



# APPLICATION FOR REPORT AND CONSENT – SITING VARIATION FORM 1 (SECTION A)

## Building Regulations 2018, Part 5, Division 2, 3 & 4

### Referral of Building Design to Council for Report and Consent on Proposed Siting Variation

Council is collecting the Information on this form so that it may consider your application. The information is only used by Council for this purpose and will not be disclosed unless required under law.

**TO:** Municipal Building Surveyor  
 Warrnambool City Council  
 PO Box 198 WARRNAMBOOL VIC 3280

Telephone: (03) 5559 4800  
 Fax: (03) 5559 4900  
 Email: [building@warrnambool.vic.gov.au](mailto:building@warrnambool.vic.gov.au)

I hereby apply to Warrnambool City Council for Report and Consent in accordance with Schedule 2 of the *Building Act 1993* for the following prescribed matters under Part 5 of the *Building Regulations 2018*.

**FROM:**

Name:		
Company:		
Tel. no:		Mobile no:
Email:		
Postal Address:		State: Post Code:
<input type="checkbox"/> Owner	<input type="checkbox"/> Agent of Owner	<input type="checkbox"/> Relevant Building Surveyor

**PROPERTY DETAILS / LOCATION OF WORK:**

Number:	Street:	Suburb:
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**DESCRIPTION OF WORK:**

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TICK	REG	MATTERS FOR WHICH REPORT AND CONSENT IS BEING SOUGHT
		<i>Part 5 Division 2– Siting of Single Class 1 Buildings and associated Class 10 buildings</i>
	73(2)	Maximum setback from a street alignment
	74(4)	Minimum setback from a street alignment
	75(4)	Building height
	76(4)	Site coverage over 60%
	77(3)	Permeability - Impermeable surfaces covering more than 80% of an allotment area
	78(6)	Minimum car parking spaces on the allotment
	79(6)	Side or rear boundary setbacks
	80(6)	Walls or carports over the allowable height on the boundary (average and/or max. height)
	80(6)	Walls or carports over the allowable length on the boundary
	81(6)	Daylight to existing habitable room window
	82(5)	Solar access to exist north facing windows
	83(3)	Overshadowing of recreational private open space
	84(9)	Overlooking
	85(3)	Daylight to habitable room window
	86(3)	Private Open Space

Civic Centre 25 Liebig Street  
 Warrnambool Victoria Australia  
 P.O. Box 198 Warrnambool VIC 3280

Telephone (03) 5559 4800  
 Facsimile (03) 5559 4900

Website [www.warrnambool.vic.gov.au](http://www.warrnambool.vic.gov.au)  
 ABN 44 594 264 321

TICK	REG	MATTERS FOR WHICH REPORT AND CONSENT IS BEING SOUGHT
		<i>Part 5 Division 3 - Siting of Class 10a &amp; Division 4 - Siting of Class 10b buildings</i>
	87(2)	Siting of appurtenant Class 10a buildings
	89(3)	Front fence height
	90(2)	Fence setback from side and rear boundaries
	91(5)	Length or height of side or rear boundary fence
	92(2)	Fences on intersecting street alignments
	94(6)	Fence setback for daylight to existing habitable room window
	95(3)	Fence setback solar access to exist north facing windows
	96(3)	Fence design that overshadows of recreational private open space
	97(2)	Mast, poles etc. exceeding height limits

## INFORMATION/DOCUMENTATION TO ACCOMPANY THIS APPLICATION

- Form1 (Section A)** this form
- Covering letter** with supporting information detailing why the proposal cannot comply with the regulations.
- Form 1 (Section B) response in relation to the relevant Ministers Guidelines to each regulation requested.
- A copy of **title and plan of subdivision / title plan** and any other available land survey details.
- Planning Permit Application No.(if applicable): \_\_\_\_\_
- 2 copies of the following **drawings** (dimensioned and to scale);
  - Site Plan (indicating boundary setbacks, adjoining buildings, location of adjoining affected windows).
  - Floor Plans
  - Elevations (including Rescode compliance setback outline)
  - Shadow diagrams (if applicable)

Note: Plans to be sufficiently marked up to show the location and extent of non-compliances for each item.

- Payment of the **application fee (refer to Building Fees)**

## ADJOINING OWNER'S COMMENTS

Comments are required from the relevant neighboring property owners that may be directly affected by the proposed building works that vary from the Building Regulations. Affected adjoining land owners are to sign the drawings to indicate that they understand and consent to your proposed Building Regulation Variation as well submitting their response on the *Form 2 Neighbours Referral* form.

Adjoining owners of the application will have 14 days to respond and advise if they agree with, or object to, the proposed variation(s). Council may agree to waive undertaking adjoining owner's referral where applications contain evidence that adjoining owners have considered and had ample time to respond to the proposed variation.

## DECLARATION

I confirm that the information contained within this application including attachments is true and correct.

I confirm that a Building Permit **has not been issued** for any work that relates to this application.

Applicant's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## LODGEMENT & PAYMENT:

Payment is required prior to the issue of a response for all applications. Lodgement and payment may be made using one of the following options:

**In person** All payment options are available in person from 8:30am to 5pm Monday to Friday at our Civic Office, 25 Liebig Street, Warrnambool

**Mail** Only cheque is acceptable for applications received by mail. Please make cheques payable to Warrnambool City Council.



## Rescode Variation Process/ Frequently Asked Questions

The Building Regulations contain some 23 separate controls over the siting of houses and outbuildings. The standards used mirror those contained in Clause 54 of the Planning Schemes used in Victoria, meaning there is a more or less consistent approach to the height and setback measures applying to house blocks under Building and Planning legislation. As a generic expression, the standards are called 'ResCode' although there is no actual publication with this name.

### **How does a Rescode Variation work?**

The Building Regulations contain limits on heights, setbacks, positions of windows and viewing platforms, paving materials and car parking spaces. These apply only to new building work - i.e. new houses, fences and outbuildings or alterations to these. If the issues listed in the Building Regulations have already been dealt with in a Planning permit application, they are not re-assessed with the building permit application.

If a design is required to meet the siting limits of the regulations, but does not, it can still be considered and accepted by Council granting a 'siting variation' under this report and consent process, often referred to as dispensation, provided it meets certain broader objectives and guidelines provided by the Minister for Planning.

If Council does not agree that a design meets the guidelines it must legally refuse to issue consent and a building permit cannot be issued. The owner wanting to do the work may then appeal to the Building Appeals Board which may overturn Council's refusal if it sees fit.

### **Do the Neighbour's have any input?**

The Building Act requires that Council must give the owner of any nearby allotment an opportunity to make a submission if that person may, in Council's opinion, suffer possible detriment. Council will take any comments into account in reaching a decision as to whether to issue its consent.

Unlike Planning legislation, aggrieved neighbours do not have a right of appeal under the Building Act if they do not agree with Council's decision.

### **Is a sign put out the front?**

No. Unlike Planning applications, advertising is localised and only the adjoining neighbours who are deemed to be affected are notified. These generally allow 14 days for comment. Council will accept consents already obtained by the owner, builder or designer - however it should be noted it is Council that decides who is deemed affected and why - therefore Council should be consulted as to whether it will accept this method.