

SIDE AND REAR SETBACKS

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).

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

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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 150mm of the boundary.

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NOTE: If you choose not to provide the information sought your application may not be processed.

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