

The following information is provided to assist you with completing and submitting a Report & Consent Application to Council for a request to vary this Building Regulation.

EXTRACT OF REGULATION

86B Accessibility for small second dwellings

1. A small second dwelling on an allotment must be provided with a clear and unobstructed path from the front street of the allotment that—
 - a. has a minimum width of at least 1 m or, if the path is longer than 30 m, has a minimum width of at least 1.8 m; and
 - b. has a minimum clear height of at least 2 m, with no encroachments; and
 - c. has a gradient no steeper than 1 in 14; and
 - d. has a cross fall no steeper than 1 in 40; and
 - e. is sealed or has an all-weather access.
2. The report and consent of the relevant council must be obtained to an application for a building permit in relation to a design for a small second dwelling that does not comply with this regulation.

REGULATION 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 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 have regard to the Victoria Planning Provisions and any guidelines prepared by emergency services authorities.)

Your submission should outline how the proposed works meets the above guidelines. The proposal must meet at least one 'or' statement (not all will be applicable) and all 'and' statements.

Please note meeting these guidelines does not guarantee the Report & Consent will be approved.

ASSESSMENT CRITERIA

The following criteria will be used for the assessment of your application:

- Ability to comply with the Regulation
- How the proposal meets the Decision Guidelines

NOTES:

WHAT IS A REPORT & CONSENT?

As set out in the **Building Act 1993** (the Act) and the Building Regulations 2018 (the Regulations), a report and consent is the process for consulting with and obtaining the approval of a reporting authority when building work may affect assets, infrastructure or amenity of the community. These include:

- Siting of a dwelling
- Building over an easement
- Building in a flood-prone area
- Fire safety matters
- Electricity sub-stations (only a report)
- Projections beyond street alignment
- Building above or below public facilities
- Precautions over street alignment (unclear)
- Installing or altering a septic tank system.

WHEN IS A REPORT & CONSENT REQUIRED?

The Act and Regulations provide specific circumstances where a report and consent of reporting authorities is required. Division 3 of Part 4 of the Regulations prescribes the reporting authorities and the matters to be reported on. Regulation 31 refers to Schedule 5 Part 2 which lists the matters that each authority reports on. These regulations are listed on the application form.

DO I NEED A REPORT & CONSENT IF I HAVE A PLANNING PERMIT?

Where a Planning Application has been assessed for siting, the Planning Scheme overrides the requirement to obtain a Report & Consent. The relevant Regulation will note if this is applicable. Please note not all Planning Permits will assess the siting as this depends on what triggered the need for the Permit. Where a Planning Permit has been issued and siting was not assessed the Siting Regulations must be complied with or a Report & Consent obtained.

CONSENTING TO AN APPLICATION

A reporting authority may consent to an application as presented or place recommendations on the consent. When placing recommendations on a report and consent the prescribed reporting authority should consider the relevance to the matter being sought the recommendation and whether the RBS can reasonably enforce the recommendation.

The Report & Consent is valid for 12 months after the date of issue. If works have not commenced within this time, Report & Consent must be reapplied for. Where works have commenced within the 12 months, the Report & Consent remains valid for those works

REFUSAL OF AN APPLICATION

A reporting authority must provide reasons for refusing an application. When a report and consent is refused, an applicant has the right to appeal the reporting authority's decision to the Building Appeals Board (BAB).

Section 144 of the Act allows an appeal to be made against a reporting authorities:

- refusal to consent to an application
- conditions imposed
- failure within a reasonable time to decide an application.

Appeals must be made within 30 days of the date the refusal was issued. An appeal can be lodged with the BAB. An application form and supporting information is to be lodged with the relevant fee. A copy of the application form can be downloaded from the Victorian Building Authority website www.vba.vic.gov.au or contact the BAB on (03) 9285 6400.

REPORT & CONSENT PROCESS

