

## Building Practice Note SI-02: Building Envelopes

This Practice Note explains the correlation of Regulation 71 and siting requirements of Part 5 of the Building Regulations 2018.

The context below provides guidance on:

- Approved building envelope and Part 5 of the Regulations
- What is an 'approved building envelope'
- Existing building envelopes
- Assessing a building permit application where there is an approved building envelope
- Adjoining allotments not part of the same agreement or plan of subdivision
- What if the application complies with the Regulations but not the approved building envelope?

### Abbreviations & Definitions

The abbreviations and definitions set out below are for guidance only. They are not intended to vary those set out in the Building Act 1993 (the Act), Building Regulations 2018 or the National Construction Code (NCC).

- **Act** – Building Act 1993
- **Allotment** – land that can be disposed of separately under section 8A of the Sale of Land Act 1962 without being subdivided
- **Regulations** – Building Regulations 2018
- **RBS** – Relevant Building Surveyor

### Approved building envelopes

Part 5 of the Regulations contains siting requirements that can be applied to the construction of dwellings and associated buildings. An exception to complying with the siting requirements comes under Regulation 71 which states that an approved building envelope design overrides the siting requirements. However, an approved envelope only overrides a siting requirement if:

- An approved envelope applies to the allotment; and
- The approved building envelope deals with the same siting matter as the regulation; and
- The design of the building is consistent with the approved building envelope in relation to that siting matter.

Reference to an approved building envelope in regulation 71 includes an 'approved building envelope' created before regulation 71 came into operation.

## What is an approved building envelope

The regulations defines an ‘approved building envelope’ as documented design parameters that deal with a siting matter regulated under Part 5 that—

- are specified in a planning permit for the subdivision of land granted under the *Planning and Environment Act 1987* on or after 1 July 1994; and
- are—
  - specified in an agreement made under section 173 of the *Planning and Environment Act 1987* that is recorded on the Register under the *Transfer of Land Act 1958* in relation to the relevant allotment; or
  - shown as restrictions on the plan of subdivision of land certified under the *Subdivision Act 1988* that is recorded on the Register under the *Transfer of Land Act 1958* in relation to the relevant allotment.

A building envelope must meet the definition to be recognised as an approved building envelope regardless of when they were created.

A building envelope may be shown as a one or two-dimensional plan or be described using text annotations, or a combination of both.

The most basic form of earlier building envelope that might exist will be a simple two-dimensional ‘footprint’ envelope shown on the allotment plan as part of the plan of subdivision. This type of building envelope is usually limited to show the front, side and rear setbacks, building height and walls on boundaries.

More sophisticated forms of building envelopes might include three-dimensional plan with or without text or annotations.

## Assessing a building permit with an approved building envelope

When assessing a building permit application, it is the responsibility of the RBS to determine whether a building design that does not comply with a regulation in Part 5, complies with an applicable ‘approved building envelope’.

The RBS must be satisfied that the siting matter in relation to a particular regulation in Part 5, is explicitly dealt with by the approved building envelope before deciding that a design may be taken to comply.

Section 24 of the Act prohibits the RBS from issuing a building permit for a design that does not comply with an approved building envelope, therefore during their assessment the RBS must thoroughly check every siting requirement ensuring that compliance is achieved through an approved building envelope or siting regulation within the Part 5.

## Example

A building permit application is received where the allotment is subject to an 'approved building envelope' that deals with front, side, and rear setbacks, and building height as show in the following table-

	<b>Approved building envelope</b>	<b>Part 5 of the Regulations</b>	<b>Building Permit application</b>
<b>Min front setback</b>	4m	5.5m	4m
<b>Min. side and rear setback</b>	As per Part 5	1m	As per part 5
<b>Max. building height</b>	12m	9m	11m

An assessment of the application shows that the required front setback is 5.5m, which is the average setback distance of the existing dwellings on the adjoining allotments. Ordinarily, a report and consent would be required under regulation 74(4), for the front setback of 4m but as a 4m front setback is consistent with the approved building envelope, the design is taken to comply with the minimum front street setback requirement of regulation 74. Therefore, a report and consent is not required in relation to the 4 m front setback.

The side and rear setbacks are consistent with the approved building envelope which references the requirements under Part 5, therefore the design complies with the side and rear setback requirements.

Regulation 75(2)(b) limits the building height to a maximum of 9m for a level allotment. The approved building envelope allows a maximum building height of 12m. As the maximum design height of the building is 11m, it is consistent with the approved building envelope, the design is taken to comply with the building height requirement of regulation 75. Therefore, a report and consent is not required for the 11m building height as the design complies.

### Adjoining allotments not part of the same agreement or plan of subdivision

Regulation 71(2) states that if an adjoining allotment is not subject to the same approved building envelope, then the approved building enveloped relating to regulations 79-84, 90, 91 and 94-96 does not apply to the extent that it relates to that adjoining allotment. Those regulations apply instead.

This situation will typically apply to perimeter allotments of a subdivision and the legislation is designed to protect existing and future dwellings that are not a party to the same section 173 agreement or the same certified plan of subdivision.

### What if the application complies with the Regulations but not the approved building envelope

The owner of an allotment may be subject to enforcement proceedings by a council, or legal proceedings from other beneficiaries if they do not comply with the approved building envelope, similarly to an owner of an allotment who is a party to any other form of covenant.

It is recommended that the RBS advise their client of the non-compliance with the building envelope and recommend a re-design to comply with the envelope or apply to council to amend or vary the envelope.

## Related Documents

- Building Act 1993
- Building Regulations 2018
- SI-01: Siting of single dwellings, associated buildings and fences
- Planning and Environment Act 1987
- Sale of Land Act 1962
- Transfer of Land Act 1958

## Contact Us

If you have a technical enquiry, please email [technicalenquiry@vba.vic.gov.au](mailto:technicalenquiry@vba.vic.gov.au) or call 1300 815 127.

### **Victorian Building Authority**

Goods Shed North  
733 Bourke Street  
Docklands VIC 3008

[www.vba.vic.gov.au](http://www.vba.vic.gov.au)

## Version

Version 1.0, published December supersedes Practice Note PN 02 – Building Envelopes and Part 5 of the Building Regulations 2018 issued June 2021

## Copyright

© December 2021 Victorian Building Authority (VBA).

This Practice Note has been prepared and published by the VBA for general educational and information purposes only. This publication must not be copied, reproduced, published, adapted, or communicated by any person without the VBA's prior written consent or as permitted by the Copyright Act 1968 (Cth). The VBA makes no warranties or representations whatsoever about the accuracy, reliability, suitability, completeness or authenticity of any information or material contained in this resource. Any use or reliance on such information is at a person's own risk. The VBA accepts no liability whatsoever for any direct, indirect, or consequential loss or damage any person may suffer arising out of or in connection with the access or use of this resource (including any third-party material included in this resource).