

PRIVATE OPEN SPACE

Guidelines for report and consent to vary Building Regulation 86



Legislative Provision 86

Private open space

- (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 a minimum area and dimension for private open space—

A Class 1 building on that allotment must have private open space of at least the area and dimension specified in the Schedule to that zone in the planning scheme.

- (2) If sub-regulation (1) does not apply, a Class 1 building on an allotment must have private open space of not less than 80 m² or 20% of the area of the allotment, whichever is the lesser.
- (3) For the purposes of this regulation, the private open space must include an area at the side or rear of the building—
- (a) that is at least 25 m² with a minimum dimension of 3m; and
 - (b) that has convenient access from a habitable room (other than a bedroom).
- (4) 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 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 single dwelling, which does not comply with Regulation 86 of the Building Regulations 2018, if –

- (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.

Information Required

An application to Council for report and consent for Regulation 86 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 non compliance 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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