

## Siting - Building regulations (part 4)

From August 24, 2001, siting regulations (generally known as ResCode) were applied to building permit applications. However, height and setback measures have partly changed and current measures to regulate overlooking, overshadowing, rainwater soakage and solar orientation are now in the *Building Regulations 2006*.

## Design considerations

The *Building Act* (pursuant to section 188A) requires that council **must refuse** to give consent to a design which does not comply with ministerial decision guidelines. Designers need to be aware of these guidelines to avoid refusal and fee retention.

## Design documents

Part 4 siting provisions in the *Building Regulations 2006* include requirements for building permit applications. Included are:

- The location, dimensions and area of impermeable surfaces covering the allotment if necessary for the purposes of regulation 412
- The location and dimensions of car parking spaces for the purposes of regulation 413
- The location, dimensions and area of secluded private open space for the purposes of regulation 421.

Building surveyors must ensure that, where necessary, the above information is obtained before applications are referred to council. If such information is not present:

1. Consent will be refused (if such information is clearly necessary) or
2. A flawed decision may be made and the building surveyor may be found accountable.

Persons other than building surveyors (such as architects, draftspersons and owners) who apply for consent will need to be aware that council may request further information in broad terms. Such persons must ensure they are aware of the relevant regulations and guidelines or use a suitably experienced advisor/consultant.

**It is strongly recommended that referrals be accompanied by supporting information to demonstrate how guidelines have been considered and met by the designer.**

## Notification

Section 88A of the *Building Act* provides that, if in the opinion of the reporting authority (Wodonga Council) the application may result in a nearby allotment suffering detriment, it must give the owner of the allotment an opportunity to make a submission in respect of the possible detriment.

**Please note:** The above requires council to:

- Determine the possibility of detriment
- Give opportunity for any submission.

## Decision time frame

Council will endeavour to report on the above as soon as possible; however it is possible that the time limits of the regulations will not be met particularly when council must notify adjoining owners. Please consult with council as to time frames at referral.

## Checklist

Applications for referral request must include the following information.

1. An application form (available from the municipal building surveyor) detailing the reason(s) for the request for council's consent and report.
2. A plan indicating the proposed works, including at least one site plan and one elevation. This will need to include the position of neighbours' buildings, windows and other relevant information.
3. In relevant cases, comments in writing from adjoining property owners will also be required.
4. The relevant fee.
5. The number of the specific regulation to be varied.

## What happens if a referral request to council is refused?

An owner may appeal against that determination or approval or the exercise of that discretion or the failure within a reasonable time, or refusal to make that determination, give that approval or exercise that discretion. Appeals must be made within 30 days to the Building Appeals Boards which is part of the Building Control Commission, telephone (03) 9285 6400.

**Important:** The lodgement of a referral request does not guarantee consent to the matter by council. Applicants must be aware that the request may be refused, without refund of the fee paid.

**Please note:** The information in this fact sheet is a guide only. Regulations can change so, before undertaking any development, check with your building surveyor.