



Victoria Government Gazette

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Building Act 1993

MINISTER'S GUIDELINES INSTRUMENT OF REVOCATION

I, Rob Hulls, Minister for Planning, pursuant to section 41A of the **Interpretation of Legislation Act 1984**, hereby revoke the Minister's Guidelines (Guidelines) made pursuant to sections 188 and 188A of the **Building Act 1993** (the Act) and listed below with effect from 14 June 2005:

Guidelines made under section 188 of the Act to be revoked:

| Year/number | Title |
|-------------|--|
| 94/01 | Building Control Commission – Fees for building surveying services |
| 94/03 | Class 9b buildings – Management of sanitary facilities |
| 94/04 | Involvement of adjoining owners in siting appeals |
| 95/01 | Certification of engineering designs |
| 95/03 | Professional standards – Building surveyors |
| 96/02 | Issuing of building permits for prescribed building work in the period 1 April 1996 to 30 April 1996 |
| 96/04 | Building Control Commission – Fee for appointing prescribed building practitioner to act as an inspector |
| 97/01 | Uniform building permit numbering system |
| 97/02 | Issuing of occupancy permits |
| 98/01 | Issuing of building permits (demolition/removal) and the owner-builder |
| 99/01 | Building Practitioners Board – Fees |
| 00/01 | Building permit and planning permit consistency |
| 01/02 | Exercise of discretion when applying a new building (single dwellings) (interim) regulations 2001 to siting issues for building work |

Guideline made under section 188A of the Act to be revoked:

| Year/number | Title |
|-------------|---------------------------------------|
| 01/01 | Siting and design of single dwellings |

Signed at Melbourne in the State of Victoria
Dated 7 June 2005

ROB HULLS, MP
Minister for Planning

SPECIAL

Building Act 1993

MINISTER'S GUIDELINES

I, Rob Hulls, Minister for Planning, pursuant to section 188 of the **Building Act 1993**, hereby issue the following guidelines with effect from 14 June 2005:

Signed at Melbourne in the State of Victoria

Dated 7 June 2005

ROB HULLS, MP
Minister for Planning



Minister's Guideline

Issued June 2005

Introducing Minister's guidelines

This updates previous introduction reprinted 2003

The Minister for Planning may issue guidelines under sections 188 or 188A of the *Building Act 1993 (the Act)*. Most guidelines outline the role of building surveyors in applying building regulations and performing their functions under the Act. The guidelines assist building surveyors in making decisions about the best application of the Act and building regulations.

Section 188 guidelines

Guidelines under section 188 relate to:

- (a) Fees charged for applications for permits and approvals and any fees charged under the Act and the building regulations.
- (b) Charges for services provided by the Commission.
- (c) Functions of municipal building surveyors (MBS) and private building surveyors (PBS) under the Act and the regulations.
- (d) The circumstances in which an MBS or PBS should seek assistance when preparing a building notice or building order. This assistance may be sought from the Chief Fire Officer of the Metropolitan Fire and Emergency Services, the Chief Officer under the Country Fire Authority Act 1958 or any public authority.

Most of these guidelines fall into category (c). An MBS or PBS must have regard to any relevant guideline under (c) or (d), in carrying out a function under the Act or the regulations.

Guidelines made in relation to (c) or (d) above do not have the status of a building regulation. Therefore, they do not form a binding instruction on building surveyors in carrying out their functions. However, it is expected that a building surveyor would have:

- ▶ Carefully read the guideline.
- ▶ Made a decision as to whether the guideline applied to a particular project.
- ▶ Noted a good reason for having rejected a guideline.

Section 188A guidelines

Guidelines under section 188A relate to the design and siting of single dwellings. Only one guideline MG/12 has been issued under this section of the Act.



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MG/01

Minister's Guideline

Issued June 2005

Building Commission - fees for building surveying services.

This replaces previous *Minister's Guideline 94/01* issued on 16 June 1994 and reprinted 2003

Pursuant to section 188(1)(b) of the Building Act 1993 (the Act) I hereby issue the following Guideline concerning the charges to be made by the Building Commission for building surveying services including applications for permits and approvals under Parts 5 and 12 of the Act and the building regulations including applications for approval for prescribed temporary structures and places of public entertainment and applications for amendments to occupancy permits. Note that under sections 188(6) and 199(7) the Building Commission must have regard to this Guideline in fixing its charges.

1. Building permit or temporary approval.

| COST OF BUILDING WORK | FEES |
|---|---|
| Class 1a and 10 buildings | |
| all projects | \$ Cost of building work/250 \$100 minimum |
| Class 2 and 3 buildings | |
| \$50,000,000 and over | .6% |
| \$1,000,000 to \$50,000,000 | .5% + \$3000 |
| \$100,000 to \$1,000,000 | .7% + \$300 |
| \$5,000 to \$100,000 | .8% + \$150 |
| up to \$5,000 | \$100 |
| Class 5, 6, 7, 8 and 9 buildings | |
| \$1,000,000 and over | .2% + \$2000 |
| \$100,000 to \$1,000,000 | .3% + \$700 |
| \$20,000 to \$100,000 | .9% |
| up to \$20,000 | \$180 |

2. Any additional or re-inspections as required by the applicant, builder, any other person or relevant authority. \$50
3. Applications for occupancy permits for -
 - a. Prescribed Temporary Structures \$350
 - b. Places of Public entertainment (concert etc.) \$700
4. Renewal of an occupancy permit for a place of public entertainment or temporary structure. (three yearly) \$90
5. Amendment of an occupancy permit for a place of public entertainment or temporary structure. \$150

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MG/02

Minister's Guideline

Issued June 2005

Class 9b buildings - management of sanitary facilities

This replaces previous *Minister's Guideline 94/03* issued on 16 June 1994 and reprinted 2003

Pursuant to section 188(1)(c) of the Building Act 1993 (the Act) I hereby issue the following Guideline. Note that section 188(7) of the Act provides that a municipal building surveyor or private building surveyor must have regard to this Guideline in carrying out their functions.

Toilet accommodation for male and female patrons in Class 9b buildings greater than 500m² in area which are places of public entertainment is to be provided in accordance with the requirements of the Building Code of Australia (BCA) Table F2.3.

Without limiting the conditions which can be included on an occupancy permit, an occupancy permit for this class of building may be issued subject to conditions relating to the management and use of these facilities in respect of -

- (a) the distribution of the sanitary facilities provided when male and female patrons are not present in equal numbers. The ratio for the provision of facilities in this situation should be not less than 1.7 WC's provided for females to every WC or urinal provided for males.
- (b) the signage provided to designate male and female sanitary facilities. Signage in such a building should be able to be readily re-arranged so that toilet accommodation can be allocated to reflect the distribution of male and female patrons at a particular event in that building.

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MG/03

Minister's Guideline

Issued June 2005

Involvement of adjoining owners in siting appeals

This replaces previous *Minister's Guideline 94/04* issued on 16 June 1994 and reprinted 2003

Pursuant to section 188(1)(c) of the Building Act 1993 (the Act) I hereby issue the following Guideline. Note that section 188(7) of the Act provides that a municipal building surveyor or private building surveyor must have regard to this Guideline in carrying out their functions.

Where a request is made to allow a reduction in the setback requirements of Part 4 of the Regulations, the municipal council is to seek the views of the relevant adjoining owner.

If an adjoining owner objects to the proposal, and the objection is not considered frivolous, the municipal council in deciding the issues should bear in mind that refusal would create the situation where the applicant may lodge an appeal to the Building Appeals Board. This gives the affected adjoining owner the opportunity to appear as a witness of the municipal council at the appeal.

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MG/04

Minister's Guideline

Issued June 2005

Certification of engineering designs

This replaces previous *Minister's Guideline 95/01* issued on 21 March 1995 and reprinted 2003

Pursuant to section 188(1)(c) of the Building Act 1993 (the Act) I hereby issue the following Guideline. Note that section 188(7) of the Act provides that a municipal building surveyor or private building surveyor must have regard to this Guideline in carrying out their functions.

In deciding whether to rely on a certificate of compliance in relation to a design by a registered building practitioner in the category of engineer, the relevant building surveyor must have regard to the complexity of the design and may determine that any such certificate be by a registered building practitioner in the category of engineer, other than the one who prepared the design.

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MG/05

Minister's Guideline

Issued June 2005

Professional standards - building surveyors

This replaces previous *Minister's Guideline 95/03* issued on 26 October 1995 and reprinted 2003

Pursuant to section 188(1)(c) of the Building Act 1993 (the Act) I hereby issue the following Guideline concerning the professional standards to be followed by municipal building surveyors and private building surveyors. Note that section 188(7) of the Act provides that municipal building surveyors and private building surveyors must have regard to this Guideline in carrying out their functions.

Municipal building surveyors and private building surveyors must only accept appointment as relevant building surveyors in the area of their own competence.

Municipal building surveyors and private building surveyors must perform their functions in a competent manner and to a professional standard.

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MG/06

Minister's Guideline

Issued June 2005

Building Commission - fee for appointing prescribed building practitioner to act as an inspector

This replaces previous *Minister's Guideline 96/04* issued on 28 March 1996 and reprinted 2003

Pursuant to section 188(1)(b) of the Building Act 1993 (the Act) I hereby issue the following Guideline concerning the fee to be charged by the Building Commission for the appointment of a prescribed building practitioner to act as an inspector for the purposes of section 44 of the Domestic Building Contracts and Tribunal Act 1995. Note that under section 188(6) of the Act, the Building Commission must have regard to this Guideline in fixing its charges.

Appointment of inspector by the Commission to examine whether or not the builder is complying with the plans and specifications set out in the contract

Fee
\$300

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MG/07

Minister's Guideline

Issued June 2005

Uniform building permit numbering system

This replaces previous *Minister's Guideline 97/01* issued on 28 March 1997 and reprinted 2003

Pursuant to section 188(1)(c) of the Building Act 1993 (the Act) I hereby issue the following Guideline concerning the numbering of building permits by municipal building surveyors and private building surveyors. Note that section 188(7) of the Act provides that municipal building surveyors and private building surveyors must have regard to this Guideline in carrying out their functions.

| Registration number | Sequential number | Stage number |
|--|---|--|
| of building surveyor who issued the building permit. | a six digit number used to identify a building permit issued in Victoria. | a number to identify the stage of a building project the building permit relates to. For single stage projects, the stage is zero. For multi stage projects the first stage is identified as one, the second stage as two etc. |
| eg 1234 | 000001 | 0 |

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MG/08

Minister's Guideline

Issued June 2005

Issuing of occupancy permits

This replaces previous *Minister's Guideline 97/02* issued 31 July 1997 and reprinted 2003

Pursuant to section 188(1)(c) of the Building Act 1993 (the Act) I hereby issue the following Guideline concerning the functions of municipal building surveyors and private building surveyors in respect of Part 10 of the Building (Interim) Regulations 2005 (the Regulations). Note that section 188(7) of the Act provides that municipal building surveyors and private building surveyors must have regard to this Guideline in carrying out their functions.

Municipal building surveyors and private building surveyors must not issue an occupancy permit for a building or place of public entertainment unless:

1. an application has been made in the relevant form set out in Schedule 2 of the Regulations;
2. he or she is satisfied that any necessary consents from the reporting authorities listed in Part 10 of the Regulations have been obtained;
3. he or she is satisfied that services such as gas, water, sewerage, drainage and electricity, insofar as they are necessary to make the building or place of public entertainment suitable for occupation, have been installed and are operational; and
4. he or she lists on the occupancy permit all essential services required under Part 12 of the Regulations and specifies the level of performance for each essential service.

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MG/09

Minister's Guideline

Issued June 2005

Issuing of building permits (demolitions/removal) and the owner builder

This replaces previous *Minister's Guideline 98/01* issued on 20 July 1998 and reprinted 2003

Pursuant to section 188(1)(c) of the Building Act 1993 (the Act) I hereby issue the following Guideline concerning the functions of municipal building surveyors and private building surveyors in respect of section 24(1)(c) of the Act. Note that section 188(7) of the Act provides that municipal building surveyors and private building surveyors must have regard to this Guideline in carrying out their functions.

A relevant building surveyor must not issue a building permit for the demolition or removal of a building under section 24 of the Act unless:

the person nominated as the builder on the application for a building permit is a registered building practitioner in the appropriate category or class having regard to section 176(7) of the Act.

If the owner is nominated as the builder it is the owner who must demonstrate that he or she has the necessary knowledge, experience, equipment and storage facilities to properly conduct the demolition operations as required by Regulation 304 of the Building (Interim) Regulations 2005. It will be expected in these circumstances that it will be rare for a building permit to demolish a building to be issued to an owner builder.

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MG/10

Minister's Guideline

Issued June 2005

Building Practitioners Board - Fees

This replaces previous *Minister's Guideline 96/01 & 99/01* issued May 1999

Pursuant to section 188(1)(a) of the Building Act 1993 (the Act) I hereby issue the following Guideline concerning the fees payable to the Building Practitioners Board under Division 1 of Part 11. Note that section 188(5) of the Act provides that the Building Practitioners Board must have regard to this Guideline in fixing its charges.

For building practitioners (not in the category of builder, class of domestic builder (unlimited), class of domestic builder (limited) or class of domestic builder (manager))

Application fee - inclusive of annual registration fee for the first year.

For a person applying to register as a building practitioner in a single category or class of building practitioner under section 169. \$90

For each additional or subsequent application by the same person seeking registration in a different category or class of building practitioner except the category of builder, class of domestic builder (unlimited), class of domestic builder (limited) or class of domestic builder (manager). \$30

Annual registration fee

Annual registration fee for registration as a building practitioner in a single category or class of building practitioner under section 172(2). \$90

For each additional registration in a category or class of building practitioner held by the same person except the category of builder, class of domestic builder (unlimited), class of domestic builder (limited) or class of domestic builder (manager). \$30

Late payment of annual registration fee under section 172(4). \$30

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MG/10

Minister's Guideline

For building practitioners in the category of builder, class of domestic builder (unlimited), class of domestic builder (limited) or class of domestic builder (manager).

For a person who is not a nominated representative and/or a Director of a company or partner of a firm, approved by the Housing Guarantee Fund Limited prior to the Building (Qualifications) Regulations 1996 coming into operation.

Application Fee - inclusive of annual registration fee for the first year.

| | |
|--|-------|
| For a person applying to register under section 169 in the category of builder, class of domestic builder (unlimited), or class of domestic builder (manager). | \$680 |
| For a person applying to register under section 169 in the category of builder, class of domestic builder (unlimited) or class of domestic builder (manager) who is already registered by the Building Practitioners Board in another category or class. | \$620 |
| For a person already registered as a domestic builder (manager) or domestic builder (limited) applying for an additional registration in a limited category or applying for an upgrade to the category of either manager or unlimited and who has been assessed by a competency assessor for their current registration. | \$290 |
| For a person already registered as a domestic builder (manager) or domestic builder (limited) who is applying for an additional registration in a limited category or applying for an upgrade to the category of either manager or unlimited and who was NOT assessed by a competency assessor for their current registration. | \$530 |
| For a person applying to register under section 169 in the category of builder, class of domestic builder (limited). | \$540 |
| Additional assessment fee, where the Building Practitioners Board agrees that a second assessment may be carried out by another assessor prior to determining an application. | \$200 |
| Annual registration fee | |
| For each registration as a building practitioner under section 172(2) in the category of builder, class of domestic builder (unlimited) class of domestic builder (limited) or class of domestic builder (manager). | \$180 |
| For each registration in the category of builder, class of domestic builder (unlimited), class of domestic builder (limited) or class of domestic builder (manager) where that person is also registered by the Building Practitioners Board | \$120 |
| Late payment of annual registration fee under section 172(4). | \$30 |

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MG/10

Minister's Guideline

For a person who was approved by the Housing Guarantee Fund Limited prior to the Building (Qualifications) Regulations 1996 coming into operation.

Application fee - including annual registration fee for the first year.

For a person applying to register under section 169 in the category of builder, class of domestic builder (unlimited), class of domestic builder. \$180

For an additional or subsequent registration under section 169 in the category of builder, class of domestic builder (unlimited) class of domestic builder (limited) by a person already registered in another category or class. \$120

Annual registration fee

For each registration in the category of builder, class of domestic builder (unlimited) class of domestic builder (limited) or class of domestic builder (manager). \$180

For each registration in the category of builder, class of domestic builder (unlimited), class of domestic builder (limited) or class of domestic builder (manager) where that person is already registered by the Building Practitioners Board in another category or class. \$120

Late payment of annual registration fee under section 172(4). \$30

ROB HULLS MP
Minister for Planning

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MG/11

Minister's Guideline

Issued June 2005

Building permit and planning permit consistency

This replaces previous *Minister's Guideline 00/01* issued on 1 Nov 2000 and reprinted 2003

Pursuant to section 188(1)(a) of the Building Act 1993 (the Act) I hereby issue the following Guideline concerning the functions of municipal building surveyors and private building surveyors and section 24(1) of the Act. Section 188(7) of the Act provides that municipal building surveyors and private building surveyors must have regard to a relevant guideline in carrying out a function under the Act.

1. Section 24(1) and purpose of this Guideline

Section 24(1) of the Act integrates the operation of the building and planning systems by requiring the relevant building surveyor to be satisfied that any relevant planning permit or other prescribed approval that may be required for proposed building work has been obtained and that the building permit to be issued for the proposed building work will be consistent with any relevant planning permit or prescribed approval, before the building permit is issued. The purpose of this Guideline is to set out a procedure to be followed by the relevant building surveyor (RBS) in deciding an application for a building permit where the building surveyor must determine:

- (a) whether any relevant planning permit or other prescribed approval has been obtained; and
- (b) whether the proposed building work will be consistent with any relevant planning permit or prescribed approval.

2. Determining whether a relevant planning permit has been obtained

To establish whether any relevant planning permit or other prescribed approval is required or has been obtained in relation to the proposed building work, the relevant building surveyor should take one or more of the following steps as may be appropriate in the circumstances:

- (a) obtain a copy of any relevant planning permit or prescribed approval applying to the proposed building work from the owner;
- (b) refer to the relevant planning scheme;
- (c) make an inquiry in writing to the relevant municipal council;
- (d) obtain independent professional advice from a person experienced in advising on planning schemes and the requirement for planning permits; or
- (e) obtain a Certificate of Compliance under Part 4A of the Planning and Environment Act 1987 from the responsible authority.

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MG/11

Minister's Guideline

3. Determining whether the building permit will be consistent with the planning permit

- (1) If a planning permit is required for the proposed building work and has been obtained, the relevant building surveyor should obtain copies¹ of the following:
 - (a) the planning permit;
 - (b) the plans endorsed by the responsible authority as part of that planning permit; and
 - (c) any documents referred to in the planning permit (including plans, reports, drawings, plans of subdivision or agreements under section 173 of the Planning and Environment Act 1987).
- (2) In determining whether the building permit will be consistent with the planning permit, the relevant building surveyor should -
 - (a) compare the plans lodged with the application for the building permit with those plans endorsed by the responsible authority as part of the planning permit and any documents referred to in the planning permit that have a direct bearing on the proposed building permit, to ensure that they are consistent; and
 - (b) confirm that all planning permit conditions relevant to the building permit that are required to be completed prior to commencement of the development have been complied with.
- (3) The relevant building surveyor's assessment of consistency between the building permit and the relevant planning permit should include (but not be limited to consideration of :
 - (a) the height, area, form and configuration of the proposed building work or any part of the building work;
 - (b) the location of the proposed building on the land, including setbacks from boundaries;
 - (c) the location of windows, doors, and privacy screens;
 - (d) any conditions of the planning permit that have specific construction requirements or that require specification construction details; and
 - (d) the proposed use of the building work.

4. Amending a building permit

This Guideline should be applied by a relevant building surveyor in considering any proposal to amend a building permit.

ROB HULLS MP
Minister for Planning

¹ The building surveyor or applicant should endeavour to obtain a copy of the documentation from the owner, or other person who obtained the permit. Only if the owner or other person can not provide this documentation should the responsible authority be asked to provide a copy.



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MG/13

Minister's Guideline

Issued June 2005

Exercise of discretion when applying a new building regulation or an amendment to a building regulation

This updates previous *Minister's Guideline 01/02* issued on 24 August 2001 and reprinted 2003

Pursuant to section 188(1)(a) of the Building Act 1993 (the Act) I hereby issue the following guideline concerning discretion under section 10 of the Act to apply to new building regulations or an amendment to a building regulation. Section 188(7) of the Act provides that municipal building surveyors and private building surveyors must have regard to a relevant guideline in carrying out a function under the Act.

1. Section 10 and the purpose of this Guideline

Section 10(2) relates to the application of a building regulation or an amendment to a building regulation where substantial progress in the design of the building was made prior to the commencement of the operation of the regulation or amendment. The purpose of this Guideline is to provide guidance to the relevant building surveyor in the operation of section 10(2).

2. Section 10 in relation to schedules to planning schemes

Section 11 of the Act gives primacy to a provision of a planning scheme over a building regulation that regulates the same matter. Where a planning permit has been issued, the relevant building surveyor is not required to assess those regulations that are equivalent to, or are "the same matter" as contained in the planning scheme.

Schedules to planning schemes are adopted under Schedule 5 of the Regulations. A schedule to a zone in a planning scheme does not have to be complied with in the building system until it is referenced in schedule 5 of the Regulations.

Once referenced in Schedule 5 of the Regulations, section 10 of the Act may apply. One of the effects of section 10 is that if the relevant building surveyor is satisfied and certifies in writing that substantial progress was made on the design of the building before the amendment commenced, the regulations, as they existed before the amendment will apply to that building work.

3. Section 10(2)

Section 10(2) provides that if a building surveyor is satisfied and certifies in writing that substantial progress was made on the design of a building prior to a building regulation or amendment commencing, then the building regulation or amendment does not apply to the carrying out of the relevant building work. Section 10(2) provides discretion for a relevant building surveyor to determine what constitutes substantial progress in a particular case. In exercising that discretion regarding the application of the regulation, the relevant building surveyor must be satisfied that the design relates to the proposed building on a particular allotment.

In the case of 'stock' or 'standard' designs commonly offered by volume builders, the relevant building surveyor should not certify that substantial progress has been made on the design unless the 'stock' or 'standard' design relates to the particular allotment on which the building is proposed to be constructed. This may be evidenced by:

- (a) a contract having been signed to have the building of that design constructed on the allotment, or
- (b) by a deposit having been paid for the construction of a building of that design on the relevant allotment

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Minister's Guideline

prior to the commencement of the regulation or amendment.

In the case of an individual 'one off' design, the relevant building surveyor must be satisfied that the design relates to the proposed building to be constructed on the relevant allotment and that substantial progress was made on the design prior to the coming into operation of the new regulation or amendment to the regulations. This may be evidenced by the dating mechanism used by architects and draftspersons on their drawings or by a payment for a completed stage of design development.

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Building Act 1993

MINISTER'S GUIDELINES

I, Rob Hulls, Minister for Planning, pursuant to section 188A of the **Building Act 1993**, hereby issue the following guidelines with effect from 14 June 2005:

Signed at Melbourne in the State of Victoria

Dated 7 June 2005

ROB HULLS, MP
Minister for Planning



MG/12

Minister's Guideline

Issued June 2005

Siting and design of single dwellings

This replaces previous *Minister's Guideline 01/01* issued on 24 August 2001 and reprinted 2003

Pursuant to section 188 A of the Building Act 1993 (the Act) I hereby issue the following guideline concerning the design and siting of single dwellings. Under clause 4A of Schedule 2 of the Act, a reporting authority must have regard to the guidelines made under section 188A in the cases set out in that clause.

PURPOSE OF GUIDELINE

The purpose of this Guideline is to set out the considerations to be applied to the design and siting of single dwellings under the building regulations where a reporting authority is considering an application for a report and consent for a variation to the standards applying to the design and siting of single dwellings. It should be noted that the definition of single dwellings includes a Class 1 building and a Class 10 building associated with a Class 1 building.

Each provision comprises a statement of the objective and matters to be considered in deciding if the objective is met. However, if any matter set out in this Guideline is not met, clause 4A(2)(d) of Schedule 2 of the Act requires that the reporting authority must refuse consent.

MAXIMUM STREET SETBACK

Objective

To facilitate consistent streetscapes by discouraging the siting of single dwellings at the rear of lots.

Decision Guidelines

The reporting authority may give its consent where a single dwelling, other than a fence, does not comply with regulation 408 of the Building (Interim) Regulations 2005, if-

- (a) the setback will be more appropriate taking into account the prevailing setbacks of existing buildings on nearby allotments; or
- (b) the siting of the building is constrained by the shape and or dimensions of the allotment; or
- (c) the siting of the building is constrained by the slope of the allotment or other conditions on the allotment; or
- (d) there is a need to increase the setback to maximise solar access to habitable room windows and or private open space; or
- (e) the setback will be more appropriate taking into account the desire or need to retain vegetation on the allotment; and
- (f) 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
- (g) the setback will not result in a disruption of the streetscape; and
- (h) the setback is consistent with any relevant neighbourhood character objective, policy or statement set out in the relevant planning scheme.

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Minister's Guideline

MINIMUM STREET SETBACK**Objective**

To ensure that the setbacks of buildings from a street respect the existing or preferred character of the neighbourhood and make efficient use of the site.

Decision Guidelines

The reporting authority may give its consent where a single dwelling, other than a fence, does not comply with regulation 409 of the Building (Interim) Regulations 2005, if –

- (a) the setback will be more appropriate taking into account the prevailing setback within the street; or
- (b) 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
- (c) the siting of the building is constrained by the shape and or dimensions of the allotment; or
- (d) the siting of the building is constrained by the slope of the allotment or other conditions on the allotment; or
- (e) there is a need to decrease the setback to maximise solar access to habitable room windows and or private open space; or
- (f) the setback will be more appropriate taking into account the desire or need to retain vegetation on the allotment; and
- (g) 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
- (h) the setback will not result in a disruption of the streetscape; and
- (i) the setback is consistent with any relevant neighbourhood character objective, policy or statement set out in the relevant planning scheme.

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BUILDING HEIGHT**Objective**

To ensure that the height of buildings respects the existing or preferred character of the neighbourhood.

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 410 of the Building (Interim) Regulations 2005, if –

- (a) the height will be more appropriate taking into account the prevailing heights of existing buildings on nearby allotments; or
- (b) the height will be more appropriate taking into account the preferred character of the area, where it has been identified in the relevant planning scheme; and
- (c) the height 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
- (d) the height will not result in a disruption of the streetscape; and
- (e) the height is consistent with any relevant neighbourhood character objective, policy or statement set out in the relevant planning scheme.

SITE COVERAGE**Objective**

To ensure that the site coverage respects the existing or preferred neighbourhood character and responds to the features of the site.

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 411 of the Building (Interim) Regulations 2005, if –

- (a) the site coverage will be more appropriate taking into account the preferred character of the area, where it has been identified in the relevant planning scheme; or
- (b) the site coverage will be consistent with that of existing development on the allotment, if applicable; and
- (c) the site coverage 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
- (d) the site coverage is consistent with any relevant neighbourhood character objective, policy or statement set out in the relevant planning scheme.

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PERMEABILITY**Objective**

To reduce the impact of increased stormwater run-off on the drainage system and to facilitate on-site stormwater infiltration.

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 412 of the Building (Interim) Regulations 2005, if –

- (a) the amount of impermeable surfaces would be consistent with that of existing development on the allotment, if applicable; or
- (b) the capacity of the drainage network servicing the allotment is able to accommodate the additional stormwater that the development will cause; or
- (c) on-site stormwater retention is able to accommodate the additional stormwater that the development will cause.

CAR PARKING**Objective**

To ensure that carparking is adequate for the needs of the residents.

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 413 of the Building (Interim) Regulations 2005, if –

- (a) the anticipated residents are likely to generate a lesser demand for carparking; or
- (b) the provision of carparking on the allotment would reduce the on-street carparking by equal to or more than the number of carparking spaces that would be provided on the allotment; or
- (c) the dimensions of the allotment provide insufficient width and/or depth to enable the provision of the required carparking on the allotment; or
- (d) the location of existing development on the allotment provides insufficient width and/or depth to enable the provision of the required carparking on the allotment; or
- (e) the availability of public transport and on-street parking would lessen the demand for carparking on the allotment; and
- (f) the provision of carparking is consistent with any relevant local planning policy or parking precinct plan in the relevant planning scheme.

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Minister's Guideline

SIDE AND REAR SETBACKS**Objective**

To ensure that the height and setback of a building from a boundary respects the existing or preferred character and limits the impact on the amenity of existing dwellings.

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 414 of the Building (*Interim*) Regulations 2005, if –

- (a) the setback will be more appropriate taking into account the prevailing setback of existing buildings on nearby allotments; or
- (b) 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
- (c) the slope of the allotment and or existing retaining walls or fences reduce the effective height of the building; or
- (d) the building abuts a side or rear lane; or
- (e) the building is opposite an existing wall built to or within 150mm of the boundary; or
- (f) 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
- (g) 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
- (h) the setback will not result in a disruption of the streetscape; and
- (i) the setback is consistent with any relevant neighbourhood character objective, policy or statement set out in the relevant planning scheme.

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Minister's Guideline

WALLS ON BOUNDARIES

Objective

To ensure that the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

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 415 of the Building (*Interim*) Regulations 2005, if –

- (a) the location, length and or height of the wall will be appropriate taking into account the prevailing location, length and or height of boundary walls of existing buildings on nearby allotments; or
- (b) the location, length and or height of the wall will be more appropriate taking into account the preferred character of the area, where it has been identified in the relevant planning scheme; or
- (c) the slope of the allotment and or existing retaining walls or fences reduce the effective height of the wall; or
- (d) the wall abuts a side or rear lane; or
- (e) the increased wall height is required to screen a box gutter; or
- (f) the location, length and or height of the wall(s) will not result in a significant impact on the amenity of existing dwellings on nearby allotments; and
- (g) the location, length and height of the wall 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
- (h) the location, length and height of the wall is consistent with any relevant neighbourhood character objective, policy or statement set out in the relevant planning scheme.

DAYLIGHT TO EXISTING HABITABLE ROOM WINDOWS

Objective

To allow adequate daylight into habitable room windows.

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 416 of the Building (*Interim*) Regulations 2005, 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.

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SOLAR ACCESS TO EXISTING NORTH-FACING WINDOWS**Objective**

To allow adequate solar access into existing north-facing habitable room windows.

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 417 of the Building (*Interim*) Regulations 2005, 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.

OVERSHADOWING OF SECLUDED PRIVATE OPEN SPACE**Objective**

To ensure buildings do not unreasonably overshadow existing secluded private open spaces.

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 418 of the Building (*Interim*) Regulations 2005, if –

- (a) the proposed building will not significantly impact on the amenity of the secluded private open space(s) 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.

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OVERLOOKING**Objective**

To limit views into existing secluded private open space and existing habitable room windows.

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 419 of the Building (*Interim*) Regulations 2005, if –

- (a) the proposed building will not significantly impact on the amenity of existing dwellings on nearby allotments and or any associated secluded private open space; or
- (b) the building will not significantly increase the level of existing overlooking of habitable room windows of existing dwellings on nearby allotments and or any associated secluded private open space.

DAYLIGHT TO NEW HABITABLE ROOM WINDOWS**Objective**

To allow adequate daylight into new habitable room windows of the dwelling.

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 420 of the Building (*Interim*) Regulations 2005, if –

- (a) the area of the window is larger than 10% of the floor area of the habitable room.

PRIVATE OPEN SPACE**Objective**

To provide adequate private open space for the reasonable recreation and service needs of residents.

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 421 of the Building (*Interim*) Regulations 2005, if –

- (a) the location of the private open space maximises the solar orientation of the allotment; or
- (b) the availability of, and access to, public open space or communal open space would lessen the demand for private open space on the allotment.





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Minister's Guideline

FRONT FENCE HEIGHT**Objective**

To ensure front fence design respects the existing or preferred character of the neighbourhood.

Decision Guidelines

The reporting authority may give its consent to an application for a building permit for a fence, which does not comply with regulation 424 of the Building (*Interim*) Regulations 2005, if –

- (a) the fence will be more appropriate taking into account the prevailing heights, setbacks and design of existing front fences on nearby allotments; or
- (b) the slope of the allotment and or existing retaining walls or fences reduce the effective height of the wall; or
- (c) the fence is required for the minimisation of noise intrusion; and
- (d) the fence height will not result in a disruption of the streetscape; and
- (e) the fence height, setback and design are consistent with any relevant neighbourhood character objective, policy or statement set out in the relevant planning scheme.

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