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)**

**To**: **City of Boroondara – Municipal Building Surveyor**

**Re: (Subject Address**) **Number** .............. **Lot** ......…… **Street/Road** ……..........……………......…..…...................................

**Suburb**………………..………..………….…….................. **Melway Ref** ......….........................

###### Details of Building:- Proposed Building 🞎 Building Under Construction 🞎 Existing Building\* 🞎

\* (If the Structure is built, then Council is not obliged to provide Consent and Report. However, the Building office may provide comments)

**Design Description (Proposal)** ..……………………………………………………………………………………………….…..….…..

**Reasons for Council Consent Sought (Attach a separate letter if required)** ………………..……..………………………….…..….

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**I, Relevant Building Surveyor 🞎, Owner 🞎, Agent of Owner** **🞎** ……………………..........................................….....…

**(Please tick appropriate box above) (Applicant’s name)**

**Postal Address**...…………………………...........................................................................….……………..………………….……..…

**Telephone** ................................…….........**Mobile**....………...……….……………........**Email**...…...…......…………….......…….....….

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 :**………….…………… **on behalf of the owner :** ….……….……………………..……....…. **Date:** …………………..

(Applicant’s Signature) (Owner’s Name, if not same as the applicant)

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| **Tick** | **Reg** | Reporting Matter(Fees = $290.40 for each Regulation) **(Advertising Fees $160 for up to 2 adjoining properties and $75.00 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) |

**Total Amount Paid=** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**ADVICE SHEET**

**BUILDING REGULATIONS & RESCODE**

From 24 August 2001, siting regulations known as *ResCode* apply to building permit applications. Height and setback measures have partly changed and new measures to regulate overlooking, overshadowing, rainwater soakage and solar orientation have been introduced.

Design Considerations

Pursuant 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 <http://www.vba.vic.gov.au/__data/assets/pdf_file/0006/18789/Ministers-Guidelines-MG12.pdf> for the guidelines.

**Application Fees** - **$290.40 for each Regulation being considered.**

**Advertising Fees - $160 for up to 2 adjoining properties and $75.00 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 site inspection has been carried out (However, 50% of the fee is still applicable for administration work) and
2. No fees will be refunded if a site inspection has been done and for applications with multiple regulations if the report is written.

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.

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 Comments

Clause 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.

Any comments of adjoining owners tendered by the referring building surveyor or applicant will not over-ride the possibility that Council may be obliged to advertise. **Boroondara’s standard** **Adjoining Owner’s Comment Forms** are available for each *Regulation,* which need to be signed by **both adjoining owners and minimum of 2 across the street,** if applicable.

#### 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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| Documents required for    Council Report and Consent (Dispensation) Assessment Application  **(Part 5, Siting - Building Regulations)** |  |

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| * **Application Fees**   Application Fees - $290.40 for each Regulation being considered.  Advertising Fees - $150 for up to 2 adjoining properties and $75.00 for each subsequent property.  **Payment - An invoice will be sent once the application has been lodged.** |
| * **Completed application form**   Ensure the form is fully completed (signed and dated) |
| * **Reason/Justification for application**   An application for dispensation/ ’Report and Consent’ should be accompanied by a written summary explaining how the application satisfies the ‘Ministers Guidelines’ and the ‘Neighbourhood Character Study’ if applicable.  (Contact Council’s Building Department for a copy of the relevant Ministers Guidelines and Neighbourhood Character Study ) |
| * **1 Set of Architectural drawings**   Drawings should be of a scale not less than a 1:100 including where applicable floor plans and elevations. Where necessary the applicant may be asked to provide a schedule of finishes.In some circumstances it may be necessary to provide details to clarify certain issues (ie: eaves detail, footing details, etc….) |
| * **Site Analysis**   It may be necessary to detail the adjoining property building locations, including setbacks from front and side boundaries and where relevant the locations of Habitable Room Windows, Private Open Space and Recreational Private Open Space. Overshadowing diagrams may be required depending on the type of work proposed and the proximity to the side and / or rear boundary. In some cases setbacks or heights of buildings on nearby allotments may be required to justify the application including 3 either side and across the road from the subject site.   * **Site Plan**   Showing all boundaries and setbacks, easements, existing building(s), proposed works and a North point. |
| * **Copy of Certificate of Title showing current owner and approved Plan of Sub- division** with any covenants &/or Section 173 agreements if applicable. |
| * **Signed Plans and Comments from affected adjoining owners on Council’s form**   Where necessary Council may require the applicant to provide comments and signed plans from the effected neighbours agreeing or disagreeing with the proposed application.  (Please use Council’s ‘*Adjoining Owner Comment’* Forms) |

**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 - Statutory Building Services*

*(Municipal Building Surveyor’s Office)*

*8 Inglesby Road, Camberwell Vic 3124*

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