

Council Report and Consent (Dispensation) Siting Matters

Building Regulations 2018, Part 5, Divisions 2, 3 and 4 - Single Class 1 Buildings, Small Second Dwellings and associated Class 10 Buildings for Sites over 300sqm

APPLICANT NAME: (Required)

Owner* / Agent of Owner * _____ * delete where inapplicable

Contact Person: _____ Ph: _____ E: _____

Postal Address _____ Post Code _____

OWNER/SNAME: (Required)

Owner _____ Ph: _____ E: _____

Postal Address _____ Post Code _____

Contact Person _____ Telephone _____

RELEVANT BUILDING SURVEYOR (RBS): (If Known)

Company: _____ Name: _____

Contact Person: _____ Ph: _____ E: _____

Postal Address _____ Post Code _____

BUILDERS DETAILS: (If Known)

Company: _____ Name: _____

Contact Person: _____ Ph: _____ E: _____

Postal Address _____ Post Code _____

PROPERTY DETAILS / SUBJECT SITE: (Required)

Number _____ Street/Road _____ City/Suburb/Town _____ Post Code _____

Lot/s _____ LP/PS _____ Volume _____ Folio _____

I (the applicant) hereby give a copy of a building permit application or building design to Bayside City Council and apply for consent in accordance with Schedule 2 of the *Building Act 1993* for the following matters under Part 5 Building Regulations 2018:

**All applications to Council for Report and Consent attract a \$320.20 application fee per regulation.
(Effective until 30/06/2025)**

(Note: If you have multiple non-compliances for the same regulation i.e. 3 x Reg 79, you would only pay once for Reg 79)

Tick	Reg	Reporting Matter (i.e. non-complying item/s)	Tick	Reg	Reporting Matter (i.e. non-complying item/s)
	73	Maximum street setback		85	Daylight to habitable room windows
	74	Minimum street setback		86	Private open space
	74A	Building setback for small second dwellings		86A	Private open space for small single dwellings
	75	Building height		86B	Accessibility for small second dwellings
	76	Site coverage		87	Siting of Class 10a buildings
	77	Permeability		89	Front fence height
	78	Car parking		90	Fence setbacks from side and rear boundaries
	79	Side and rear setbacks		91	Fences on or within 150mm of side or rear boundaries
	80	Walls and carports on boundaries		92	Fences on intersecting street alignments
	81	Daylight to existing habitable room windows		94	Fences and daylight to habitable room windows in existing dwelling
	82	Solar access to existing north-facing habitable room windows		95	Fences & solar access to existing north-facing habitable room windows
	83	Overshadowing of recreational private open space		96	Fences and overshadowing of recreational private open space.
	84	Overlooking		97	Masts, poles etc

Council Report and Consent (Dispensation) Siting Matters

Building Regulations 2018, Part 5, Divisions 2, 3 and 4 - Single Class 1 Buildings, Small Second Dwellings and associated Class 10 Buildings for Sites over 300sqm

Description of proposed building works:

Provision of relevant nearby owners' comments:

Clause 4A of Schedule 2 *Building Act 1993* provides that, if in the opinion of the reporting authority (Council), the application may result in a nearby allotment suffering detriment; it must give the owner of the allotment an opportunity to make a submission in respect of the possible detriment (refer page 3, item 5).

I (the Applicant): _____ (enter name)

being the: owner (as mentioned over) agent of owner (as mentioned over)

Hereby provide the following:

Please Tick Box

- I have sought the relevant neighbouring owner/s comments in regards to this application to vary the deemed-to-comply siting provisions (please refer to copies attached);

Notes:

- The applicant is to seek the nearby property owners' comments by either direct contact with those owners' (i.e .hand delivery) or via mail/registered mail – **not via email**, allowing 21 days for those owners to view plans and make any relevant comment about this proposal. Submitting these comments and signed plans with this application will facilitate the processing of this application and will reduce overall assessment timeframes. Note :In the event that nearby owner's comments and signed plans are not provided with this application, the Statutory time frame for the assessment of this application stops until such time they are provided.
- **For details on who to obtain comments from please refer to 'Guidelines – Adjoining Owners Comments', available on Council's website and from the Council Corporate Centre.**
- In the event that you receive no response from the nearby owner/s in the prescribed time, the attached (page 7) Statutory Declaration is to be completed in full and signed declaring that the owner/s were served with the required request for comments and plans.
- Where providing nearby owners' comments, Council's adjoining owner comments form must used.

Signed: _____

Dated: _____

Please note: Privacy statement on page 6 of this form.

IMPORTANT INFORMATION FOR THE APPLICANT

The following documentation **is required** to be submitted with your application: (Please tick each box and submit checklist with application form)

Note: Failure to provide the required information will result in your application being either put on hold (not assessed) or returned.

1.0 Planning Permit

Do you require a Planning Permit?

- Yes - (If Yes go to item 2)
 No - (If No go to item 3)

2.0 (a) If you have a planning permit please submit with your application including stamped approved drawings.

2.0 (b) If you do not have a planning permit yet you should, submit an application to the Planning Department as soon as possible.

***Please Note: If a planning permit is required, but has not yet been obtained, this may create delays in the final determination of your Report & Consent application, as possible changes to your design required by Planning may impact your Report & Consent application.**

3.0 Application Form

Ensure fully completed, with all relevant report and consent clauses sought nominated, and that the application is signed and dated as required,

4.0 Application Fees

Full payment of prescribed fee (applicable per Regulation to be varied) is required upon lodgement of application. Where full payment is not received the application will be put on hold and an invoice sent to the applicant.

5.0 Current copy of registered Certificate of Title and Plan of Sub-division

(Include all pages. Note that the Title and Plan of Sub-division are to be no more than 90 days old).

It is noted that it is the owner/s and applicant's responsibility to check whether or not there is any Covenant / Caveat on Title which may affect the proposed building works and / or trigger a Council Planning Permit.

6.0 A Complete set of Architectural Drawings (Professional quality and detailed)

Drawings should be of a scale of not less than a 1:100, including where applicable floor plans and elevations. The aspect(s) of the design under consideration must be clearly highlighted with specific notations detailing the non-compliance(s). Where necessary the applicant may be asked to provide other information relevant to the matter(s) (e.g. schedule of finishes, eave widths, etc). The site plan must show all boundaries and setbacks, easements, existing building(s), proposed works and the North point. [The drawings are to detail:](#)

6.1 Ground levels (arbitrary levels (RL's) or AHD levels as applicable) are to be noted on the site plan and elevations,

6.2 Finished floor levels,

6.3 Natural ground level (NGL) is to be clearly shown on all elevations, sections. Walls and/or building heights are to be dimensioned from NGL,

6.4 Res-Code and Bayside envelopes (where applicable – eg. NRZ3 zones) are to be detailed appropriately on Sections and Elevations to clearly demonstrate the extend of compliance / non-compliance.

6.5 Dimensions are not to be denoted as 'approximate' or 'min'.



7.0 Site Analysis & Overshadowing Diagrams

- As part of the Architectural package, it may be necessary to also detail the adjoining property locations, including setbacks from front and side boundaries and where relevant the locations of habitable room windows, private open space and recreational private open space. Overshadowing diagrams may be required depending on the type of work proposed and the proximity to the side and / or rear boundary.

8.0 Reason/Justification for Application

- An application for siting dispensation 'Report and Consent' must be accompanied by a written submission explaining how the application satisfies the relevant 'Minister's Guidelines'. Refer to Victorian Building Authority Website for the Minister's Guideline MG-12.

9.0 Written Assessment from the appointed Relevant Building Surveyor of the proposed design confirming / outlining all Part 5 Building Regulation non-compliances

- Written confirmation from your appointed Relevant Building Surveyor must be provided noting that **all** Part 5 siting regulations of the Building Regulations 2018 have been assessed and each non-compliance requiring Council consideration is to be individually identified.

For example:

Regulation 74:

- To permit the **garage** external wall having a setback distance of **8.5m** from the front street alignment, in lieu of the prescribed minimum setback distance of **9.0m**.
- To permit the **ground floor study** external wall having a setback distance of **8.7m** from the front street alignment, in lieu of the prescribed minimum setback distance of **9.0m**.
- To permit the **upper floor study** external wall having a setback distance of **8.8m** from the front street alignment, in lieu of the prescribed minimum setback distance of **9.0m**.

Regulation 79:

- To permit the dwelling's building height in association with the **northern side ground floor laundry** external wall to have a maximum height of **3.8m** and a side boundary setback of **2.0m**, in lieu of the prescribed minimum setback of **2.12m**.
- To permit the dwelling's building height in association with the **northern side upper floor bedroom 2** external wall to have a maximum height of **6.6m** and a side boundary setback of **3.6m**, in lieu of the prescribed minimum setback of **3.8m**.
- To permit the dwelling's **northern side upper floor** roof to be built outside the prescribed building envelope.

Regulation 80:

- To permit the dwelling's **southern side garage** external wall to be constructed on or within 200mm of the side or rear boundary of an allotment with a maximum average height of **3.3m** and a maximum height of **3.7m**, in lieu of the prescribed maximum average height of 3.2m and a maximum height of 3.6m.
- To permit the dwelling's **garage & kitchen – family room** external walls to be constructed on or within 200mm of the side boundary of an allotment with a maximum total length of **18.56m** in lieu of the prescribed maximum total length of **16.3m**.

Regulation 89:

- To permit a front fence that is within 3.0 metres of the street alignment at the front of the allotment to have a maximum height of **1.7m** measured above natural ground level, in lieu of the prescribed maximum height of 1.2m.

10.0 Comments from Affected Adjoining and Other Property Owners

- Where you are seeking the nearby owner's comments as part of this application, please utilise Council's 'Adjoining Owner Comment' form on Council's website. The comments sought from nearby / adjoining property owner(s) who may suffer detriment as a result of the proposed departure from the regulatory requirement are to include **signed and dated plans**.

To obtain a copy of the adjoining owner's comments form and for details on who to obtain comments from please refer to the Council website and/or at Council Corporate Centre.

- [Adjoining Owner's Comments Form](#)
- [Guidelines - Adjoining Owners Comments](#)

Applicant Advice Sheet Only - Not Required To Be Submitted With Application

The siting requirements are as listed under **Part 5 of the Building Regulations 2018** (Building Regulations). An amendment to the *Building Regulations* on the 1 June 2004, introduced the Bayside Planning Scheme as listed in Schedule 6 of the *Building Regulations*. The Bayside Planning Scheme regulates siting matters in association with the prescribed minimum street setback; side & rear setbacks; site coverage; and front fence height.

Planning Permit Requirements may apply (applicant to check)

In some instances a Planning Permit will be required from Council's Planning Department in lieu of Report and Consent. It is the responsibility of the designer / applicant / owner to ensure a Planning Permit is **not** required prior to making an application for Council Report and Consent to the Municipal Building Surveyor (Building Department). The requirements for a Planning Permit may be triggered (dependent on the nature of the proposed works and relevant Zones/Overlays of the property) for example; where the allotment is less than 300m² in area, where located within an Special Building Overlay (SBO), Design and Development Overlay (DDO) or a Heritage Overlay (HO).

Design Considerations

Pursuant to clause 4A of Schedule 2 of the Building Act, Council **must refuse** to give consent to a design which does not comply with Ministerial decision guidelines for siting matters. Designers will need to be fully aware of these guidelines to avoid refusal of their submission. Copies of the regulations and guidelines may be viewed at the Internet websites: http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubLawToday.nsf for the regulations, and refer to the Victorian Building Authority Website for Minister's Guideline MG-12.

Nearby Property Owner's Comments

Clause 4A of Schedule 2 of the Building Act provides that, if in the opinion of the reporting authority (Council), the application may result in a nearby allotment suffering detriment; it must give the owner of the allotment an opportunity to make a submission in respect of the possible detriment.

Please note that the above provision requires Council:

- to determine the possibility of detriment
- to give opportunity for any submission.

For details on who to obtain comments from please refer to: "Guidelines – Adjoining Owners Comments". Available on Website and at Council. (See also item 10 – Council Report and Consent (Dispensation) siting matters checklist for required documents.)

Decision Time Frame

Pursuant to Regulation 34 of the Building Regulations 2018 the time after receipt of a copy of an application for the reporting authority to report on or consent to an application relating to a single dwelling under Clause 6 of Schedule 2 of the Act if consent and report is required in relation to a matter referred to in Division 2 of Part 5 is fifteen (15) business days.

It is noted that the fifteen (15) day time frame to determine an application for siting report and consent stops where the application submitted is not accompanied with the required information, and / or where Council has either issued a request for further information to be provided by the applicant. Although Council will endeavour to meet the above time limit, it may not be met for the reasons as noted above. Please consult with Council as to time frames at time of referral and once all required information is provided.

Only an owner has rights of appeal to the Building Appeals Board - including (within 30 days) any:

- requirement of a reporting authority to give more information or amend a permit application (s138 of Building Act)
- the determination or exercise of discretion or
- failure within a reasonable time to make a determination or exercise that discretion (s144 of Building Act)

Local factors (Bayside City Council only)

It is noted that Bayside Planning Scheme has adopted a schedule to the zone that requires in certain zones (eg. NRZ3, MUZ, RGZ) additional siting requirements that are over and above that prescribed under Part 5 of the Building Regulations 2018.

Refer to the following links:

- <http://planning-schemes.delwp.vic.gov.au/schemes/bayside>

Residential properties that are zoned within GRZ 2 (General Residential Zones) are subject to the siting provisions as listed under Part 5 of the Building Regulations 2018.

Refer to the following links:

- <http://planning-schemes.delwp.vic.gov.au/schemes/bayside>

Please note that it is the applicant / designer and owner/s responsibility to ensure that a Planning Permit for the proposed building works (where required) is obtained prior to submitting the Report and Consent application.

Where the Planning Permit is triggered by virtue of only an Heritage Overlay (HO) or Special Building Overlay (SBO), Councils Planning Department will not undertake a siting assessment and the proposed siting may be the subject to Report and Consent via the Council's Municipal Building Surveyor (Building Surveying Department).

It is noted that a siting Report and Consent application will not be considered and will be put on hold until such time any relevant Planning Permit is obtained and issued by Council.

For further clarification as to whether a Planning Permit is required for the proposed works on the allotment, please contact Council's Planning Department directly on Ph: 9599 4666.

Design documents

Building Regulation 24 includes information regarding additional document requirements for building permit applications.

Included are:

- The location, dimensions and area of impermeable surfaces covering the allotment if necessary for the purposes of Regulation 77,
- The location and dimensions of car parking spaces for the purposes of Regulation 78,
- The location, dimensions and area of secluded private open space for the purposes of Regulation 86.

Applicants / Relevant Building Surveyors must ensure that, where necessary, the above information is obtained before applications are referred to Council. If such information is not present:

- (a) consent will be refused (where such information is clearly necessary); and
- (b) a flawed decision may be made.

Applicants / Owner(s) who apply for Report and Consent, will need to be aware that Council may request further information in broad terms. Such persons must ensure they are aware of the relevant regulations and guidelines or use a suitably experienced advisor / consultant.

Further advice can be obtained by speaking to one of Council's Building Surveying officers directly on Ph: 9599 4660

PRIVACY INFORMATION

The personal information requested is required primarily for the provision of the services referred to on this form and will only be shared with those directly responsible for providing that service. If you do not provide the information, we may not be able to deliver the service.

The personal information provided will be used for Government reporting as required by Regulations 30 & 31 Building Regulations 2018.

If you would like to know more about privacy at Bayside City Council, including your right to or seek access to any information collected on this form, please contact Council's privacy officer on 9599 4444 or at privacy@bayside.vic.gov.au

Statutory Declaration Report and Consent

I _____

Of _____ address, make the following statutory declaration under the **Oaths and Affirmations Act 2018**:

I am the owner/agent of owner of the property at _____ VIC _____ (Lot _____ LP _____) and that as part of my application for Report and Consent I sought to obtain comments from the neighbouring property owner/s at:

- No. _____ VIC _____ (Lot _____ LP _____)
- No. _____ VIC _____ (Lot _____ LP _____)
- No. _____ VIC _____ (Lot _____ LP _____)

RE _____

And further, that I: _____ (tick applicable box and complete details)

- Mailed the Report and Consent 'comments' submission; (*copy attached*) on the .../.../.....(date) to the owner/s at:

- Hand delivered the Report and Consent 'comments' submission; (*copy attached*) on the .../.../.....(date) to the property at:

- Handed the Report and Consent 'comments' submission; (*copy attached*) on the .../.../.....(date) to the owner/s at:

And that after 21 days from the dates specified above I have received no response from the owner/s.

When making the statutory declaration the declarant must say aloud:

I, (*full name of person making the declaration*) of (*address*), declare that the contents of this statutory declaration are true and correct.

I declare that the contents of this statutory declaration are true and correct and I make it knowing that making a statutory declaration that I know to be untrue is an offence.

Signature of person making this declaration [to be signed in front of an authorised witness]

Declared at _____

This _____ Day of _____ 20 _____ Before me,

Signature of Authorised Witness

The authorised witness must print or stamp their name, address, and title, under the Oaths and Affirmations Act 2018 – Sect 30 and be an authorised affidavit taker under the Oaths and Affirmations Act 2018 – Sect 19 (e.g. A Justice of the Peace, Pharmacist, Police Officer, Court Registrar, Bank Manager, Medical Practitioner, Dentist)

Collection Notice: This information is being collected as part of a Report and Consent application being held by Bayside City Council. It will be stored in Council's Customer Records Management System and will not be shared with third parties unless there is a legal requirement to do so.