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Building Act 1993

GUIDELINES FOR SITING AND DESIGN OF SINGLE DWELLINGS UNDER SECTION 188A

I, the Hon. Sonya Kilkenny MP, as the Minister administering the **Building Act 1993** (Act), hereby issue this Guideline under section 188A of the Act concerning the siting and design requirements relevant to an application for a building permit for a single dwelling, including a principal single dwelling, a small second dwelling and a front fence.

This Guideline takes effect on the date it is published in the Victoria Government Gazette.

I revoke all Minister's Guidelines MG-12: Siting and Design of Single Dwellings issued before the date on which this Guideline takes effect.

Purpose of this Guideline and Interpretation

The purpose of this Guideline is to set out the matters to be considered by a reporting authority when preparing a report on, and considering whether to consent to, (report and consent) a variation to the siting, design and access requirements prescribed under Part 5 of the Building Regulations 2018 (Regulations), for an application for a building permit for a single dwelling, including a principal single dwelling, a small second dwelling or a front fence.

Each provision of this Guideline comprises a statement of the objective and the matters to be considered when deciding whether the objective is met. 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. If any matter set out in this Guideline is not met, clause 4A(2)(d) of Schedule 2 to the Act requires that the reporting authority must refuse to give its consent to an application for a building permit.

In this Guideline –

- **existing dwelling** is a single dwelling that is already constructed;
- **principal single dwelling** is a single dwelling that is not a small second dwelling or a front fence;
- **Regulations** means the Building Regulations 2018;
- **single dwelling** has the same meaning as it has under section 188A(4) of the Act and regulation 70 of the Regulations: a building, or buildings, which is a Class 1 building and any Class 10 building associated with a Class 1 building, that is or are intended to be used as a dwelling;
- **small second dwelling** has the same meaning as it has under regulation 5 of the Regulations. (A **small second dwelling** is defined to mean a Class 1a building that is self-contained and has a gross floor area that is equal to or less than 60 m² on the same allotment as an existing building that is a single Class 1 building that is not a small second dwelling).

Siting requirement 1: Maximum street setback of a principal single dwelling

Objective

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

Decision Guidelines

The reporting authority may give its consent where a principal single dwelling does not comply with regulation 73 (Maximum street setback) of the Regulations if –

all of the following criteria apply:

a. the setback is consistent with a building envelope, if one has been approved under a planning scheme or planning permit and or specified in an agreement under section 173 of the **Planning and Environment Act 1987**; and

b. the setback will not result in a disruption of the streetscape; and

c. the setback is consistent with any relevant neighbourhood character objective, policy or statement set out in the relevant planning scheme; and

at least one of the following criteria apply:

d. the setback will be more appropriate taking into account the desire or need to retain vegetation on the allotment; or

e. the setback will be more appropriate taking into account the prevailing setbacks of existing buildings on nearby allotments; or

f. the siting of the building is constrained by the shape and or dimensions of the allotment; or

g. the siting of the building is constrained by the slope of the allotment or other conditions on the allotment; or

h. there is a need to increase the setback to maximise solar access to habitable room windows and or private open space.

Siting requirement 2: Minimum street setback of a principal single dwelling

Objective

To ensure that the setbacks of a principal single dwelling 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 principal single dwelling does not comply with regulation 74 (Minimum street setback) of the Regulations if –

all of the following criteria apply:

a. the setback is consistent with a building envelope, if one has been approved under a planning scheme or planning permit and or specified in an agreement under section 173 of the **Planning and Environment Act 1987**; and

b. the setback will not result in a disruption of the streetscape; and

c. the setback is consistent with any relevant neighbourhood character objective, policy or statement set out in the relevant planning scheme; and

at least one of the following criteria apply:

d. the setback will be more appropriate taking into account the prevailing setback within the street; or

e. 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

f. the siting of the building is constrained by the shape and or dimensions of the allotment; or

g. the siting of the building is constrained by the slope of the allotment or other conditions on the allotment; or

h. there is a need to decrease the setback to maximise solar access to habitable room windows and or private open space; or

i. the setback will be more appropriate taking into account the desire or need to retain vegetation on the allotment.

Siting requirement 3: Building setback of a small second dwelling

Objective

To ensure that small second dwellings are sited to respect the existing or preferred neighbourhood character.

Decision Guidelines

The reporting authority may give its consent if a small second dwelling does not comply with regulation 74A (Building setback for small second dwellings) of the Regulations if –

all of the following criteria apply:

a. the setback is consistent with a building envelope, if one has been approved under a planning scheme or planning permit and or specified in an agreement under section 173 of the **Planning and Environment Act 1987**; and

b. the setback will not result in a disruption of the streetscape; and

c. the setback is consistent with any relevant neighbourhood character objective, policy or statement set out in the relevant planning scheme; and

at least one of the following criteria apply:

d. the setback of the small second dwelling from the side street will be more appropriate taking into account the prevailing setback within the street; or

e. the setback of the small second dwelling from the side street will be more appropriate taking into account the preferred character of the area, where it has been identified in the relevant planning scheme; or

f. the siting of the small second dwelling is constrained by the shape and or dimensions of the allotment; or

g. the siting of the small second dwelling is constrained by the slope of the allotment or other conditions on the allotment; or

h. there is a need to decrease the setback to maximise solar access to habitable room windows and or private open space; or

i. the setback will be more appropriate taking into account the desire or need to retain vegetation on the allotment.

Siting requirement 4: Building height of a principal single dwelling or a small second dwelling

Objective

To ensure that the height of buildings respect 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 principal single dwelling or a small second dwelling (as applicable) that does not comply with regulation 75 (Building Height) of the Regulations if –

all of the following criteria apply:

a. the height of the building will be more appropriate taking into account the preferred character of the area, where it has been identified in the relevant planning scheme; and

b. the setback is consistent with a building envelope, if one has been approved under a planning scheme or planning permit and or specified in an agreement under section 173 of the **Planning and Environment Act 1987**; and

c. the height of the building will not result in a disruption of the streetscape; and

d. the height of the building is consistent with any relevant neighbourhood character objective, policy or statement set out in the relevant planning scheme, and

the following criteria may apply:

e. the height of the building will be more appropriate taking into account the prevailing heights of existing buildings on nearby allotments.

Siting requirement 5: 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 principal single dwelling or a small second dwelling (as applicable) that does not comply with regulation 76 (Site coverage) of the Regulations if –

all of the following criteria apply:

a. the setback is consistent with a building envelope, if one has been approved under a planning scheme or planning permit and or specified in an agreement under section 173 of the **Planning and Environment Act 1987**; and

b. the site coverage is consistent with any relevant neighbourhood character objective, policy or statement set out in the relevant planning scheme, and

at least one of the following criteria apply:

c. 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

d. the site coverage will be consistent with that of the existing development on the allotment, if applicable.

Siting requirement 6: 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 principal single dwelling or a small second dwelling (as applicable) that does not comply with regulation 77 (Permeability) of the Regulations if at least one of the following criteria apply:

a. the area of impermeable surfaces after the principal single dwelling or small second dwelling has been constructed would be consistent with existing development on the allotment, if applicable; or

b. the capacity of the drainage system 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.

In this Guideline, **drainage system** includes the relevant local council's drainage system, Melbourne Water Corporation's drainage system (if relevant) and the receiving waterways into which the stormwater flows.

Siting requirement 7: Car parking

Objective

To ensure that car parking is adequate for the needs of the residents of the principal single dwelling.

[Note: Under Part 5 of the Regulations there are no car parking requirements for residents of a small second dwelling.]

Decision Guidelines

The reporting authority may give its consent to an application for a building permit for a principal single dwelling that does not comply with regulation 78 (Car parking) of the Regulations if –

all of the following criteria apply:

a. the availability of public transport and on-street parking would lessen the demand for car parking on the allotment; and

b. the provision of car parking is consistent with any relevant local planning policy or parking precinct plan in the relevant planning scheme; and

at least one of the following criteria apply:

c. the anticipated residents are likely to generate a lesser demand for car parking; or

d. the provision of car parking on the allotment would reduce the on-street car parking by equal to or more than the number of car parking spaces that would be provided on the allotment; or

e. the dimensions of the allotment provide insufficient width and/or depth to enable the provision of the required car parking on the allotment; or

f. the location of existing development on the allotment provides insufficient width and/or depth to enable the provision of the required car parking on the allotment.

Siting requirement 8: Side and rear setbacks of a principal single dwelling or a small second dwelling

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 principal single dwelling or a small second dwelling (as applicable) that does not comply with regulation 79 (Side and rear setbacks) of the Regulations if –

all of the following criteria apply:

a. 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

b. the setback is consistent with a building envelope, if one has been approved under a planning scheme or planning permit and or specified in an agreement under section 173 of the **Planning and Environment Act 1987**; and

c. the setback will not result in a disruption of the streetscape; and

d. the setback is consistent with any relevant neighbourhood character objective, policy or statement set out in the relevant planning scheme, and

at least one of the following criteria apply:

e. the setback will be more appropriate taking into account the prevailing setback of existing buildings on nearby allotments; or

f. 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

g. the slope of the allotment and or existing retaining walls or fences reduce the effective height of the building; or

h. the building abuts a side or rear lane; or

i. the building is opposite an existing wall built to or within 150 mm of the boundary.

Siting requirement 9: Walls and carports 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 on adjoining allotments.

Decision Guidelines

The reporting authority may give its consent to an application for a building permit for a principal single dwelling or a small second dwelling (as applicable) that does not comply with regulation 80 (Walls and carports on boundaries) of the Regulations if –

all of the following criteria apply:

a. 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

b. the setback is consistent with a building envelope, if one has been approved under a planning scheme or planning permit and or specified in an agreement under section 173 of the **Planning and Environment Act 1987**; and

c. 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; and

at least one of the following criteria apply:

d. 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

e. 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

f. the slope of the allotment and or existing retaining walls or fences reduce the effective height of the wall; or

g. the wall abuts a side or rear lane; or

h. the increased wall height is required to screen a box gutter.

Siting requirement 10: 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 principal single dwelling or a small second dwelling (as applicable) that does not comply with regulation 81 (Daylight to existing habitable room windows) of the Regulations if all of the following criteria apply:

a. the building will not impact on the amenity of existing dwellings on nearby allotments; and

b. the setback is consistent with a building envelope, if one has been approved under a planning scheme or planning permit and or specified in an agreement under section 173 of the **Planning and Environment Act 1987**.

Siting requirement 11: Solar access to existing north-facing habitable room 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 principal single dwelling or a small second dwelling (as applicable) that does not comply with regulation 82 (Solar access to existing north-facing habitable room windows) of the Regulations if all of the following criteria apply:

a. the building will not impact on the amenity of existing dwellings on nearby allotments; and

b. the setback is consistent with a building envelope, if one has been approved under a planning scheme or planning permit and or specified in an agreement under section 173 of the **Planning and Environment Act 1987**.

Siting requirement 12: Overshadowing of recreational 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 principal single dwelling or a small second dwelling (as applicable) that does not comply with regulation 83 (Overshadowing of recreational private open space) of the Regulations if all of the following criteria apply:

a. the proposed building will not significantly impact on the amenity of the secluded private open space(s) on nearby allotments; and

b. the setback is consistent with a building envelope, if one has been approved under a planning scheme or planning permit and or specified in an agreement under section 173 of the **Planning and Environment Act 1987**.

Siting requirement 13: 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 principal single dwelling or a small second dwelling that does not comply with regulation 84 (Overlooking) of the Regulations if all of the following criteria apply:

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.

Siting requirement 14: Daylight to habitable room windows

Objective

To allow adequate daylight into new habitable room windows of a principal single dwelling or a small second dwelling.

Decision Guidelines

The reporting authority may give its consent to an application for a building permit for a principal single dwelling or a small second dwelling (as applicable) that does not comply with regulation 85 (Daylight to habitable room windows) of the Regulations if the area of the habitable room window is larger than 10% of the floor area of the habitable room.

Siting requirement 15: 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 principal single dwelling that does not comply with regulation 86 (Private open space) of the Regulations, or
- a small second dwelling that does not comply with regulation 86A (Private open space for small second dwellings) of the Regulations if –

at least one of the following criteria apply:

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.

Siting requirement 16: 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 front fence that does not comply with regulation 89 (Front fence height) of the Regulations if –

all of the following criteria apply:

a. the fence is required for the minimisation of noise intrusion; and

b. the fence height will not result in a disruption of the streetscape; and

c. the fence height, setback and design are consistent with any relevant neighbourhood character objective, policy or statement set out in the relevant planning scheme, and

at least one of the following criteria apply:

d. the fence will be more appropriate taking into account the prevailing heights, setbacks and design of existing front fences on nearby allotments; or

e. the slope of the allotment and or existing retaining walls or fences reduce the effective height of the wall.

Siting requirement 17: Accessibility for a small second dwelling

Objective

To ensure that small second dwellings are provided with a clear and unobstructed path for safety and accessibility purposes, including in a case of emergency.

Decision Guidelines

The reporting authority may give its consent to an application for a building permit for a small second dwelling that does not comply with regulation 86B (Accessibility for a small second dwelling) of the Regulations if at least one of the following criteria apply:

a. a path running between a side street or rear street adjoining the allotment and the small second dwelling will be more appropriate, taking into account the prevailing building setback within that street and whether the side street or rear street is accessible by emergency services vehicles; or

b. a path running between a side street or rear street adjoining the allotment and the small second dwelling will be more appropriate for ease of accessibility for the occupant and for emergency services vehicles, taking into account the preferred character of the area, where it has been identified in the relevant planning scheme; or

c. the path is constrained by the shape and or dimensions of the allotment; or

d. the path will be more appropriate, taking into account the desire or need to retain vegetation on the allotment; or

e. a sealed path is in conflict with the permeability objectives and decision guidelines.

[Note: In considering accessibility for emergency services, the reporting authority may also have regard to the Victoria Planning Provisions and any guidelines prepared by emergency services authorities.]

Dated 13 December 2023

SONYA KILKENNY MP
Minister for Planning

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