

# SMALL LOT HOUSING CODE

## Practice Note

NOVEMBER 2019



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## Purpose

The purpose of this Practice Note is to provide clarification of the standards established in the Small Lot Housing Code. This Practice Note is not intended as a substitute for making direct reference to the relevant standards in the Code.

## Background

The Small Lot Housing Code applies to the construction of a house and associated outbuildings in an Urban Growth Zone where a Precinct Structure Plan has been incorporated into the planning scheme, or in some instances has been applied using other Special Purpose Zones. The Code encourages one, two or three storey houses that can be attached, semi-detached or detached housing on lots less than 300m<sup>2</sup> in area. There are no minimum lot sizes under the code. The Code is not mandatory, as a developer or house builder can opt to use the existing planning permit process, however if the standards in this code are met it eliminates the need for planning permits even for houses on lots less than 300m<sup>2</sup> in area. The standards are prescriptive – a standard is either met or not met. The standards establish an envelope that deals with all the siting matters covered Part 5 of the *Building Regulations 2018*. There are no options, discretions or variations involved in this code however the current planning permit process can be used for houses that do not meet the standards, so there is no loss of flexibility.

## How is the Code implemented?

The mechanism that activates the use of the Code is set out in the Schedule to the Urban Growth Zone or in another Special Purpose Zone. The Schedule provides that a planning permit is not required to construct one dwelling on a lot with an area less than 300 square metres where a site is identified as a lot to be assessed against the Small Lot Housing Code via a restriction on title, and it complies with the Small Lot Housing Code. The restriction should identify each lot as “Type A” or “Type B” under the Small Lot Housing Code. Approval for the construction of housing that meets all the standards is in the form of a building permit issued by a Relevant Building Surveyor (RBS).

## VPA role in the Small Lot Housing Code

The VPA prepared the **Small Lot Housing Code** and this **Practice Note**, however the VPA cannot provide advice on whether applications meet the code, which is the role of the building surveyor, but are able to assist with interpretations.

## Exception concerning approved building envelopes

The exception concerning approved building envelopes under 71 of the *Building Regulations 2018* continues to apply. If an adjoining lot is not subject to the Code or is not shown on the same certified plan of subdivision, the following regulations of the *Building Regulations 2018* apply to the extent that they relate to the adjoining allotment:

- **Part 5 - Siting:** 79, 80, 81, 82, 83, 84, 90, 91, 94, 95, 96.

## Definitions

The definitions at the beginning of the Code apply to all standards in the Code however there are other terms used in the Code that only apply to a particular standard and are detailed at those particular standards.

Further clarification is provided for some of the definitions:

**“clear to the sky”** – gutters or spouting should not be regarded as being clear to the sky.

**“existing building”** and **“existing wall”** – the status as “existing” only applies to buildings or walls that have been completed and an ‘occupancy permit’ or a ‘certificate of final inspection’ has been issued and forwarded to the relevant council. Buildings that have obtained a building permit only, or buildings that are under construction, are not considered as “existing”.

**“front street alignment”** is the street the dwelling is oriented towards (for example has the entrance at this frontage), for corner lots or lots with more than one road frontage (not a laneway), the dwelling may be designed to either street alignment (as the front street). It includes a paper road easement.

**“height”** – heights are measured vertically from natural ground level at the base of a wall or fence or, in the case of a building, vertically below the top of the roof covering. Chimneys, flues and service pipes are not included when measuring heights (see diagram 1).

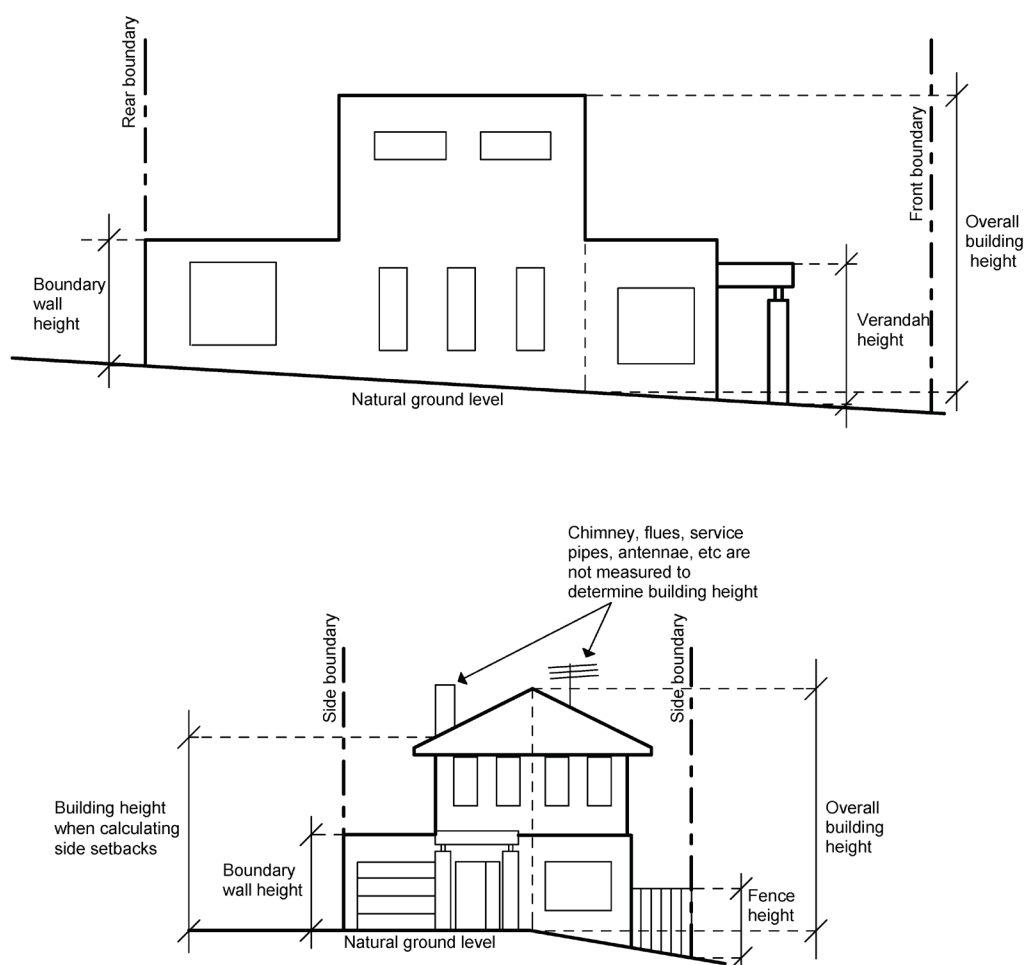
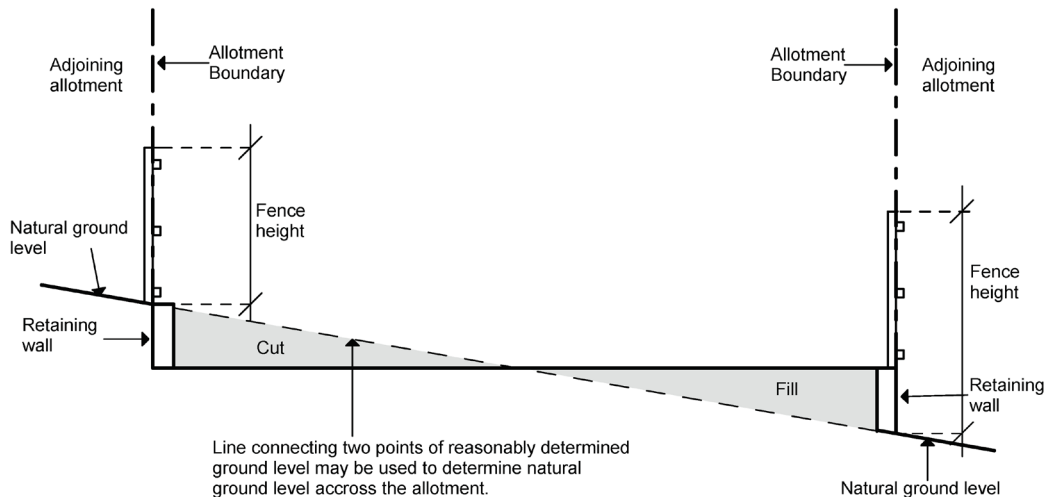


Diagram 1 Building height

Diagram 2 shows the measurements of fence heights from natural ground level. Natural ground level can be difficult to ascertain when the subject allotment has undergone a cut and fill or other earth works.

**“Natural ground level”** may be taken as being a line across the allotment that connects any two points, either within the allotment or on adjoining allotments (see diagram 2).



**Diagram 2** Fence height and natural ground level

Where land has undergone extensive ‘reshaping’ earthworks, the new levels created by the reshaping can be taken as the natural ground level where the adjoining allotments have also been subject to the same earthworks or are at the same level.

**“pergola”** – is a structure that does not collect or discharge rain water and therefore must be either unroofed or if covered, with an open style permeable shade material. Plastic, polycarbonate or fiberglass sheeting as a roof covering changes the structure from a pergola to a verandah.

**“simultaneously approved”** – means developments that are approved on the same day or an application for building permits have been applied for at the same time. This would normally be the case when a developer has purchased a number of contiguous allotments who would be interested in constructing a number of two or three storey terrace style houses. The allowances are also offered to developments where the building permits are issued or submitted on the same day and the neighbours can co-ordinate their building permits.

## Part 1

## Single Class 1a Buildings and Associated Class 10a Buildings

The standards in this part apply to single dwellings and their associated garages, carports, sheds and the like. Small boarding houses, rooming houses or guest houses (Class 1b buildings) are not covered by this code and would require a planning permit. The siting of in-ground or above ground swimming pools are not regulated under this code and fences (Class 10b buildings) are covered in Part 2 of the code.

### Standard 1 – Maximum street setbacks

This standard applies to the construction of a new dwelling only - not additions to an existing dwelling. The maximum setback is 1.5 metres more than the minimum setback at Standard 2.

### Standard 2 – Minimum street setbacks

Before determining the required front and side street setbacks, the designation of the allotment into Type A or Type B must be obtained from the plan of subdivision and the classification of the road as either a declared or non-declared must be established from the VicRoads website on – Maps of Declared Roads.

<https://www.vicroads.vic.gov.au/traffic-and-road-use/road-network-and-performance/maps-of-declared-roads>

*Note: A front street setback may be to a reserve if the dwelling is rear-loaded.*

#### Standard 2.1

The term facing means oriented towards the street (i.e. the plane of the wall is less than 90° to the street alignment). If the wall is not parallel to the street alignment, the closest part of the wall to the street alignment is the point at which the setback is measured. There are no prescribed setbacks for rear streets however standard 7 (side and rear setbacks) will apply. Diagram 3 illustrates methods of measuring front and side street setbacks in some situations.

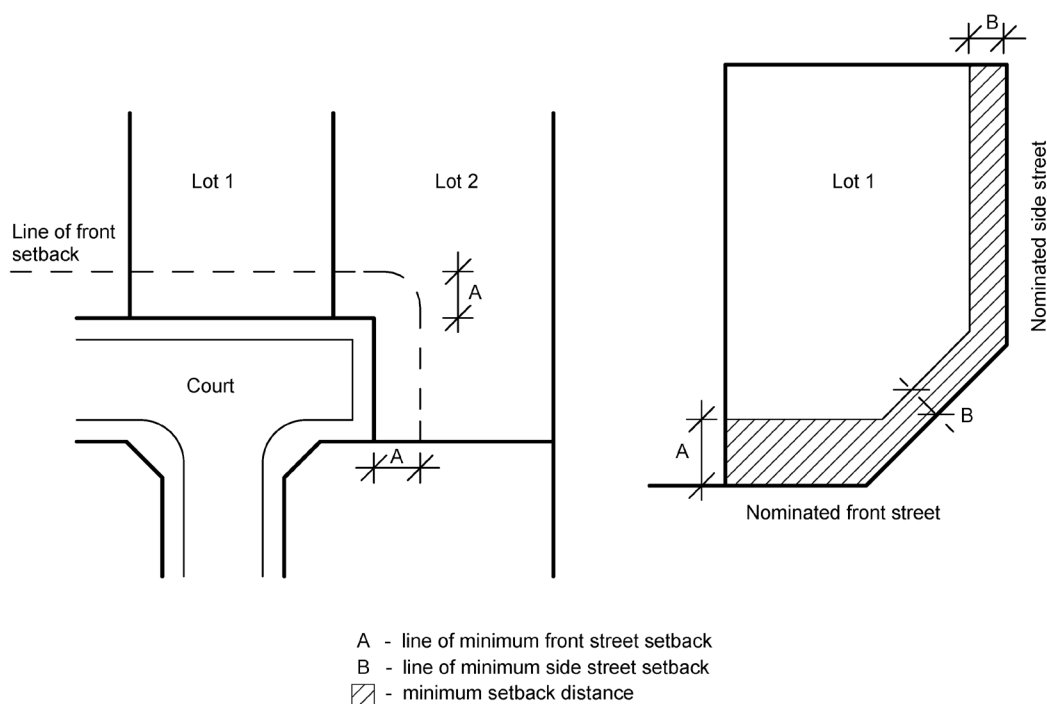
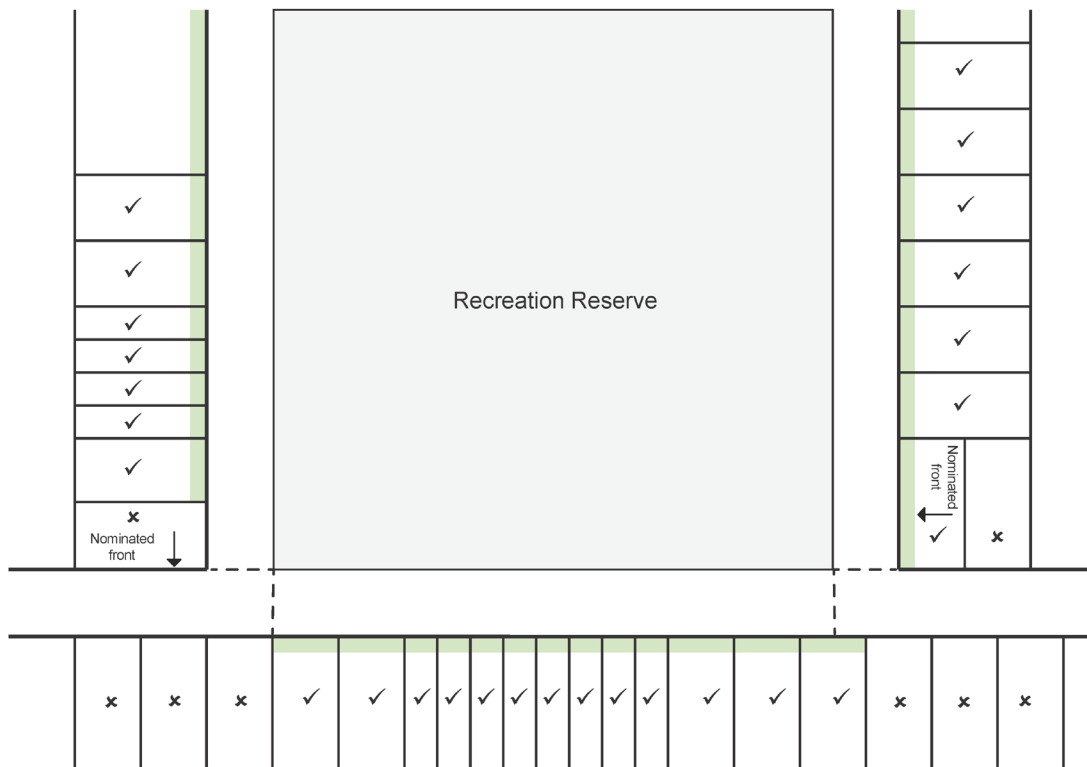


Diagram 3 Measuring front and side setbacks

Reduced frontage setbacks for properties opposite recreational reserves is allowed on Type A allotments and diagram 4 indicates which properties would be eligible for the reduced front setbacks.



- ☒ Type A allotments where a minimum 1.5m frontage setback would apply
- ☐ Type A allotments where reduced frontage setback would not apply, i.e., minimum frontage setback of 3.0m for a non-declared road and minimum frontage setback of 4.0m for a declared road.
- ☐ Allotments where minimum 1.5m front setback would apply (if front street is nominated to face park)

**Diagram 4** Front setbacks at recreation reserves

## Standard 2.2

The concept of articulation of the front façade of the building and for walls adjacent to side streets that exceed 10m in length, have been introduced in Table 2, with a required increase in the setbacks for sections of the front and side walls being a minimum 300mm (see diagram 5).

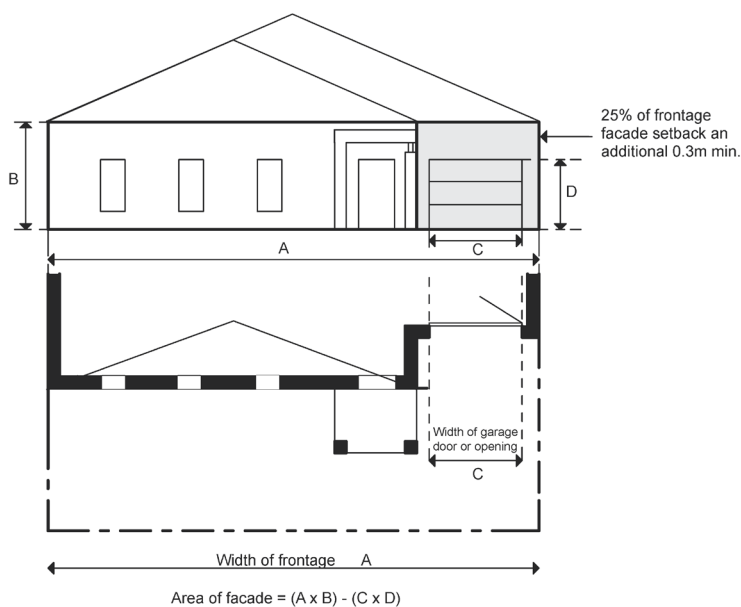
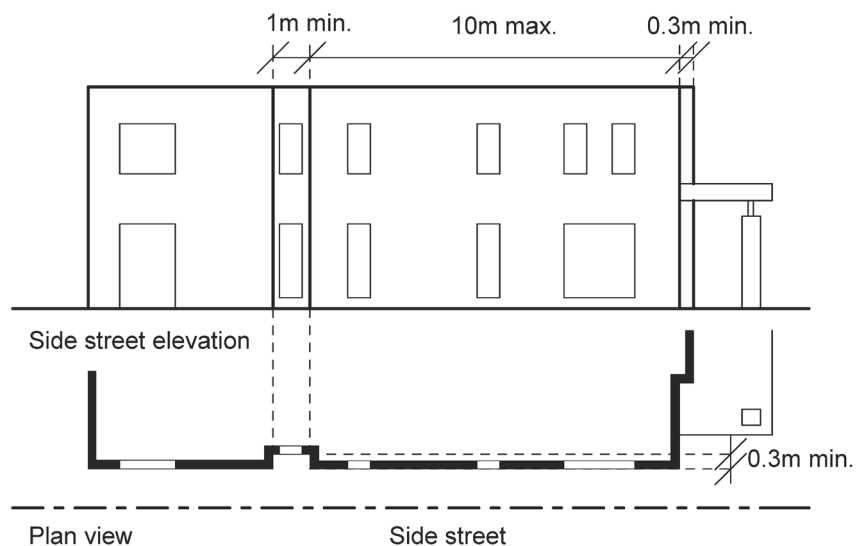


Diagram 5 Articulation

## Standard 2.3

The minimum setback to the front door of a garage or carport, or to the access opening to a garage or carport, must be a minimum of 5.0m from a front street (not a laneway) and 2.0m from a side street. This can be achieved by recessing the front door, as shown in diagram 6.

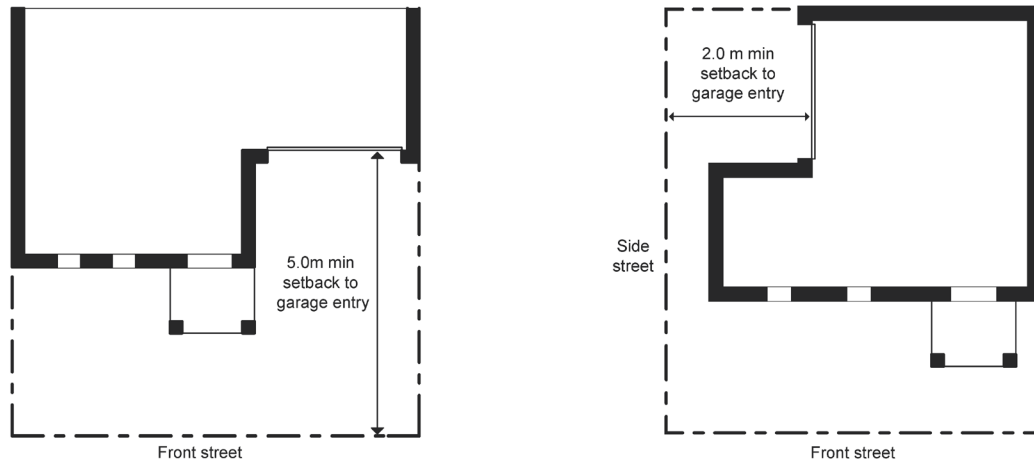


Diagram 6 Setback to garages

## Standard 2.4

This standard also allows decks, steps & landings that are less than 800mm in height and eaves, fascia & gutters to encroach 1.5m into the required front and side street setbacks, however at no time can any of these structures project over the title boundary.

## Standard 2.5

To further encourage front façade articulation, an open porch, verandah or pergola, an upper floor balcony, or fin/s or sunhood/s, or a combination of the above, must project forward of the front wall of the dwelling and may encroach into the required setback (see examples in diagram 7 and 8).

One of the design features must comply with the encroachment allowances under standard 2.5 a), b) or c). Any, additional design features must comply with 2.5 or must not exceed the prescribed minimum front setback at standard 2.1.

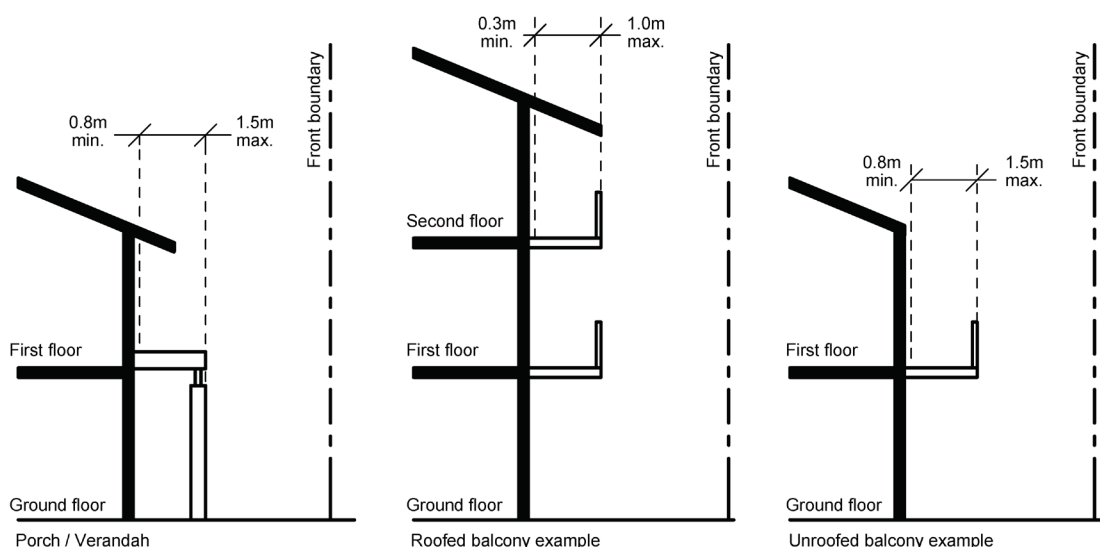
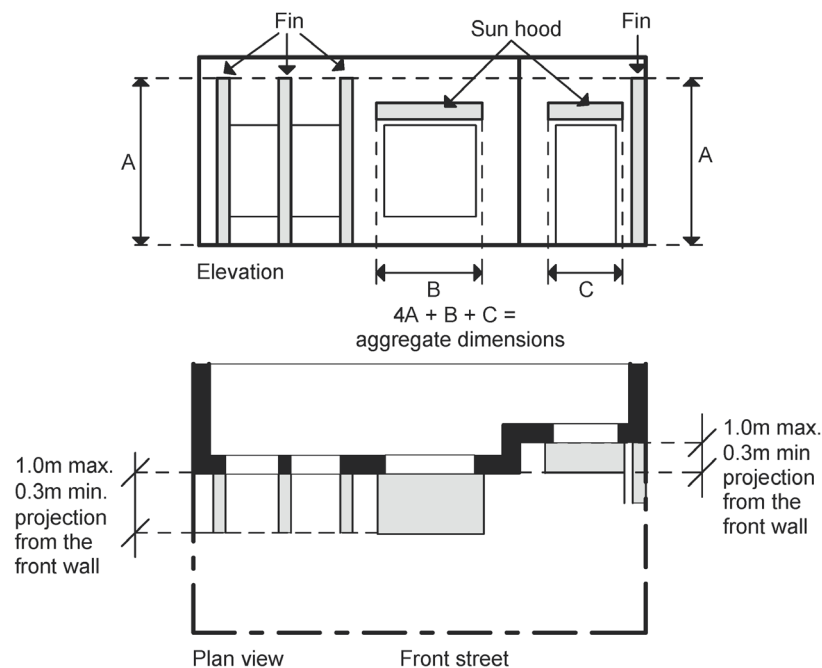


Diagram 7 Allowable encroachments



*Diagram 8 Allowable encroachment (fins)*

## Standard 3 – Building height

The building height must not exceed the amount specified in the Zone or the Applied Zone. Where there is no maximum height specified in the Zone, the standard allows a maximum building height of 11m where the slope of the ground is 2.5° or more across a 4m section of the building. If the site does not fall 2.5°, the maximum overall building height above natural ground level is 10m.

## Standard 4 – Site coverage

There is only a maximum site coverage specified for Type A allotments and this maximum percentage (90%) may be calculated as the average over adjoining allotments, if the dwellings are simultaneously approved.

All existing buildings must be included when calculating site coverage however there are stated structures in standard 4(2) that may be disregarded.

The garden area requirement is not applicable to small lots, as the garden area only applies to lots 400 square metres or greater.

## Standard 5 – Permeability

There is only a minimum permeable surface requirement specified for Type A allotments and this minimum percentage (10%) may be calculated as the average over adjoining allotments, if the dwellings are simultaneously approved.

A permeable surface is one that allows water to be absorbed through the material and therefore on-site infiltration of storm waters.

## Standard 6 – Car parking

The purpose of this standard is to ensure new dwellings have adequate on-site car parking. Car parking spaces can be nominated anywhere on an allotment, however a complying car parking space must be accessible from a public street, lane or right of way and be fully contained within the allotment. If the spaces are within a structure the dimensions are to be taken as the internal dimensions of that structure (see diagram 9).

### Standard 6.1

To determine the number of car spaces required, the allotment designation (Type A or B) and the number of bedrooms must be established. A bedroom includes any habitable room with a floor area greater than 6m<sup>2</sup> that is enclosed on all sides, that contains a window. This means that enclosed rooms labelled study or library etc. would need to be counted as a bedroom for the purposes of this standard if they exceed 6m<sup>2</sup> in floor area and the room contains a window.

### Standard 6.2

Allotments with frontage widths of less than 6m will not have car access from the front of the allotment.

### Standard 6.3, 6.4, 6.6

These standards are explained in diagram 9.

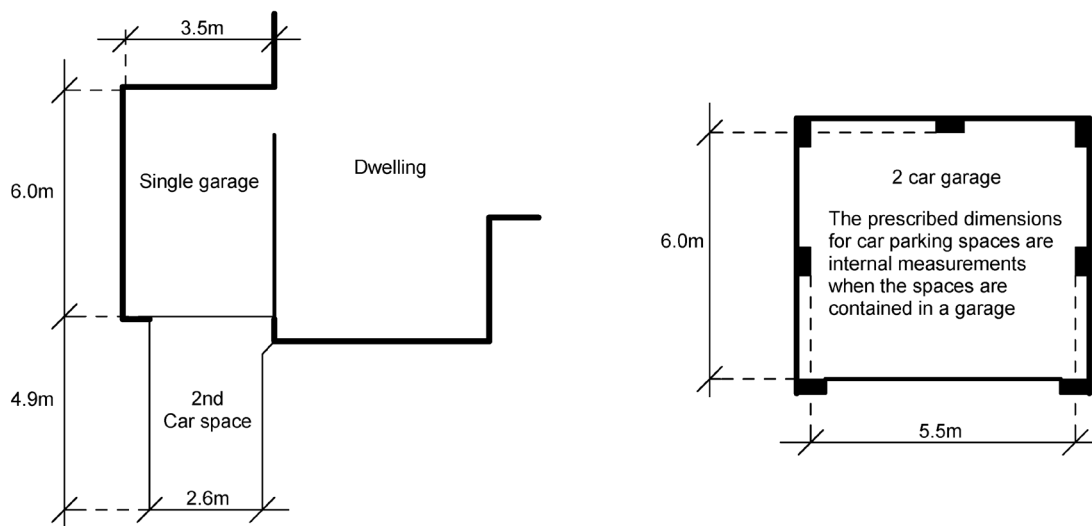


Diagram 9 Car park dimensions

### Standard 6.5

The minimum ceiling height to a garage, carport or car parking space is 2.1m.

## Standard 6.7

This standard is explained in diagram 10.

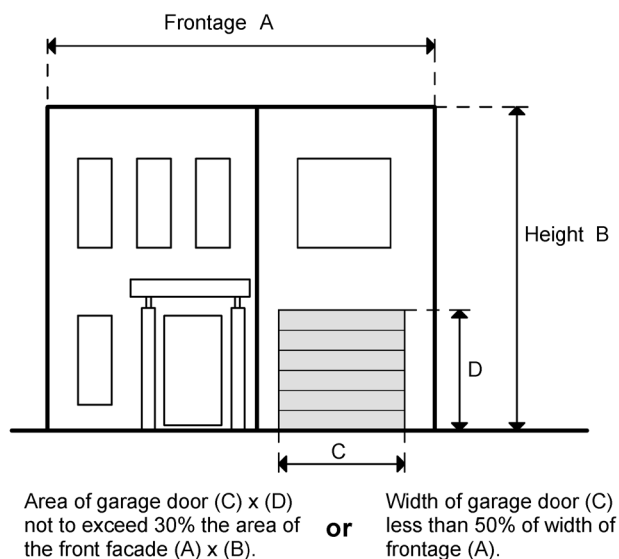


Diagram 10 Proportion of garage at frontage

## Standard 7 – Side and rear setbacks

Standard 7 does not apply to a wall of a building or a carport that complies with standard 8.

The envelope within which a building must be constructed is established by this regulation, as shown in diagram 11. The envelope established commences at a 1.0m setback from the side or rear boundary, allowing a 3.6m height at this point. The envelope established by standard 8 limits building heights, to 6.9m within 1.0m to a side or rear boundary.

Standards 7.2, 7.3 & 7.4 specify the allowable encroachments into the required setback and includes decks up to a maximum height of 800mm above natural ground level, which is not the case under the *Building Regulations 2018*. These encroachments are not permitted into the setback from a lane where it has a 0 metre setback.

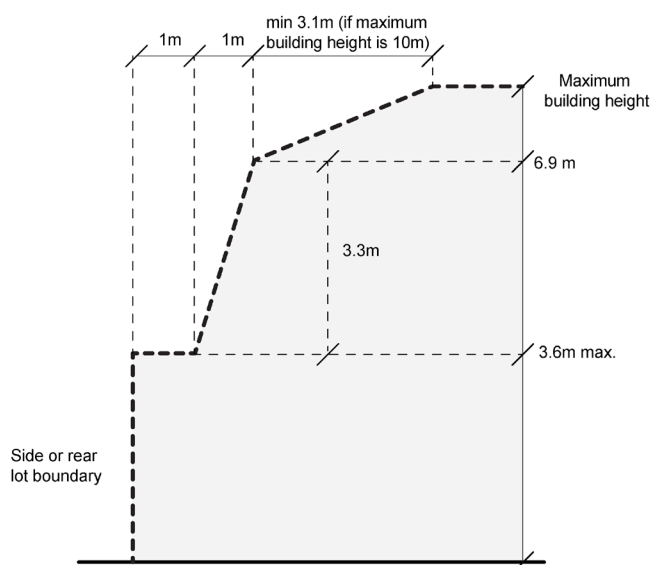
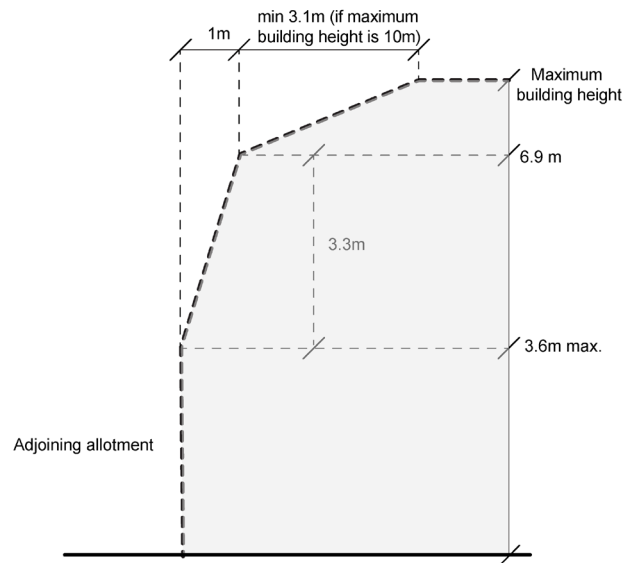


Diagram 11 Side and rear setbacks

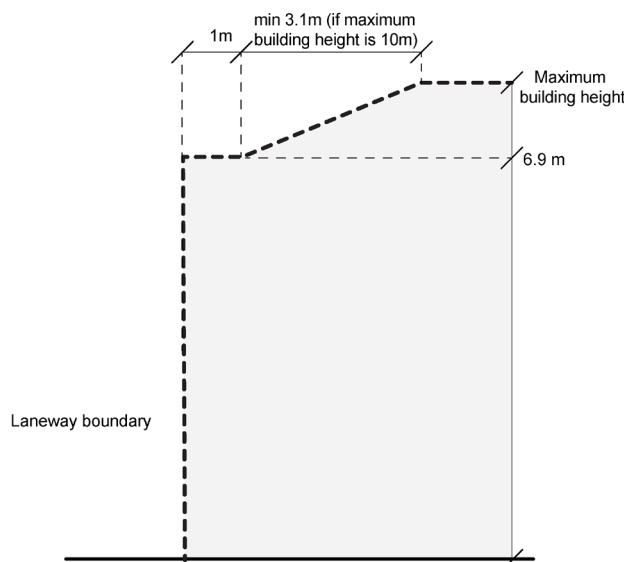
## Standard 8 – Walls on boundaries

This regulation applies to buildings that are built within 200mm or abutting a side or rear boundary or carports built on or within 1.0m of a side or rear boundary. If the requirements of this standard are not met then the building or carport must be setback a minimum of 1m from the side or rear boundary, in compliance with the setback requirements in standard 7. If it is proposed to construct a pitched roof off a boundary wall, the roof must be within the envelope shown on diagram 12.

A wall may be built within 200mm or abutting a side or rear lane up to 6.9 metres in height in accordance with diagram 13 below.



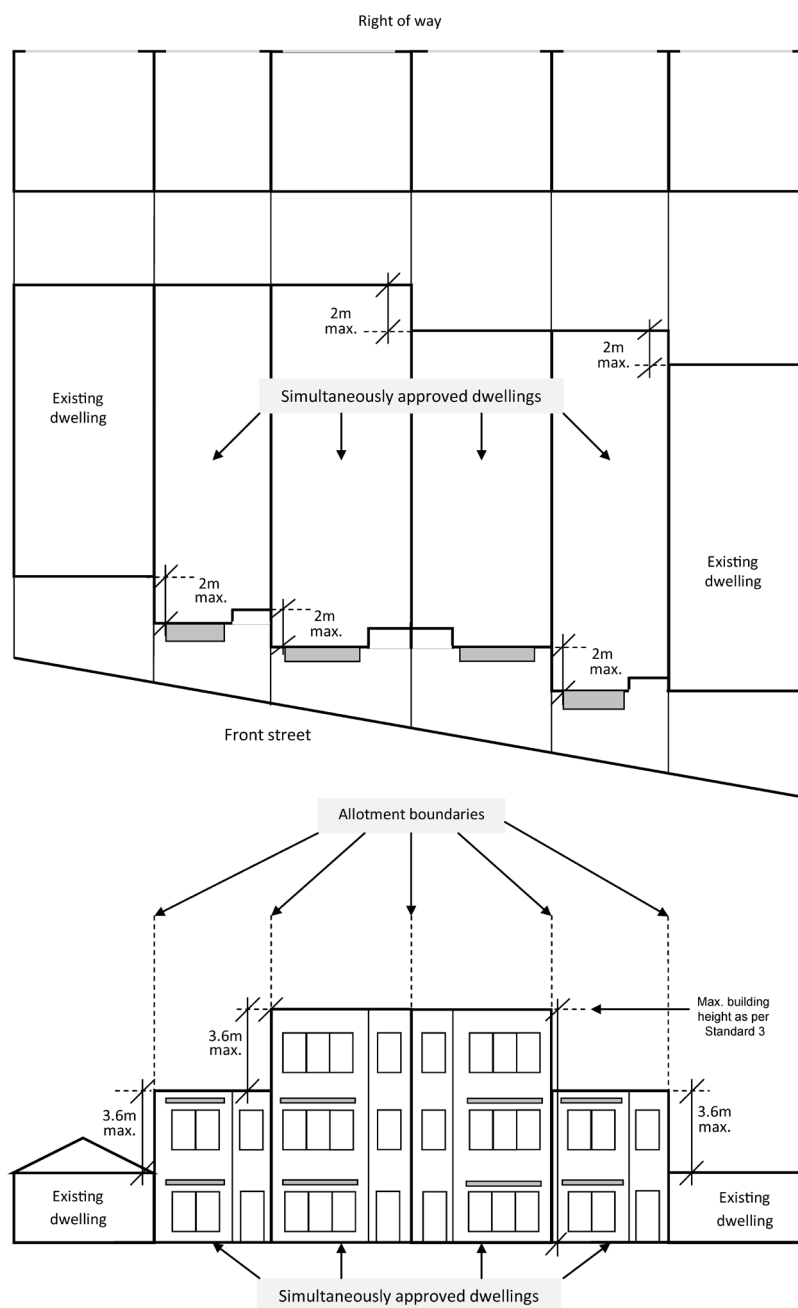
**Diagram 12** Setback to walls on boundary



**Diagram 13** Setback to walls on boundary

## Standard 8.1, 8.2

The maximum height of a boundary wall or carport is 3.6m unless constructed adjacent to an existing or simultaneously constructed boundary wall or carport on the adjoining allotment, in which case the height difference can be up to 3.6m, provided the length does not exceed the length of the existing or simultaneously approved/lodged boundary wall or carport by more than 2m (see diagram 14). There is otherwise no stated maximum length of a wall on a side boundary.



**Diagram 14** Permitted extent of wall on boundary of simultaneously approved/lodged dwellings

## Standard 9 – Daylight to existing habitable room windows

There are no standards under this heading as all buildings constructed in accordance with the code provide their own light courts in accordance with Standard 13 and there are no requirements imposed on a house builder to increase setbacks on their property to provide daylight to neighbouring properties. This standard heading has been placed in the code for consistency with the *Building Regulations 2018*.

## Standard 10 – Solar access to existing north-facing habitable room windows

There are no standards under this heading as all buildings constructed in accordance with the code provide their own light courts in accordance with Standard 13 and if additional northern solar access is desired then this must be provided by the house builder without imposing increased setbacks on the neighbouring properties. This standard heading has been placed in the code for consistency with the *Building Regulations 2018*.

## Standard 11 – Overshadowing of secluded private open space (SPOS)

The purpose of this standard is to ensure protection of overshadowing of the adjoining allotments existing secluded private open space (SPOS) and links with the requirements of standard 14.2 in that a minimum 6m<sup>2</sup>, with a minimum dimension of 2m, of the neighbours SPOS must have direct sunlight after determining the length of shadow.

The length of shadow cast by a wall or fence is calculated as 0.9 x the height of the wall when the sun is true north (see diagram 15).

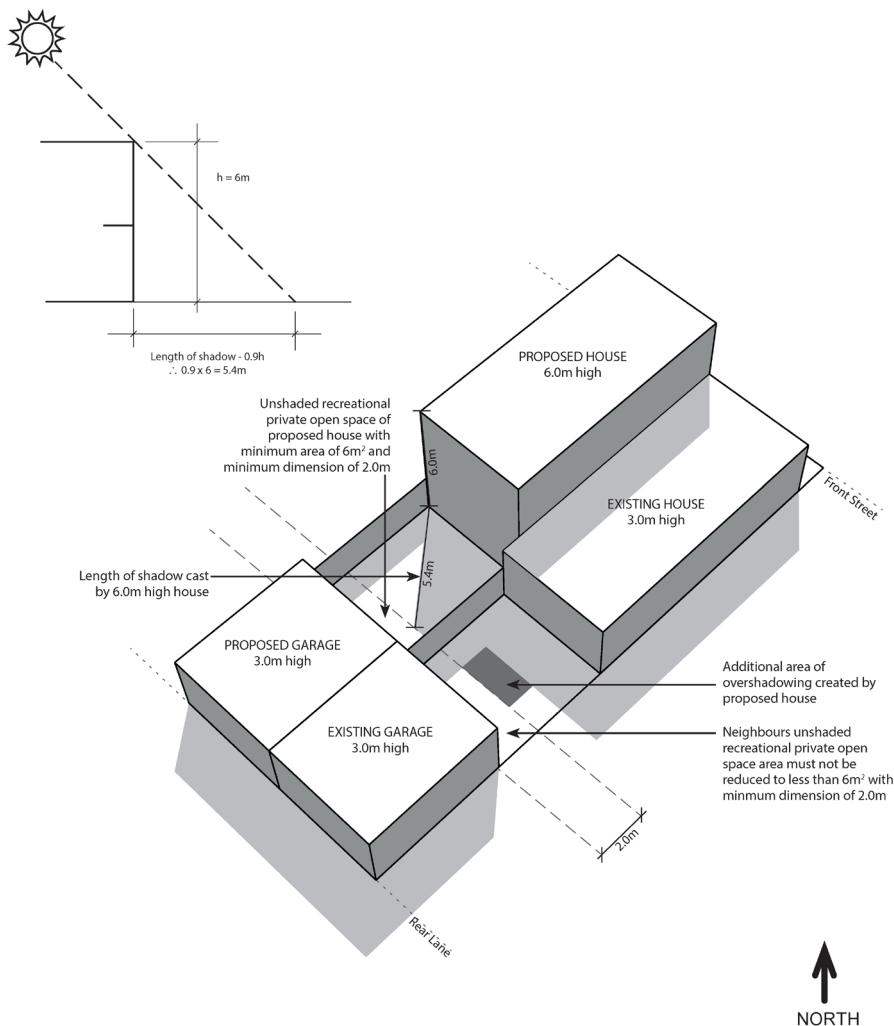


Diagram 15 Overshadowing Secluded private open space

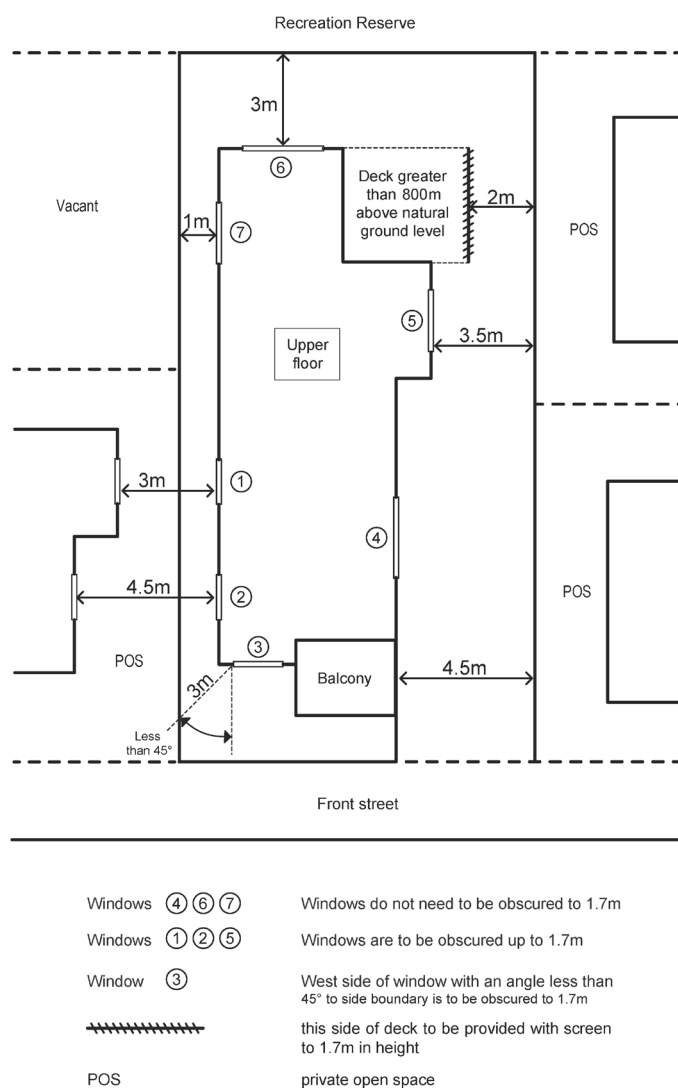
This requirement does not apply to SPOS provided as a balcony.

A simple single overshadowing diagram, with the shadow lengths being 0.9 x wall height, south of the building, need only be submitted.

## Standard 12 – Overlooking

This standard sets out setbacks, sill heights and/or screen provisions that will reduce the overlooking from habitable room windows or raised open space (ROS) areas. The windows affected must be in habitable rooms with a floor level more than 2.5m above natural ground level at the window location and the ROS areas (i.e. landings with an area of more than 2m<sup>2</sup>, balconies, terraces, decks or patios) that have a floor level of more than 800mm above natural ground level.

There is no need for architects or draftspersons to produce overlooking diagrams under this regulation. Diagram 16 details some of the requirements of this standard.



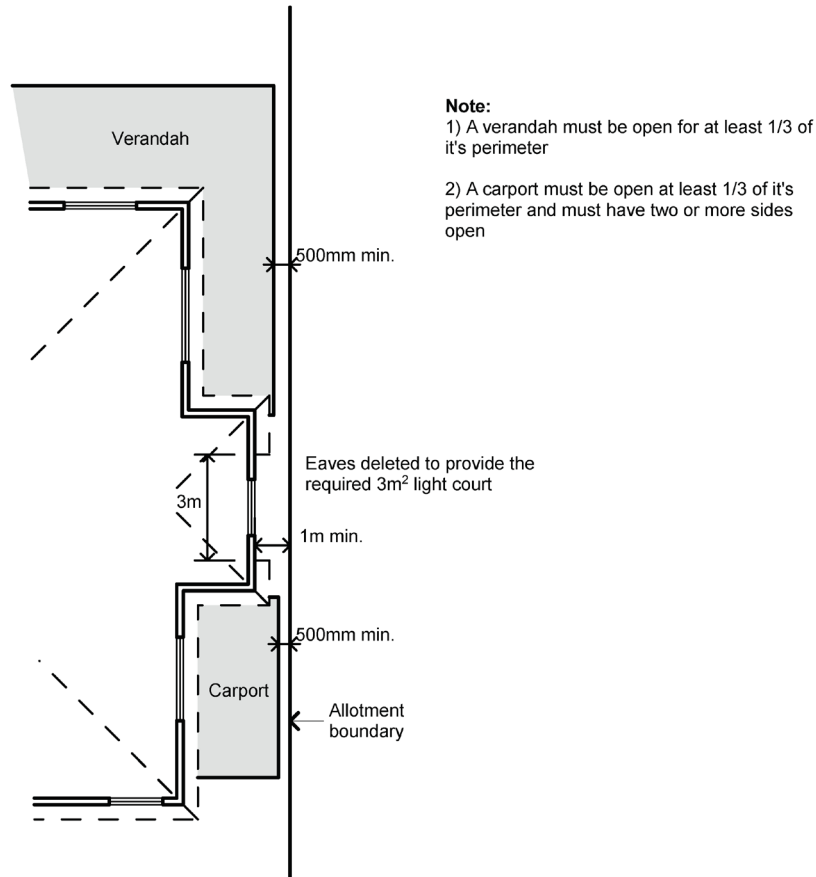
### Note:

- All windows shown are habitable room windows
- ground floor windows do not need to be prevented from overlooking

Diagram 16 Overlooking

## Standard 13 – Daylight to habitable room windows

This standard ensures that all required habitable room windows receive adequate light without imposing any requirements or restrictions on the neighbouring properties. A rear or side lane, or reserve can contribute to the required daylight to a habitable room window.

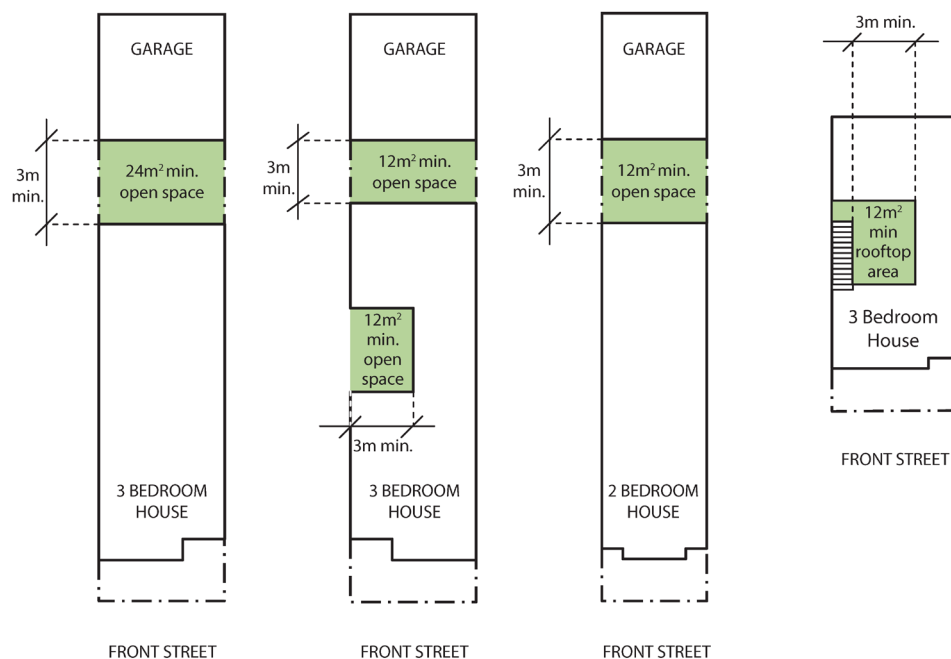


*Diagram 17 details some of the requirements of this standard.*

## Standard 14 – Daylight to habitable room windows

The area of private open space (POS) that needs to be provided on an allotment is determined by the number of bedrooms in the dwelling. A bedroom includes any room that is enclosed on all sides, that contains a window and is more than 6m<sup>2</sup> in floor area. This means that enclosed rooms labelled study or library etc may need to be counted as a bedroom for the purposes of this standard.

POS can be at ground level, on a balcony or at roof top level (see diagram 18).



**Diagram 18** Secluded private open space

If POS is provided at the side or rear of the dwelling or as a roof top area it must have a minimum area of  $6\text{m}^2$ , with a minimum dimension of 2m, that receives direct sunlight at noon on the equinox. To determine if the POS receives or does not receive direct sunlight, the length of shadow cast by a wall or fence is calculated as  $0.9 \times$  the height of the wall when the sun is true north as shown in diagram 19.

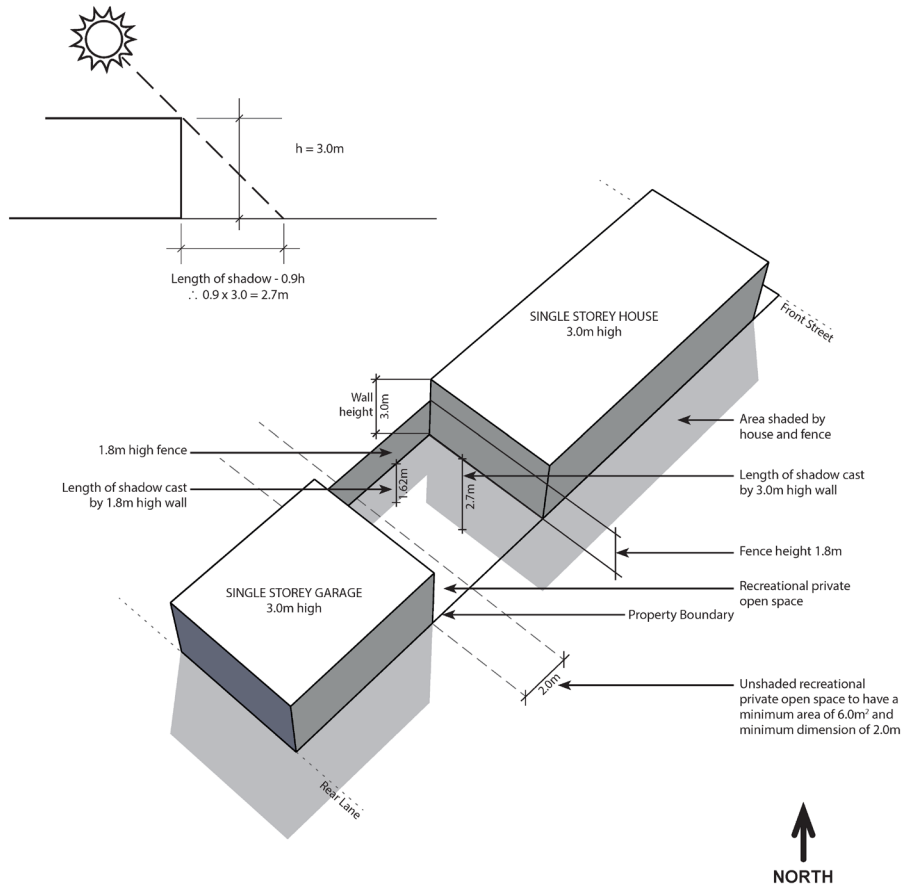


Diagram 19 Calculating shadows

## Part 2

## Class 10b Buildings

The standards in this Part apply to front and other fences constructed on allotments. There are no other siting standard applicable for other Class 10b buildings such as swimming pools, spas, masts, poles etc. The height provisions of regulation 97 of the *Building Regulations 2018* apply in respect of masts, poles, aerals, antennae, chimneys, flues, pipes or other services.

### Standard 15 – Front fence height

This standard applies to fences within 3m of the front street alignment with the maximum height and type of fence permitted depending on the street classification.

#### Standard 15.1

The maximum height of a front fence within 3m to a declared road is 2m whereas the maximum height of a front fence within 3m to a non-declared road is 1.2m.

#### Standard 15.2

A front fence within 3m to a non-declared road, if higher than 700mm, must have that part of the fence higher than 700mm more than 15% transparent (see diagram 20).

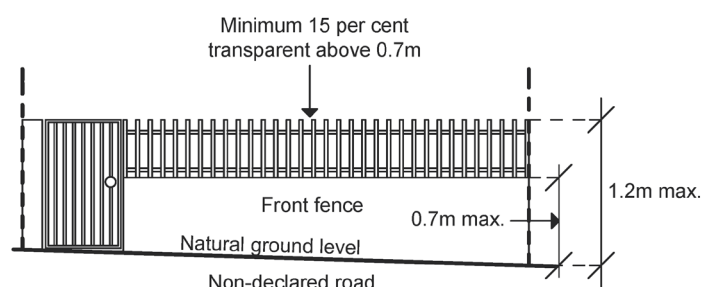


Diagram 20 Front Fences

### Standard 16 – Fences setback from side and rear boundaries

The maximum height of any fence not on a side or rear boundary is 2.5m but if the fence is higher than 2m, the section of fence that is greater than 2m must be at least 25% transparent (see diagram 21).

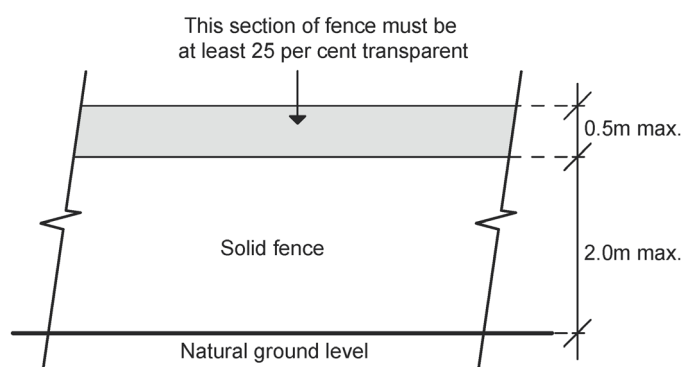


Diagram 21 Fences Setback from Side and Rear Boundaries

## Standard 17 – Fences on or within 150mm of side and rear boundaries

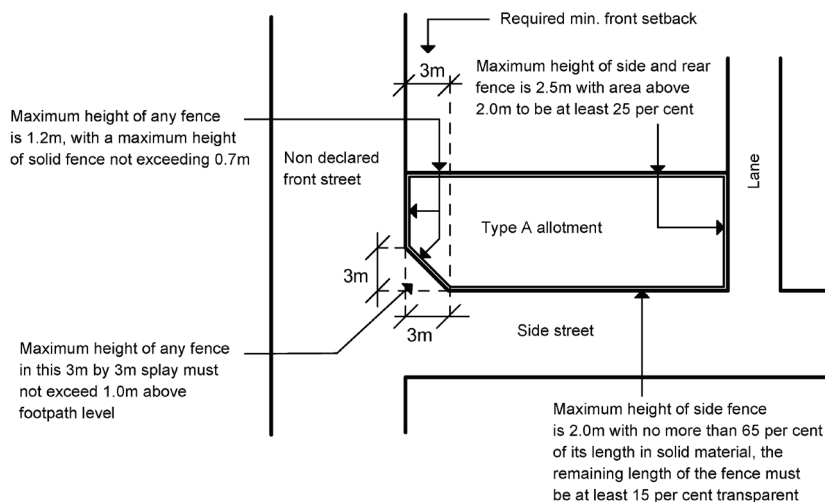
The maximum height of any fence on or within 150mm of a side or rear boundary is 2.5m, but if the fence is higher than 2m, the section of fence that is greater than 2m must be at least 25% transparent (see diagram 21).

## Standard 18 – Fences forward of front walls

Fences forward of the front wall must comply with the height and transparency requirements of standards 15.1 and 15.2

## Standard 19 – Fences on street alignments

This standard applies to fences within 3m to a point of intersection of street alignments on corner allotments and fences on a side street and rear streets (see diagram 22). Note that “street” in this standard does not include lanes, footways, alleys or right of ways so the fence within 3m to the intersection of the side street and the rear lane are not limited to the maximum height.



**Diagram 22** Fences on Street Alignments

The height of the fence within 3m of the point of intersection is measured above footpath level whereas all other fence heights are measured above natural ground level. The standard also prohibits barbed wire fences or fences with sharp protrusions being adjacent to street alignments or boundaries onto public open space areas.

## Standard 20 – Fences and daylight to windows in existing buildings, and

## Standard 21 – Fences and solar access to existing north-facing habitable room windows, and

## Standard 22 – Fences and overshadowing of secluded private open space

There are no requirements specified for these three standards as the maximum height of a fence is 2.5m, with the section of fence that is greater than 2m in height being 25% open. It is considered that such fences would not affect the amenity on adjoining habitable room windows or SPOS areas. These standards are included in the code for consistency with the *Building Regulations 2018*.

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