REFERRAL OF BUILDING PERMIT APPLICATION FOR COUNCIL CONSENT

 ***BUILDING REGULATIONS 2018, PART 5, DIVISIONS 2, 3 & 4 - SINGLE CLASS 1 & ASSOCIATED CLASS 10 BUILDINGS***

 **(SITING MATTERS)**

**APPLICANT NAME: (Required)**

Owner\* / Agent of Owner \* Ph: E:

Postal Address Post Code

**OWNER/S NAME: (Required)**

Owner\* / Agent of Owner \* Ph: E:

Postal Address Post Code

**RELEVANT BUILDING SURVEYOR (RBS): (If Appointed)**

Company: Name:

Contact Person: Ph: E:

Postal Address Post Code

**PROPERTY DETAILS / SUBJECT SITE: (Required)**

Number Street/Road City/Suburb/Town Post Code

**Lot/s LP/PS Volume Folio**

**DESIGN DESCRIPTION (PROPOSAL):**

###### DETAILS OF BUILDING: Proposed Building 🞎 Building Under Construction 🞎 Existing Building\* 🞎

\*If the building is already constructed, Report & Consent can’t be issued. You must submit an Application for Council Comments.

I/We hereby give a copy of the building design to Council to apply for consent in accordance with Schedule 2 of the Building Act 1993 under Schedule 4, Part 2 of the Building Regulations 2018.

I also give Council permission to provide a copy of all relevant plans to any affected neighbour or party to provide an opportunity to make a submission in relation to this application in accordance with Schedule 2, 4A(2) of the Building Act 1993.  If you do not wish Council to provide copies of relevant plans, please notify in writing.

**Signed :**………….…………….……………………..……....…. **Date:** …………………..

(Applicant’s Signature)

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| **Tick** | **Reg** | Reporting MatterApplication Fee = $311.80 for each Regulation (Only one fee for multiple non-compliances under the same regulation)**Advertising Fee = $182.00 for up to 2 adjoining properties + $81.00 for each subsequent property** |
|  | 73(2) | Setback from a street boundary not complying with Reg. 73 (More than 1/3 the depth of the site) |
|  | 74(4) | Setback from a street boundary not complying with Reg. 74 (Front Setback) |
|  | 75(4) | Building height not complying with Reg. 75 (Greater than 9m or 10m if on a sloping site) |
|  | 76(4) | Site coverage not complying with Reg. 76 (Exceeding 60% or 50% if in the Planning Scheme) |
|  | 77(3) | Impermeable surfaces covering more than 80% of an allotment area (Permeable area being less than 20%) |
|  | 78(6) | Car parking spaces not complying with Reg. 78 (Not having minimum 2 Car parking spaces) |
|  | 79(6) | Side or rear boundary setbacks not complying with Reg. 79 (excessive height with reduced setback) |
|  | 80(6) | Walls or carports not complying with Reg. 80 (Exceeding length & average height of 3.2m on boundary) |
|  | 81(6) | Building setbacks not complying with Reg. 81 (Reduced daylight to existing habitable room window) |
|  | 82(5) | Building setbacks not complying with Reg. 82 (Reduced solar access to adjoining North facing window)  |
|  | 83(3) | Building design not complying with Reg. 83 (Overshadowing of adjoining Secluded Private Open Space) |
|  | 84(9) | Window or raised open space not complying with Reg. 84 (Overlooking) |
|  | 85(3) | Building design not complying with Reg. 85 (Reduced daylight to new habitable room window) |
|  | 86(3) | Private Open Space not complying with Reg. 86 (Being less than 80m2 or 20% of site area) |
|  | 87(2) | Siting of appurtenant Class 10 buildings (Locating a Class 10a build. being a shed or barn on a vacant site) |
|  | 89(3) | Front fence height not complying with Reg. 89 (Exceeding 1.5m within 3m of the boundary) |
|  | 90(2) | Fence setback on side or rear boundary not complying with Reg. 90 (Height exceeding 2m) |
|  | 91(5) | Length or height of side or rear boundary fence not complying with Reg. 91  |
|  | 92(2) | A fence within 9 metres of an intersection (Corner allotment fence exceeding 1m in height) |
|  | 94(6) | Fence setback not complying with Reg. 94 (Reduced Daylight to existing habitable room window) |
|  |  95(3) | Fence setback not complying with Reg. 95 (Reduced solar access to adjoining existing window) |
|  | 96(3) | Fence design not complying with Reg. 96 (Overshadowing of Secluded Private Open Space) |
|  | 97(2) | Masts, poles not complying with Reg. 97 (Exceeds 8m in height or 3m when attached to a building)  |

**🞎 Council to Advertise to adjoining owner(s) Total Amount Paid=** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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| Documents required for Report & ConsentTo be completed and submitted with application**(Part 5, Siting - Building Regulations)** |  |

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| * **Application form -** Fully completed, signed and dated. If you are submitting the application on behalf of the owner, please provide the appropriate authority to act as an agent of the owner.
* **Application Fees**

Application Fees - $311.80 for each Regulation being considered.Advertising Fees - $182.00 for up to 2 adjoining properties and $81.00 for each subsequent property.**Payment - An invoice will be emailed to you once the application has been lodged.*** **Reason/Justification for application**

An application for siting dispensation ‘Report and Consent’ must be accompanied by a written submission explaining how the application satisfies the relevant ‘Minister’s Guidelines’. Refer to Victorian Building Authority Website for the Minister’s Guideline MG-12. Must be outlined in the following format:* Regulation 74 - To permit the construction of a new dwelling having a minimum front setback of 7.00m to the porch (3.90m in height) and 8.00m to the façade, in lieu of the prescribed minimum setback of 9.00m.
* Regulation 79 - To permit the construction of the First Floor Study wall with a maximum height of 6.90m having a minimum side setback of 1.80m to the eastern allotment boundary, in lieu of the prescribed minimum setback of 2.00m.
* Regulation 80 - To permit the construction of a Garage wall on the western allotment boundary having an average height of 3.40m and a maximum height of 3.70m, in lieu of the prescribed average height of 3.20m and the prescribed maximum height of 3.60m.
* Regulation 89 - To permit the construction of a front fence having a maximum height of 1.80m (2.00m to the gate), in lieu of the prescribed maximum height of 1.50m.
* Certificate of Title & Plan of Subdivision (or Title Plan)

Showing current owner details and any Covenants &/or Section 173 agreements, if applicable. * Signed Plans and Comments from affected adjoining owners on Council’s form

Must include adjoining owner’s details, details of non-compliance specific to the Regulation (i.e. A carport having a minimum front setback of 6.00m, in lieu of the prescribed minimum setback of 9.00m) and be signed and dated by the adjoining owner. If adjoining owner’s comments cannot be provided by the applicant, Council must be engaged to carry out advertising.* **1 Set of Architectural drawings**

Drawings should be of a scale not less than a 1:100 and, as a minimum, include the following:* **Site Plan** - must include allotment dimensions; North point; distance to nearest intersection; adjoining allotment building footprints, setbacks, habitable room windows and Private Open Space (if relevant); proposed building works and relevant front and side/rear boundary setbacks; easement details and location.
* **Floor Plans** - detailing building layout and room dimensions
* **Elevations** - detailing maximum heights of all non-complying elements from Natural Ground Level
* **Shadow diagrams (Plan view)** - detailing the impact of the proposed non-compliance on the adjoining dwelling at 9am, 12pm and 3pm on 22 September - Required for Regulations **79**, **80**, **81**, **82**, **83**, **94**, **95** & **96**.
* **Shadow diagrams (Sectional view)** - detailing the impact of the proposed non-compliance on the adjoining dwelling at 9am, 12pm and 3pm on 22 September - Required for Regulations **81**, **82**, **94** & **95**.
* Minimum front setbacks to the front walls of the dwellings on the adjoining allotments indicated on Site Plan - Required for Regulation **74**.
* Detailed shadow analysis, outlining the total amount of Recreational Private Open Space (RPOS) of the adjoining allotment (m2), the existing unshaded area of RPOS (m2) and the proposed unshaded area of RPOS (m2) - Required for Regulations **83** & **96**.
* Wall/fence on boundary - average height and maximum height (from Natural Ground Level) and maximum length on boundary (including any existing walls (or fences over 2m in height) on boundary) - Required for Regulations **80** & **91**.
* Window schedule, outlining the dimensions of proposed windows - Required for Regulation **85**.
* Setback dimensions from the allotment boundary to the edge of gutter of the adjoining dwelling - Required for Regulation **81**.
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| **ADVICE SHEET****BUILDING REGULATIONS & RESCODE**Design ConsiderationsPursuant to clause 4A of Schedule 2 of the Building Act, Council must refuse to give consent to a design which does not comply with Ministerial Decision Guidelines for siting matters. Visit the following Victorian Building Authority website: <http://www.vba.vic.gov.au/>Designers will need to be fully aware of these guidelines to avoid refusal of consent and fee retention. Copies of the regulations and guidelines are available at Council or may be viewed at the internet websites: <http://www.vba.vic.gov.au/> for the regulations and [Minister Guidelines - Victorian Building Authority (vba.vic.gov.au)](https://www.vba.vic.gov.au/building/building-resource-hub/minister-guidelines) for the guidelines.**Application Fees** - **$311.80 for each Regulation being considered.****Advertising Fees - $182.00 for up to 2 adjoining properties and $81.00 for each subsequent property**.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 (where such information is clearly necessary) or (2) a flawed decision may be made – for which the building surveyor may be 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.**Fee Refund Policy:** Councilis not obliged to refund any statutory fees. However,if the application is withdrawn due to unavoidable circumstances, then fees may be refunded depending on the work done as below; 1. 50% of the Application fee if no assessment has been carried out (However, 50% of the fee is still applicable for administration work) and
2. No fees will be refunded if an assessment has been carried out.

It is strongly recommended that referrals are accompanied with supporting information to demonstrate that the guidelines have been considered and met by the designer. Adjoining Owner’s CommentsClause 4A of Schedule 2 of the Building Act provides that, if in the opinion of the reporting authority (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 thatthe above provision requires **Council**:* to determine the possibility of detriment
* to give opportunity for any submission.

NOTE: Any adjoining owner comments submitted by the applicant may not necessarily override Council's standard advertising process. Failure to submit written comments from affected adjoining owners, will require Council to advertise direct. Relevant fees are applicable.**Boroondara’s standard** [**Adjoining Owner’s Comment Forms**](https://www.boroondara.vic.gov.au/planning-building/building-permit-applications/report-and-consent/neighbours-comments-report-and-consent-application) **are available for each *Regulation*.**Decision Time Frame – Pursuant Regulation 34 of the Building Regulations 2018, the time after receipt of a copy of an application for the reporting Authority to report on or consent to an application is 15 business days. Although Council will endeavour to meet this time limit, it may not be possible particularly where Council seeks submissions from adjoining owners. Please consult with Council as to time frames at time of referral. An owner has rights of appeal to the Building Appeals Board (Ph. 1300 815 127) within 30 days – including any* requirement of a Reporting Authority to give more information or amend a permit application (*s.138 of the Building Act*)
* the determination or exercise of discretion or
* failure within a reasonable time to make a determination or exercise that discretion (*s.144 of the Building Act*)
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**Note:** The above information is a guide only. Additional information may be required to be submitted in order for a complete assessment to be undertaken depending on the nature, size and / or complexity of the building work. In some cases a Town Planning Permit may also be required for the proposal. It is the responsibility of the applicant/owner to find out whether a Town Planning Permit is required when making the Dispensation application

*City of Boroondara - Building Services*

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