

**APPLICATION TO COUNCIL  
FOR APPROVAL TO  
VARY THE BUILDING REGULATIONS**



**MINIMUM STREET SETBACK - Regulation 409**

**To:** City of Whittlesea  
**Re:** (subject address) Number ..... Street/Road .....  
Suburb ..... Postcode .....

I, .....  
(Owner, agent of owner, relevant building surveyor)

Postal Address .....

Suburb ..... Postcode .....

Telephone ..... Mobile .....

**Hereby** seek the consent and report of Council, in accordance with Schedule 2 of the Building Act 1993, for variation of Building Regulation 409 - Minimum Street Setback.  
Please ensure that prior to application your property is not subject to a building envelope registered on title that relates to the same matter under Part 4 of the Building Regulations. Check this with your designer.

Signed ..... Date .....

- ACCOMPANYING THIS APPLICATION IS:**
1. Description of proposal, and justification of compliance with the Minister’s decision guidelines (see attached form)
  2. Copy of title including all relevant MCP, covenants and section 173 agreements as per regulation.
  3. Fee of \$217.50 (cheque made payable to City of Whittlesea)
  4. Two (2) sets of plans which include:
    - 4.1 Site plan showing all dimensions and setbacks of the proposed building, the adjoining buildings and a minimum three buildings opposite the site
    - 4.2 Floor plans of the proposed buildings
    - 4.3 Elevations of the proposal including the slope of the land
    - 4.4 Clearly highlighting the area of non-compliance
    - 4.5 Any significant vegetation on the site and on adjoining sites
  5. The written comments on the proposal from the owners of all nearby allotments that could be affected by the proposal. (These comments and signatures to be on one of the plans submitted and must show that the nearby owners have a full understanding of the application for variation being sought)
  6. Any other information that would support the application.



**ASSESSMENT CRITERIA Minimum Street Setback – Regulation 409**

The Minister for Planning (in his Minister's Guideline: MG/12. June 2005) has set out the objective and decision guidelines that Council must have regard to when considering varying a design and siting standard.

**Note:** If any matter set out in the guideline is not met, then Council must refuse consent.

To assist Council in determining if the objective and decision guidelines have been met, please describe how your application meets the following appropriate assessment criteria.

**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:** (a) the setback will be more appropriate taking into account the prevailing setback within the street; or

**Comment:** .....

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**Decision Guidelines:** (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

**Comment:** .....

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**Decision Guidelines:** (c) the siting of the building is constrained by the shape and/or dimensions of the allotments; or

**Comment:** .....

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**Decision Guidelines:** (d) the siting of the building is constrained by the slope of the allotment or other conditions on the allotment; or

**Comment:** .....

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**Decision Guidelines:** (e) there is a need to decrease the setback to maximise solar access to habitable room windows and/or private open space; or

**Comment:** .....  
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**Decision Guidelines:** (f) the setback will be more appropriate taking into account the desire or need to retain vegetation on the allotment; and

**Comment:** .....  
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**Decision Guidelines:** (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

**Comment:** .....  
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**Decision Guidelines:** (h) the setback will not result in a disruption of the streetscape; and

**Comment:** .....  
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**Decision Guidelines:** (i) the setback is consistent with any relevant neighbourhood character objective, policy or statement set out in the relevant planning scheme.

**Comment:** .....  
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*The personal information requested on this form is being collected by Council for assessment of your application for a consent and report pursuant to Building Regulation 409(4). The personal information will be used solely by Council for this primary purpose or directly related purposes. The applicant understands that the personal information provided is for the assessment of the consent and report application and that he/she may apply to Council for access to and/or amendment of the information. Requests for access and/or correction should be made to Councils privacy officer.*

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**ADJOINING OWNER COMMENTS FORM**

To: The Municipal Building Surveyor  
City of Whittlesea  
Locked Bag 1  
Bundoora MDC 3083



Attn: Municipal Building Surveyor

I/we .....

Am/are the owners/s of the property at .....

I/we have sighted and signed the plans (*insert plan drawing numbers and date*)  
.....  
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For the proposed .....

At .....

I/we object/have no objection (*please circle which one is relevant*) to the City of Whittlesea Council granting the siting dispensation as requested by the applicant, in regards to  
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Signed : .....

Dated: .....

Ph: H:..... W:..... H:..... W:.....

**Please Note:**

- **The plans/drawings the adjoining owners have sighted are also to be signed and dated.**
- **If you object to the proposed siting dispensation, you are required to provide reasons why you object.**

**Please address your objection to:** Municipal Building Surveyor  
City of Whittlesea  
Locked Bag 1  
BUNDOORA MDC 3083

*Personal information provided is for the purpose of assisting Council's decision-making processes with regard to the granting of siting dispensations and will be used solely for that purpose. Information will not be disclosed to any other person unless required by law. You may apply for access and/or amendment to your personal information by contacting Council's Freedom of Information Officer in writing.*

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