

# Building Appeals Board – Modification Application – Example

## Application for Section 160 Modification

---

A number of examples are provided below for information.

### Example 1 – Construction of external walls (Class 1 & 10)

#### Determination sought

To permit the proposed verandah adjacent to the dwelling to abut the boundary, as indicated in the submission, to be constructed without the required fire protection. i.e without an external wall with an FRL of 60/60/60.

#### Background of the proposal

It is proposed to construct a verandah between the existing dwelling and the title boundary. The verandah will be located less than 900mm from the boundary and requires a one hour fire rated wall as required by the Building Code of Australia for its proposal.

#### Performance Requirement:

##### **P2.3.1 Protection from the spread of fire**

A Class 1 building must be protected from the spread of fire from—

- (i) another building other than an associated Class 10 building; and
- (ii) the allotment boundary, other than a boundary adjoining a road or public space.

#### Deemed to Satisfy Requirement:

##### **3.7.1.5 Construction of external walls**

*External walls* (including gables) *required to be fire-resisting* (referred to in **3.7.1.3** or **3.7.1.6**) must extend to the underside of a *non-combustible* roof covering or *non-combustible* eaves lining (See **Figure 3.7.1.3**) and must—

- (i) have an FRL of not less than 60/60/60 when tested from the outside; or
- (ii) be of masonry-veneer construction in which the external masonry veneer is not less than 90 mm thick; or
- (iii) be of masonry construction not less than 90 mm thick. External walls (including gables) required to be fire-resisting (referred to in 3.7.1.3 or 3.7.1.6) must extend to the underside of a non-combustible roof covering or noncombustible eaves lining (See Figure 3.7.1.3) and must—
  - (i) have an FRL of not less than 60/60/60 when tested from the outside; or
  - (ii) be of masonry-veneer construction in which the external masonry veneer is not less than 90 mm thick; or
  - (iii) be of masonry construction not less than 90 mm thick.

**Indicate why the regulation is inappropriate and why it is reasonable for the building regulation to not apply in this case:**

---

- The proposed verandah will be constructed of steel members
- The roof of the verandah will be constructed of polycarbonate
- The vertical gap between the fence and the underside of the roof structure is 1000mm which will allow for venting in the event of a fire
- The floor beneath the verandah is paving and considered to have a low fire load.

**Note: The Board will seek the comments of the Relevant Building Surveyor (RBS) in relation to this application**

**The documentation required to support your application shall include:-**

- Drawings highlighted to show the determination being sought,
- Photographs and any other supportive information and a copy of the Certificate of Title.

## **(2) Example 2 – Natural Light (Class 1 & 10)**

### **Determination sought**

To permit the deletion of the requirement to provide natural light to the basement theatre room.

### **Background of the proposal**

The proposal is to construct a new two storey dwelling with a basement carpark. The basement carpark will contain a theatre room below ground level. The theatre room is required to have windows so that natural lighting is available.

### **Performance Requirement**

#### **P2.4.4 Light**

A habitable room must be provided with windows so that natural light, when available, provides a level of illuminance appropriate to the function or use of that part of the building..

### **Deemed to Satisfy Requirement:**

#### **3.8.4.2 Natural lighting**

Natural lighting must be provided in a Class 1 building to all habitable rooms, in accordance with the following:

(a) Natural lighting must be provided by—

(i) windows, excluding roof lights that—

(A)

have an aggregate light transmitting area measured exclusive of framing members, glazing bars or other obstructions of not less than 10% of the floor area of the room; and

(B)

are open to the sky or face a court or other space open to the sky or an open verandah, carport or the like; or

(ii) roof lights that—

(A) have an aggregate light transmitting area measured exclusive of framing members, glazing bars or other obstructions of not less than 3% of the floor area of the room; and

(B) are open to the sky; or

(iii) a proportional combination of windows and roof lights required by (i) and (ii).

## **Indicate why the regulation is inappropriate and why it is reasonable for the building regulation to not apply in this case**

---

- Due to the location of the room being below ground level, windows will not be provided to the theatre room
- Lighting equivalent to AS/NZS 1680 will be provided
- The room will be used as a theatre room for viewing movies and will not be restricted by the lack of windows
- Mechanical ventilation will be provided to the room

**Note: The Board will seek the comments of the Relevant Building Surveyor (RBS) in relation to this application**

**The documentation required to support your application shall include:-**

- Drawings highlighted to show the determination being sought,
- Photographs and any other supportive information and a copy of the Certificate of Title.

### **(3) Example 3 Sanitary facilities (Class 2 to 9)**

#### **Determination sought**

To permit the deletion of the requirement to install a sanitary compartment at or near ground level and accessible for employees in an apartment building containing 11 sole occupancy units.

#### **Background of the proposal**

It is proposed to construct a two storey apartment building with a basement carpark and a total of 11 sole occupancy units.

#### **Performance requirement**

##### **FP2.1**

Suitable sanitary facilities for personal hygiene must be provided in a convenient location within or associated with a building, to the degree necessary, appropriate to—

- (a) the function or use of the building; and
- (b) the number and gender of the occupants; and
- (c) the disability or other particular needs of the occupants.

#### **Deemed to satisfy requirement**

##### **F2.1 Facilities in residential buildings**

Sanitary and other facilities for Class 2 and 3 buildings and class 9c aged care buildings and for Class 4 parts of buildings must be provided in accordance with Table F2.1.

Table F2.1 PROVISION OF SANITARY AND OTHER FACILITIES IN RESIDENTIAL BUILDINGS

Class 2
<p>Within each <u>sole-occupancy unit</u>, provide—</p> <ul style="list-style-type: none"><li>(a) a kitchen sink and facilities for the preparation and cooking of food; and</li><li>(b) a bath or shower; and</li><li>(c) a closet pan and washbasin.</li></ul> <p>Laundry facilities, provide either—</p> <ul style="list-style-type: none"><li>(a) in each <u>sole-occupancy unit</u>—<ul style="list-style-type: none"><li>(i) clothes washing facilities, comprising at least one washtub and space for a washing machine; and</li><li>(ii) clothes drying facilities comprising—<ul style="list-style-type: none"><li>(A) clothes line or hoist with not less than 7.5 m of line; or</li><li>(B) space for one heat-operated drying cabinet or appliance in the same room as the clothes washing facilities; or</li></ul></li></ul></li></ul> <p>Note: A kitchen sink or washbasin must not be counted as a laundry washtub.</p> <ul style="list-style-type: none"><li>(b) a separate laundry for each 4 <u>sole-occupancy units</u>, or part thereof—<ul style="list-style-type: none"><li>(i) clothes washing facilities comprising at least one washtub and one washing machine; and</li><li>(ii) clothes drying facilities comprising—<ul style="list-style-type: none"><li>(A) clothes line or hoist with not less than 7.5 m of line per <u>sole-occupancy unit</u>; or</li><li>(B) one heat-operated drying cabinet or appliance for each 4 <u>sole-occupancy units</u>.</li></ul></li></ul></li></ul> <p>Facilities for employees—</p> <p>If the building contains more than 10 <u>sole-occupancy units</u>, or a group of Class 2 buildings on the one allotment contains, in total, more than 10 <u>sole-occupancy units</u> — provide a closet pan and washbasin in a compartment or room at or near ground level and accessible to employees without entering a <u>sole-occupancy unit</u>.</p>

**Indicate why the regulation is inappropriate and why it is reasonable for the building regulation to not apply in this case**

- The building contains 11 sole occupancy units, which is only 1 above the minimum requirement of 10.
- There are no common 'grassed' areas provided to the apartment building
- The amount of 'common areas' in the building are minimal
- Facilities are available in each apartment

**Note: The Board will seek the comments of the Relevant Building Surveyor (RBS) in relation to this application**

**The documentation required to support your application shall include:-**

- Drawings highlighted to show the determination being sought,
- Photographs and any other supportive information and a copy of the Certificate of Title.

**Building  
Appeals Board**



Goods Shed North, 733 Bourke Street, Docklands Vic 3008 Ph: 1300 421 082  
PO Box 536 Melbourne Vic 3001

Email: [registry@buildingappeals.vic.gov.au](mailto:registry@buildingappeals.vic.gov.au)

## (4) Example 4 Exit travel distance (Class 2 to 9)

### Determination sought

To permit the distance of travel to be 31 metres in lieu of the maximum distance of travel of 30m

### Background of the proposal

It is proposed to construct new single storey strip shops. The distance of travel from Shop T1 will be 31 metres to the exit in lieu of the required 30m.

### Performance requirement

#### **DP4**

*Exits* must be provided from a building to allow occupants to evacuate safely, with their number, location and dimensions being appropriate to—

- (a) the travel distance; and
- (b) the number, mobility and other characteristics of occupants; and
- (c) the function or use of the building; and
- (d) the height of the building; and
- (e) whether the *exit* is from above or below ground level.

### Deemed to satisfy requirement

#### **D1.4 Exit travel distances**

(c) **Class 5, 6, 7, 8 or 9 buildings** — Subject to (d), (e) and (f)—

- (i) no point on a floor must be more than 20 m from an *exit*, or a point from which travel in different directions to 2 *exits* is available, in which case the maximum distance to one of those *exits* must not exceed 40 m; and
- (ii) in a Class 5 or 6 building, the distance to a single *exit* serving a *storey* at the level of access to a road or *open space* may be increased to 30 m.

### Indicate why the regulation is inappropriate and why it is reasonable for the building regulation to not apply in this case

- The maximum number of people deemed to accommodate the shop is 20 people in accordance with the BCA D1.13
- Given the use of the shop, it is not expected that 20 people will occupy the building at any one time.
- The distance of travel is exceeded by only 1m
- The building is a single storey shop with a single exit. The BCA permits the distance of travel to a single exit to be 30m where access to a road or open space is provided
- The time to travel the extra one metre is not considered to be excessive

**Note: The Board will seek the comments of the Relevant Building Surveyor (RBS) in relation to this application**

**The documentation required to support your application shall include:-**

- Drawings highlighted to show the determination being sought,
- Photographs and any other supportive information and a copy of the Certificate of Title.