

Siting SI03 | Small Second Dwellings

Audience

The audience/s for this Practice Note include/s:

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|---|---|
| <input checked="" type="checkbox"/> Architects/ Designers | <input checked="" type="checkbox"/> Owner Builders |
| <input checked="" type="checkbox"/> Builders | <input checked="" type="checkbox"/> Plumbers |
| <input checked="" type="checkbox"/> Building Surveyors/ Inspectors | <input checked="" type="checkbox"/> Real estate management agents |
| <input type="checkbox"/> Engineers | <input type="checkbox"/> Trades and Maintenance (inc. Electricians) |
| <input checked="" type="checkbox"/> Home Owners / Residential Tenants | |

Purpose

This Practice Note provides guidance on the siting regulations for small second dwellings, including defining what constitutes a small second dwelling, detailing the application of siting regulations for these dwellings, and discussing other considerations related to small second dwellings.



This practice note is supplementary to SI01 Siting of Class 1 single dwellings, Class 10a buildings and fences which explains and provides additional supplementary information on the siting regulations.

Abbreviations & Definitions

The abbreviations and definitions set out below are for guidance only. They are not intended to vary those set out in the Building Act 1993, Building Regulations 2018, or National Construction Code.

- **Act** – Building Act 1993
- **Existing building** – Refer to Part 5 of the Building Regulations 2018.
- **NCC** – National Construction Code 2022
- **Regulations** – Building Regulations 2018
- **Small second dwelling (SSD)** - Defined in the Regulation 5 as “a Class 1a building that is self-contained and has a gross floor area that is equal to or less than 60 m² on the same allotment as an existing building that is a single Class 1 building that is not a small second dwelling”.

Introduction

As part of the Victoria’s Housing Statement 2024 – 2034, the Victorian Government introduced changes to make it easier for owners to build small second dwellings. This change removes the need to obtain a planning permit in most cases. A small second dwelling proposed to be built must be on the same allotment of the existing Class 1 building. The SSD is classified as class 1a building as per the NCC and a building permit will be required prior to construction.



The planning objectives for the small second dwellings will be satisfied by complying with the relevant siting regulations in Part 5 of the Regulations.

Matters affecting the arrangement and use of the allotment between the two class 1 buildings on the same allotment, in particular when occupiers may not be related are matters to be resolved via CAV (e.g. rental agreements, shared access, maintenance etc).

Planning Permit requirements

Planning schemes have been amended under Amendment VC253 which introduces necessary amendments to facilitate the construction of small second dwellings. This includes planning permit exemptions for small second dwellings so long as it meets certain conditions such as not connected to reticulated gas supply. While a planning permit is usually not required for the construction of a SSD, a **building permit** is required.

Some examples of zones that now contain the small second dwelling exemption are:

- General Residential Zone
- Mixed Use Zone
- Neighbourhood Residential Zone
- Residential Growth Zone
- Township Zone
- Low Density Residential Zone

Land with overlays such as a Heritage Overlay or Neighbourhood Character Overlay may still qualify for an exemption subject to meeting specified conditions.

Section 24(1)(c) and (d) requires the relevant building surveyor to be satisfied that any planning permit has been obtained, if required by the planning scheme.

For further information on whether a proposed small second dwelling requires a planning permit refer to the “Small Second Dwellings Planning and Framework” document located on the [Planning Vic Website](#).

In addition, further guidance on understanding the residential development provisions on the siting requirements for small second dwellings can be found by using Planning Practice Note [PPN27: Understanding the residential development provisions](#).

Application

Building classification

The SSD is Class 1a building and must be the second class 1 building on the same allotment. The SSD is required to comply with the NCC Volume 2, the Act and Regulations.

Gross floor area

Equal to or less than 60 m². The 60 m² includes the total floor area of the small second dwelling of all storeys, measured from the outside of external walls or the centre of party walls and includes all roofed areas. Attached roofed areas, such as a veranda, porch, balcony, carport, etc., built as part of the SSD, are to be included in the calculation for the gross floor area. Unroofed areas, such as a deck or pergola, are not to be included in the gross floor area. The interpretation of this may vary between municipalities, so it is prudent to submit a planning information request to the local municipality if an attached roofed area extends the dwelling's footprint above 60m².



Part 5 - Siting, design, and access requirements

The siting, design and access regulations that apply to small second dwellings are shown in the table below:

Regulation	Dwelling	SSD
73 – Max street setback	✓	✗
74 – Min street setback	✓	✓
74A – Building setback for SSD	✗	✓
75 – Building height	✓	✓
76 – Site coverage	✓	✓
76A – Garden area	✓	✓
77 – Permeability	✓	✓
78 – Car parking	✓	✗
79 – Side and rear setbacks	✓	✓
80 – Walls and carports on boundaries	✓	✓
81 – Daylight to existing habitable room windows	✓	✓
82 – Solar access to existing north-facing habitable room windows	✓	✓
83 – Overshadowing of recreational private open space	✓	✓
84 - Overlooking	✓	✓
85 – Daylight to habitable room windows	✓	✓
86 – Private open space	✓	✗
86A – Private open space for SSD	✗	✓
86B - Accessibility for small second dwellings	✗	✓

In view of the above, an assessment of the siting requirements must also consider the following scenarios:

- the impact of a new dwelling or small second dwelling on an existing dwelling or small second dwelling on an adjoining allotment,
- the impact of a new small second dwelling on an existing dwelling on the same allotment, and
- the impact of a new extension to a single dwelling on a small second dwelling on the same or adjoining allotment.

Regulations 74A, 86A, and 86B specifically apply to small second dwellings.

Regulations 76, 76A, 77, and 86 have been updated to incorporate provisions concerning the construction of a small secondary dwelling. These regulatory specifics will be elaborated in the following sections.



Building setback for Small Second Dwellings

Regulation 74A requires that the small second dwelling be set back behind the front wall of the existing dwelling that faces the front street and that SSD's must also comply with the building setback requirements specified in Regulation 74.

Elements listed in regulation 74A (2) such as gutters, porches, verandas, and decks more than 800 mm in height must not encroach past the front wall of the existing dwelling. This is a key difference to regulation 74(3) minimum setback for the main dwelling which does allow an encroachment.

Site coverage

Regulation 76(5) states that the site coverage regulation applies when a small second dwelling is constructed. Therefore, the allotment will still need to maintain the site coverage requirement which is buildings must not occupy more than 60% of the allotment.

Refer to practice note *SI01 Siting of Class 1 single dwellings, Class 10a buildings and fences* for more information.

Minimum garden area

Regulation 76A (6) states that the minimum garden area regulation applies when a small second dwelling is constructed. Therefore, the allotment will still need to maintain the minimum garden area requirement which depends on the size of the allotment.

Refer to practice note *SI01 Siting of Class 1 single dwellings, Class 10a buildings and fences* for more information and Planning Practice Note PPN84: Applying the minimum garden area.

Permeability

Regulation 77(4) states that the minimum permeability regulation applies when a small second dwelling is constructed. Therefore, the allotment will still need to maintain a minimum 20% permeable surface.

Refer to practice note *SI01 Siting of Class 1 single dwellings, Class 10a buildings and fences* for more information.

Side and rear setbacks

Side and rear setbacks regulation 79 applies to a small second dwelling. Refer to practice note *SI01 Siting of Class 1 single dwellings, Class 10a buildings and fences* for more information.

Private open space for existing dwelling and small second dwellings

Regulation 86A requires the small second dwelling to have private open space of at least 8 m² with a minimum dimension of 1.6 m and convenient access from a habitable room that is not a bedroom.

Regulation 86(2)(b) states that if there is a small second dwelling, the existing dwelling's private open space may be reduced to not less than 25 m² with a minimum dimension of 3 m at the side or rear that has convenient access from a habitable room other than a bedroom. Refer to figure 1 below.

There are no requirements or restrictions specifically related to install fences or barriers between the existing class 1 and the new SSD. However, if fences are proposed then they should adhere to the requirements in the regulations outlined above relevant to the SSD and existing Class 1.

For further information on fences please contact CAV.

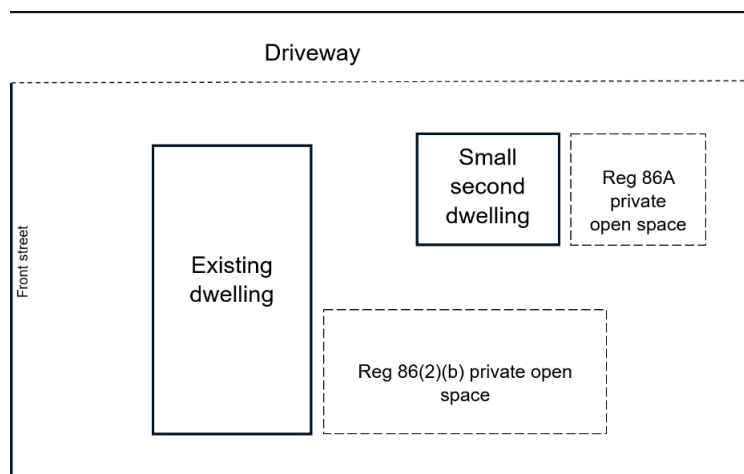


Figure 1 - Private open space

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Accessibility for small second dwellings

Regulation 86B relates to an access path and requires that a clear and unobstructed path be provided to the small second dwelling that:

- is clear and unobstructed
- is from the front street
- has a minimum width of 1 m or 1.8 m if the path is longer than 30 m
- has a minimum clear height of 2 m with no encroachments
- has a gradient no steeper than 1 in 14
- has a cross fall no steep than 1 in 40, and
- is sealed or has all-weather access.

Regulation 86B does not provide clarity on when an object is considered an obstruction. As guidance, it is recommended that any object that is semi-permanent, and that would reasonably hinder walking or the ability for emergency services to move a stretcher down the path would be considered an obstruction. This includes letterboxes, gates, fences, garage doors, carport/veranda posts, water tanks, retaining walls, tree branches, etc.

Regulation 86B also does not define what is considered a sealed or all-weather access path. As guidance, it is recommended that a path not affected by rain, such as one made of concrete, paving, or bricks, is sufficient as a sealed or all-weather access path. Additionally, a path that is sheltered with a roof, such as a carport, could be considered all-weather access.

Not Applicable Siting Regulations

Maximum street setback

Regulation 73 only applies to a Class 1 building when first constructed. As a small second dwelling requires there first to be an existing dwelling, regulation 73 does not apply to the construction of SSD.

Car parking

Regulation 78(7) states that the car parking regulation does not apply to the construction of a small second dwelling. This means that additional parking is not required when building a small second dwelling.



Other considerations

NCC Volume 2

As per the definition, a small second dwelling is a self-contained Class 1a building. This means that a small second dwelling is a separate building to the existing Class 1 building on the same allotment. The assessment for compliance with NCC Vol 2 is required in addition to Part 5 Siting requirements.

Facilities

A small second dwelling must separately contain the required facilities under the NCC Volume Two and not rely on the facilities of the existing Class 1 building on the same allotment.

Spread of fire

A small second dwelling is a separate Class 1a building. This means that the spread of fire requirements H3P1 of the NCC Volume Two applies where the small second dwelling is within 900 mm of the boundary or 1.8 m from another building (any part of the existing class 1) on the same allotment.

Figure 2 illustrates an example where the small second dwelling is located within 900 mm of the allotment boundary and within 1.8 m of the existing dwelling.

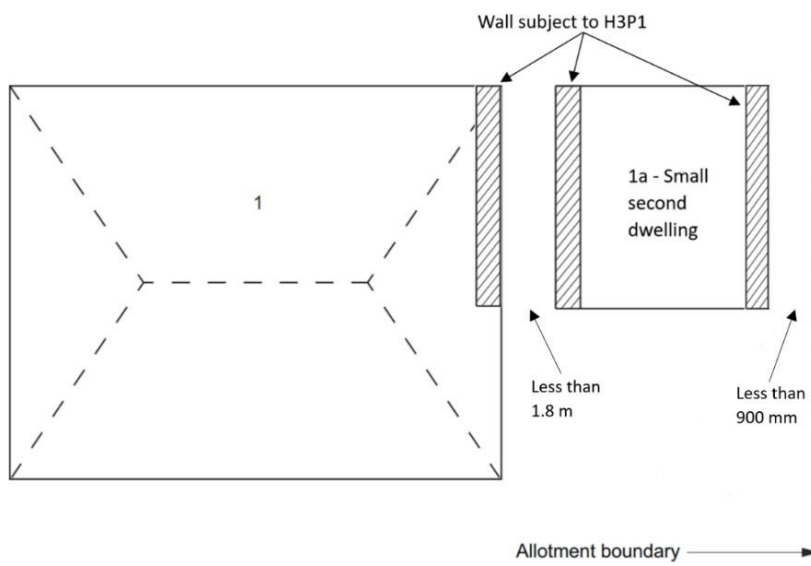


Figure 2 - Spread of fire

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Services connection

To qualify for a planning permit exemption, the small second dwelling must not be connected to reticulated gas supply. Refer to Local Council for more information regarding planning permit exemptions.

Other matters and services, such as electricity, rates, NBN, street number, bins collection etc are outside the building regulations and should be referred to the respective agencies. For further information on these please contact CAV, local council, or service providers for your area.



Related Documentation

- Building Act 1993
- Building Regulations 2018
- Building Amendment (Small Second Dwellings) Regulations 2023
- [Small second homes](#)

List of Amendments

- N/A

Document history

Sector	Building
Category	Siting
Topic	Small second dwellings
Document number	03
Version	1.0
Superseded	N/A
Published	26 July 2024

Contact Us

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