Regulation 82(1)(b) applies to north facing habitable room windows on an adjoining allotment oriented towards the boundary. A window will be regarded as being oriented towards the boundary if the plane of the glazing is less than 90° from the line of the boundary.

The regulation applies if the new dwelling will be within 3m of the existing habitable room window. The 3m is to be measure from face of the glass, not the frame of the window.

The setback requirement only applies to the part of the window that is within 3m of a boundary *(Refer to Figure 18- Solar access to existing north facing habitable room windows)*. The provisions of regulation 82 only apply where the window or part of a window is below the eaves or parapet of the building being constructed. This means windows at upper levels or on sloping sites are not required to be considered under this regulation.



Setback provisions extend to 3.0m either side of that part of the window within 3m of the boundary.

***Figure 18** - Solar access to existing north-facing habitable room windows*

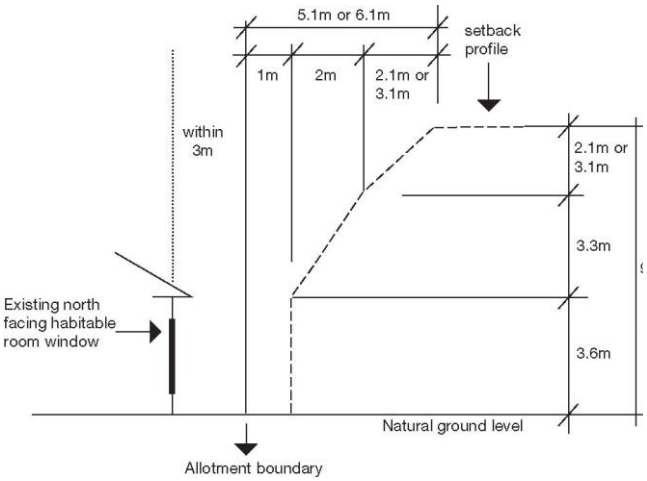


***Figure 19** -Solar access to existing north-facing habitable room windows*

Regulation 82(3) defines the orientation of a north facing window. Refer to Figure 20 North facing window.

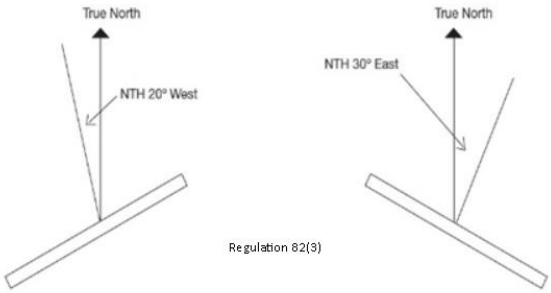


***Figure 20**- North-facing window*

Regulation 82 must still be complied with even when existing vegetation prevents solar access to the adjoining window. The existence of vegetation may be used to support an application for the report and consent of council.

Overshadowing of recreational private open space (RPOS)

Regulation 83 protects the sunlight available to an adjoining owner's RPOS on adjoining allotments from overshadowing by a new dwelling or extension to a dwelling.

There needs to be sufficient information in the building permit application about the RPOS on the adjoining allotment and its exposure to sunlight at the time the building permit is issued. The application must demonstrate to the RBS that the regulation 83 will be complied with. If the RBS does not have sufficient information, they should request more information from the applicant.

Regulation 83(1) requires that a proposed building must not reduce the amount of sunlight to an RPOS to less than the minimum area required. Therefore, consideration must be given to shadows cast by existing buildings and other permanent structures that may be on the subject allotment or on other allotments.

The minimum area that must have access to sunlight need not be a single area on the ground. The sunlight could fall in different locations during between 9am and 3pm on 22 September. However, any area must have a minimum dimension of 3m.

The minimum area of sunlight required, is defined in sub-regulation (4) as the lesser of 40m^2 with a minimum dimension of 3m or 75% of the existing RPOS. Although the area of sunlight may be made up of separate spaces within the RPOS, the RPOS but must be a single space.

This sub-regulation 83(2) says that if the RPOS is not already receiving the minimum area of sunlight, the new building or extension must not further reduce the sunlight.

Definition of RPOS

The definition of RPOS in regulation 5 provides that it must be a space which is primarily intended for outdoor recreation activities.

RPOS will be part of, or the same area as, private open space as defined in regulation 5 but would not include areas that are clearly not RPOS. An example, a dedicated clothesline area; bin storage/compost areas, service areas; narrow access ways providing access to service areas; and any area within the front setback that is not screened or fenced in accordance with the definition of RPOS.

A driveway used as a cricket pitch is not primarily intended for use as outdoor recreational activity. Its primary use is for vehicle access. Similarly, a narrow pathway to the service side of a house will primarily be intended to provide access to those services.

The total area of RPOS may include several different areas. For the purposes of the regulation, the minimum area to be protected is a single part of the total identified area of RPOS.

Figure 21 – Overshadowing of RPOS shows a diagram at 2pm showing shadows of the proposed building, the existing building and fences.

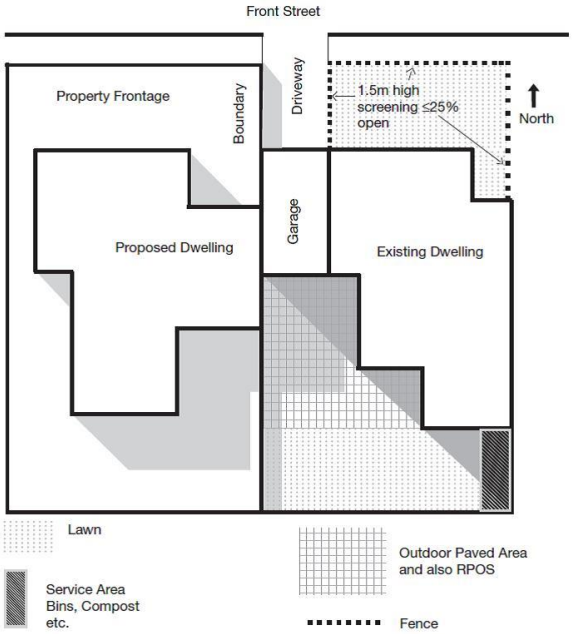


***Figure 21** - Overshadowing of RPOS*

To determine the RPOS, deduct the areas that are not primarily intended for outdoor recreation activities from the area of private open space as defined in regulation 5. In this instance, the driveway and the service area would be eliminated. The remainder is then regarded as the area of RPOS. The diagram shows a paved outdoor dining area that is clearly RPOS but has been nearly completely overshadowed.

However, there are still two areas available for use as RPOS including the front yard which is screened in accordance with regulation 5, the paved courtyard and the rear lawn area.

The proposal will comply provided there is at least 40m^2 of RPOS available in either the remainder of the rear yard or in the fenced portion of the front yard.

Overlooking

The purpose of regulation 84 is to protect existing habitable room windows and secluded private open space (SPOS) on an adjoining allotment from overlooking.

The definition of ‘raised open space’ and ‘secluded private open space’ is provided in Regulation 84(10).

It is not the role of the RBS to identify the SPOS and the area that achieves compliance. It is the responsibility of the applicant to submit documents which demonstrate compliance to the satisfaction of the RBS. If appropriate information is not provided in the application, the RBS must request more information.

Regulation 84(2) and (3) describe a three-dimensional space or envelope into which a direct line of sight should not be provided. This direct line of sight is measured 9m horizontally from 1.7m above the floor of the habitable room or raised open space (*Refer to Figures 22- Overlooking of habitable room window and 24 – Overlooking of secluded private open space)*.

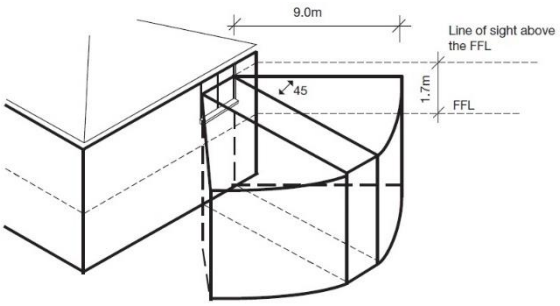


***Figure 22** - Overlooking of habitable room windows.*

The regulation requires that the direct line of sight into a habitable room window or onto a secluded private open space of an adjoining allotment must be restricted. Simple solutions to achieve compliance are set out in regulation 84(5) such as the use of screening or obscure glass.

Designs that provide an alternative to the compliance mechanism provided by the regulation can be considered as a solution to restricting a direct line of sight. For example, a vertical wing screen may prevent a direct line of sight into a habitable room window. Similarly, the use of deep reveals or window ledges may prevent a direct line of sight into a secluded private open space or habitable room window of a lower storey on the adjoining allotment. Documentation should be provided to the RBS that clearly shows the proposed solution to prevent a direct line of sight.

Overlooking into habitable room windows

A three-dimensional view of the space to be considered when assessing overlooking into habitable room windows on an adjoining allotment is shown in Figure 23

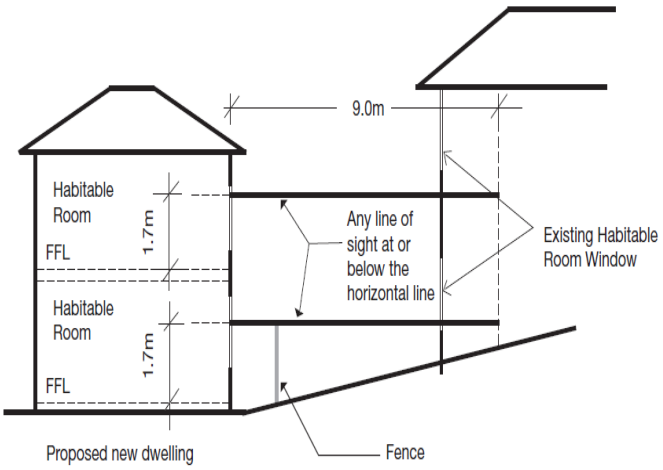


***Figure 23**-Overlooking of habitable room windows.*

There is no overlooking from the lower storey window due to the height of the fence. There is also no overlooking from the upper storey window into the upper storey window of the adjoining dwelling. However, there is overlooking from the upper storey window of the proposed dwelling into the existing lower storey habitable room window on the adjoining allotment.

Secluded private open space

Sub-regulation (4) limits the direct line of sight onto a secluded private open space to an area at and below a line connecting the point 1.7m above the floor level of the room or raised open space to the point at ground level measured at a horizontal distance of 9m. *(*Refer to Figures 24- Overlooking of secluded private open space and 25 – Overlooking of secluded private open space - elevation).

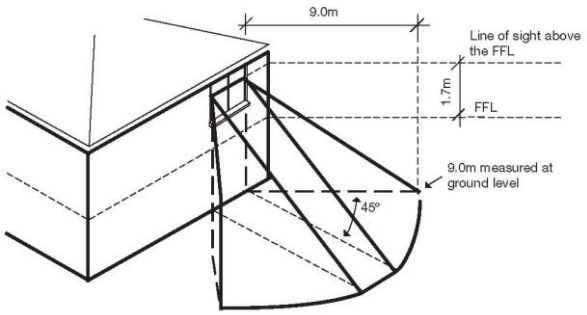


***Figure 24** - Overlooking of secluded private open space.*

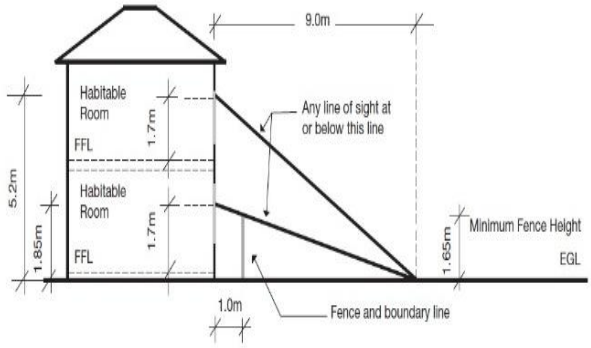


***Figure 25**- Overlooking of secluded private open space - Elevation*

A habitable room window is regarded as complying with regulation 84 in various circumstances set out in sub-regulation 84(5), one of which is illustrated in Figure 26.

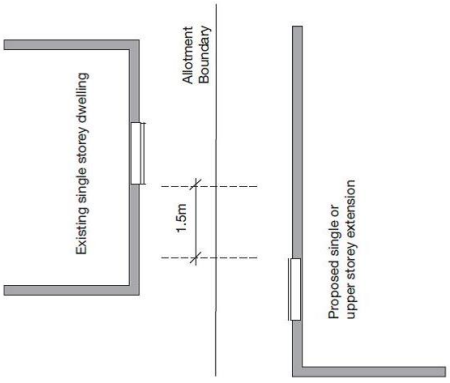


***Figure 26** - Overlooking – Offset of 1.5 m from edge of windows*

This regulation provides a type of deemed to satisfy provision. If a floor level and visual barrier are provided in accordance with sub-regulation 84(8) then the remainder of regulation 84 does not apply and need not be assessed.

This does not mean that the applicant must have a 1.8m high visual barrier at the boundary if the floor level is less than 800mm above the ground level at the boundary.

There may well be instances where a barrier of less than 1.8m may prevent overlooking however this means that the two conditions of regulation 84(8) have not been met and the remainder of regulation 84 would apply and need to be assessed to determine compliance.

Daylight to habitable room windows

The purpose of regulation 85 is to ensure that all windows of habitable rooms receive adequate light. Figure 27 illustrates the concessions, allowing a habitable room window to face a verandah, porch, deck balcony or carport.

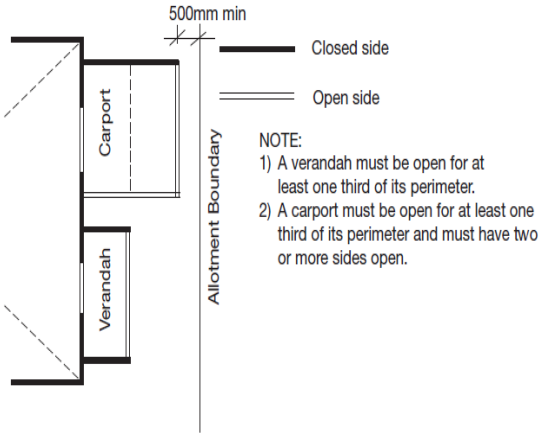


***Figure 27** - Daylight to habitable room windows.*

Division 3 – Siting of Class 10a buildings

Regulation 87 provides that an appurtenant Class 10a building must be on the same allotment as the building to which it is appurtenant.

An exception to this is found in schedule 3 which exempts a small Class 10a building being located on a site where it is not appurtenant to a building of another class subject to specific restrictions on height and setbacks and it not being constructed of masonry.

Division 4 – Class 10b structures

Front fence height

Regulation 89 provides maximum heights for a fence within 3m of the front street alignment. The heights allowed depend on the type of road or street. For information about road types refer to the text in explanatory notes for regulation 74(2).

Other matters

Regulations 90, 91, 94, 95 and 96 apply similar equivalent regulations in Division 2, being regulations 79, 80, 81, 82 and 83 respectively, to fences. However, it should be noted that regulation 91 applies to fences more than 2m in height on, or within, 150mm of a side or rear boundary, and the average height of those fences is limited to 3m and regulation 95 applies to windows below the height of the fence being constructed.

Further Information

Minister's Guideline MG/12 Siting and design of single dwellings

Practice Note 02-2018 Building envelopes and Part 5 of the Building Regulations 2018

Practice Note 44-2018 Building permit and planning permit consistency

Want to know more?

If you have a technical enquiry, please email technicalenquiry@vba.vic.gov.au or call 1300 815 127.

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