

# FENCES ON OR WITHIN 150mm OF SIDE OR REAR BOUNDARIES

## Guidelines for report and consent to vary Building Regulation 91



### **Legislative Provision 91**

#### **Fences on or within 150mm of side or rear boundaries**

- (1) The total length of fences that are more than 2 m in height and that are constructed on, or within 150 mm of, a side or rear boundary of an allotment, or that total length combined with the length of any wall, or carport, or wall and carport constructed in accordance with Regulation 80(2) or (3) (as the case requires), must not exceed the greater of the following lengths—
  - (a) 10 m plus 25% of the remaining length of the boundary of an adjoining allotment;
  - (b) the length of any wall or carport constructed on an adjoining allotment that is on or within 150 mm of the boundary of that allotment and that abuts those fences.
- (2) A fence constructed on or within 150 mm of a side or rear boundary of an allotment in accordance with this regulation must not exceed—
  - (a) an average height of 3 m; and
  - (b) a maximum height of 3.6 m along the boundary.
- (3) Despite sub-regulation (2), if a fence abuts an existing wall it may be constructed to the same height as that wall.
- (4) This regulation does not apply to a fence if it is-
  - (a) constructed on or within 150mm of a boundary that is a side or rear street alignment; or
  - (b) provided to comply with Regulation 84 or with a planning scheme that regulates the same matter as Regulation 84 and-
    - (i) is not more than 2.5m in height; and
    - (ii) the part of the fence between 2.0m and 2.5m in height has between 20% and 25% of its area open.
- (5) The report and consent of the relevant council must be obtained to an application for a building permit in relation to a design which does not comply with this regulation.

### **Monash Guidelines**

To date, Minister's Guidelines have not been produced for Regulation 91. Due to the similarities between Regulation 80 and Regulation 91, Monash Council applies the Minister's Guidelines for Regulation 80 in reference to Regulation 91 applications.

The Monash guidelines for fences on side and rear boundaries are listed below.

## 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 fence appurtenant to a single dwelling, which does not comply with Regulation 91 of the Building Regulations 2018, if –

- (a) the location, length and or height of the fence 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 fence 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 fence; or
- (d) the fence abuts a side or rear lane; or
- (e) the increased fence height is required to screen a box gutter; or
- (f) the location, length and or height of the fence(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 fence 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 fence is consistent with any relevant neighbourhood character objective, policy or statement set out in the relevant planning scheme.

### **Information Required**

An application to Council for report and consent for Regulation 91 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.
- Elevations showing existing and proposed buildings.
- The location and extent of the noncompliance 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 Monash Guidelines that are applicable.

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293 Springvale Road (PO Box 1) Glen Waverley VIC 3150 **Web** [www.monash.vic.gov.au](http://www.monash.vic.gov.au) **Email** [mail@monash.vic.gov.au](mailto:mail@monash.vic.gov.au)

**T** (03) 9518 3555 **National Relay Service** (for the hearing and speech impaired) 1800 555 660

**Language Assist** 普通话 9321 5485 Ελληνικά 9321 5482 廣東話 9321 5481 සිංහල 7005 3002 Italiano 9321 5483  
Bahasa Indonesia 7005 3001 Việt Ngữ 9321 5487 தமிழ் 7005 3003 ಕನ್ನಡ 9321 5484 हिंदी 7005 3000