

SIDE AND REAR SETBACKS

Guidelines for report and consent to vary Building Regulation 79



Legislative Provision 79

Side and rear setbacks

- (1) If—
- (a) an allotment is in a zone of a planning scheme specified in Schedule 6; and
 - (b) the Schedule to that zone in the planning scheme specifies minimum setbacks from side and rear boundaries—

a building on the allotment must be set back from a side or rear boundary not less than the relevant setback specified in the Schedule to that zone in the planning scheme.

Please refer to the applicable schedule.

- (2) If sub-regulation (1) does not apply, a building must be set back from a side or rear boundary not less than the distance specified in respect of that boundary in Table 79.

TABLE 79—SIDE AND REAR SETBACKS

Building height at any point	Minimum Setback from side or rear boundary at that point
3.6m or less	1m
More than 3.6m but not more than 6.9m	1m plus an additional distance calculated at the rate of 300mm for every metre of height over 3.6m
More than 6.9m	2m plus an additional distance calculated at the rate of one metre for every metre of height over 6.9m

- (3) The following may encroach into the setback distance required by sub-regulation (1) or (2) -
- (a) landings with an area of not more than 2m² and less than 1m high;
 - (b) unroofed stairways and ramps;
 - (c) pergolas;
 - (d) shade sails;
 - (e) eaves, fascia, gutters not more than 600mm in total width;
 - (f) carports (subject to Regulation 80).

- (4) The following may encroach into the setback distance required by sub-regulation (1) or (2) by not more than 500 mm -
- (a) porches and verandas;
 - (b) masonry chimneys;
 - (c) sunblinds;
 - (d) screens referred to in regulation 84(5)(d) or 84(6);
 - (e) flues and pipes;
 - (f) domestic fuel tanks and water tanks;
 - (g) heating and cooling equipment and other services.
- (5) This regulation does not apply to a wall which complies with Regulation 80.
- (6) The report and consent of the relevant council must be obtained to an application for a building permit in relation to a design that does not comply with this regulation.

Minister's Guidelines

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 79 of the Building Regulations 2018, 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.

Information Required

An application to Council for report and consent for Regulation 79 must include:

- An application must be applied for via Council's portal along with payment of the application fee.
- A site plan showing all existing buildings, the location of the proposed work and details of nearby buildings on the adjoining properties (scale 1:200).
- Elevations showing existing and proposed buildings (scale 1:100).
- The location and extent of the noncompliance with the regulations must be clearly shown on the plans and all relevant details and dimensions must be provided.
- A full copy of title including a plan and a copy of any covenants or agreements listed on the title.
- A written submission giving supporting reasons for the dispensation to be granted.
- A response in writing to each of the Minister's Guidelines that are applicable.

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