



WELLINGTON

SHIRE COUNCIL

The Heart of Gippsland

MINISTERS GUIDELINES FOR SITING & DESIGN OF SINGLE DWELLINGS

INTRODUCTION

Applications for Council Consent and Report to vary the Building Regulations with respect to siting of single dwellings and outbuildings need to demonstrate that they meet the Objective and Ministerial Decision Guidelines in respect to the relevant Regulation.

If an application does not meet the Decision Guidelines then Clause 4A(2)(d) of Schedule 2 of the Building Act 1993 requires that the reporting authority *must refuse* consent.

Each of the following provisions comprise a statement of the objective and matters to be considered in deciding if the objective of a Building Regulation is met.

MAXIMUM STREET SETBACK REG. 408

Objective

To facilitate consistent streetscapes by discouraging the siting of single dwellings at the rear of lots.

Decision Guidelines

The reporting authority may give its consent where a single dwelling, other than a fence, does not comply with regulation 408 of the Building Regulations 2006, if—

- (a) the setback will be more appropriate taking into account the prevailing setbacks of existing buildings on nearby allotments; or
- (b) the siting of the building is constrained by the shape and or dimensions of the allotment; or
- (c) the siting of the building is constrained by the slope of the allotment or other conditions on the allotment; or
- (d) there is a need to increase the setback to maximise solar access to habitable room windows and or private open space; or
- (e) the setback will be more appropriate taking into account the desire or need to retain vegetation on the allotment; and
- (f) 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
- (g) the setback will not result in a disruption of the streetscape; and
- (h) the setback is consistent with any relevant neighbourhood character objective, policy or statement set out in the relevant planning scheme.

MINIMUM STREET SETBACK REG. 409

Objective

To ensure that the setbacks of buildings from a street respect the existing or preferred character of the neighbourhood and make efficient use of the site.

Decision Guidelines

The reporting authority may give its consent where a single dwelling, other than a fence, does not comply with regulation 409 of the Building Regulations 2006, if—

- (a) the setback will be more appropriate taking into account the prevailing setback within the street; 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 siting of the building is constrained by the shape and or dimensions of the allotment; or
- (d) the siting of the building is constrained by the slope of the allotment or other conditions on the allotment; or
- (e) there is a need to decrease the setback to maximise solar access to habitable room windows and or private open space; or
- (f) the setback will be more appropriate taking into account the desire or need to retain vegetation on the allotment; 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.

BUILDING HEIGHT REG. 410

Objective

To ensure that the height of buildings respects the existing or preferred character of the neighbourhood.

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 410 of the Building Regulations 2006, if—

- (a) the height will be more appropriate taking into account the prevailing heights of existing buildings on nearby allotments; or
- (b) the height will be more appropriate taking into account the preferred character of the area, where it has been identified in the relevant planning scheme; and
- (c) the height 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
- (d) the height will not result in a disruption of the streetscape; and
- (e) the height is consistent with any relevant neighbourhood character objective, policy or statement set out in the relevant planning scheme.



SITE COVERAGE REG. 411

Objective

To ensure that the site coverage respects the existing or preferred neighbourhood character and responds to the features of the site.

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 411 of the Building Regulations 2006, if—

- (a) the site coverage will be more appropriate taking into account the preferred character of the area, where it has been identified in the relevant planning scheme; or
- (b) the site coverage will be consistent with that of existing development on the allotment, if applicable; and
- (c) the site coverage 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
- (d) the site coverage is consistent with any relevant neighbourhood character objective, policy or statement set out in the relevant planning scheme.

PERMEABILITY REG. 412

Objective

To reduce the impact of increased stormwater run-off on the drainage system and to facilitate on-site stormwater infiltration.

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 412 of the Building Regulations 2006, if—

- (a) the amount of impermeable surfaces would be consistent with that of existing development on the allotment, if applicable; or
- (b) the capacity of the drainage network servicing the allotment is able to accommodate the additional stormwater that the development will cause; or
- (c) on-site stormwater retention is able to accommodate the additional stormwater that the development will cause.

CAR PARKING REG. 413

Objective

To ensure that car parking is adequate for the needs of the 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 413 of the Building Regulations 2006, if—

- (a) the anticipated residents are likely to generate a lesser demand for car parking; or

- (b) the provision of car parking on the allotment would reduce the on-street car parking by equal to or more than the number of car parking spaces that would be provided on the allotment; or
- (c) the dimensions of the allotment provide insufficient width and/or depth to enable the provision of the required car parking on the allotment; or
- (d) the location of existing development on the allotment provides insufficient width and/or depth to enable the provision of the required car parking on the allotment; or
- (e) the availability of public transport and on-street parking would lessen the demand for car parking on the allotment; and
- (f) the provision of car parking is consistent with any relevant local planning policy or parking precinct plan in the relevant planning scheme.

SIDE AND REAR SETBACKS REG. 414

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 414 of the Building Regulations 2006, 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.

WALLS ON BOUNDARIES REG. 415

Objective

To ensure that the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood 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 415 of the Building Regulations 2006, if—

- (a) the location, length and or height of the wall will be appropriate taking into account the prevailing location, length and or height of boundary walls of existing buildings on nearby allotments; or
- (b) the location, length and or height of the wall 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 wall; or
- (d) the wall abuts a side or rear lane; or
- (e) the increased wall height is required to screen a box gutter; or
- (f) the location, length and or height of the wall(s) will not result in a significant impact on the amenity of existing dwellings on nearby allotments; and
- (g) the location, length and height of the wall 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 location, length and height of the wall is consistent with any relevant neighbourhood character objective, policy or statement set out in the relevant planning scheme.

DAYLIGHT TO EXISTING HABITABLE ROOM WINDOWS REG. 416

Objective

To allow adequate daylight into habitable room windows.

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 416 of the Building Regulations 2006, if—

- (a) the building will not impact on the amenity of existing dwellings on nearby allotments; and
- (b) the building 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*.

SOLAR ACCESS TO EXISTING NORTH-FACING HABITABLE ROOM WINDOWS REG. 417

Objective

To allow adequate solar access into existing north-facing habitable room windows.

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 417 of the Building Regulations 2006, if—

- (a) the building will not impact on the amenity of existing dwellings on nearby allotments; and
- (b) the building 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*.



OVERSHADOWING OF SECLUDED PRIVATE OPEN SPACE REG. 418

Objective

To ensure buildings do not unreasonably overshadow existing secluded private open spaces.

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 418 of the Building Regulations 2006, if—

- (a) the proposed building will not significantly impact on the amenity of the secluded private open space(s) on nearby allotments; and
- (b) the building 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*.

OVERLOOKING REG. 419

Objective

To limit views into existing secluded private open space and existing habitable room windows.

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 419 of the Building Regulations 2006, if—

- (a) the proposed building will not significantly impact on the amenity of existing dwellings on nearby allotments and or any associated secluded private open space; or
- (b) the building will not significantly increase the level of existing overlooking of habitable room windows of existing dwellings on nearby allotments and or any associated secluded private open space.

DAYLIGHT TO NEW HABITABLE ROOM WINDOWS REG. 420

Objective

To allow adequate daylight into new habitable room windows of the dwelling

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 420 of the Building Regulations 2006, if- the area of the window is larger than 10% of the floor area of the habitable room.

PRIVATE OPEN SPACE REG. 421

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 421 of the Building Regulations 2006, 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.

FRONT FENCE HEIGHT REG. 424

Objective

To ensure front fence design respects the existing or preferred character of the neighbourhood.

Decision Guidelines

The reporting authority may give its consent to an application for a building permit for a fence, which does not comply with regulation 424 of the Building Regulations 2006, if—

- (a) the fence will be more appropriate taking into account the prevailing heights, setbacks and design of existing front fences on nearby allotments; or
- (b) the slope of the allotment and or existing retaining walls or fences reduce the effective height of the wall; or
- (c) the fence is required for the minimisation of noise intrusion; and
- (d) the fence height will not result in a disruption of the streetscape; and
- (e) the fence height, setback and design are consistent with any relevant neighbourhood character objective, policy or statement set out in the relevant planning scheme.

**NOTES:*****How to Apply for a Dispensation***

An application for Consent and Report with respect to the Building Regulations siting requirements must contain the following:

1. An application form providing relevant details pertaining to the application and the Regulation for which Consent and Report is being applied for.
2. Written details which clearly demonstrate in quantitative and qualitative terms compliance with the Objectives of the Building Regulations and Ministers Decision Guidelines.
3. A copy of Title (incl. Plan of Subdivision) and three sets of plans of the subject allotment, adjoining properties and where relevant the location of habitable room windows, private open space, secluded private open space relevant elevations and sections appropriately dimensioned.
4. Owners of adjoining properties that may suffer detriment as a result of the proposal, will be contacted by Council for written comments.
5. The Non-refundable fee is for each application where one or more reporting matters have been ticked on the application form. Re-submissions will be viewed as a new application incurring the same fee.

Lack of information in relation to an application is likely to result in processing delays or refusal.

Should you require any further information please contact the Wellington Shire Council Building Department 1300 366 244