

SMALL LOT CODE HOUSING PART 2

Initial review of DRAFT documents

Revision	Date	Comments
1.0	25/07/2022	23 pages, Prepared by Jeremy Wallert

DRAFT Documents:

- Small Lot Housing Code June 2022 – Consultation
- Small Lot Housing Code Practice Note June 2022 – Consultation

Chapter 1: Introduction

General Comments:

Exemption concerning approved building envelopes:

See matrix below. I have highlighted in yellow what will change with assessing compliance with the proposed change. Basically, it will allow you to use the SLHC in one more situation.

The ramifications and things to consider would be:-

- It would require more effort on an applicant's behalf to obtain a copy of the title, POS etc. for the adjoining allotment just to find out if it is subject to the SLHC or not.
- With the new requirement, the owner of the 'Adjoining Lot' being at the edge of the POS does not know what Code will be regulated on the proposed Lot adjoining them if the land adjoining them is still undeveloped. With the previous requirement it was certain it would be the Building Regulations 2018.

Previous requirement:

	Adjoining Lot in the same POS and subject to SLHC	Adjoining Lot in the same POS and NOT subject to the SLHC	Adjoining Lot not in the same POS and subject to the SLHC	Adjoining Lot not in the same POS and NOT subject to the SLHC
SLHC applies to the extent that they relate to the adjoining allotment	YES	NO	NO	NO
Regulations 79, 80, 81, 82, 83, 84, 90, 91, 94, 95, 96 of the Building Regulations 2018 apply to the extent that they relate to the adjoining allotment	NO	YES	YES	YES

New requirement:

	Adjoining Lot in the same POS and subject to SLHC	Adjoining Lot in the same POS and NOT subject to the SLHC	Adjoining Lot not in the same POS and subject to the SLHC	Adjoining Lot not in the same POS and NOT subject to the SLHC
SLHC applies to the extent that they relate to the adjoining allotment	YES	NO	YES	NO
Regulations 79, 80, 81, 82, 83, 84, 90, 91, 94, 95, 96 of the Building Regulations 2018 apply to the extent that they relate to the adjoining allotment	NO	YES	NO	YES

Chapter 2: Definitions

General Comments:

‘Living room means a habitable room which is used for primarily sitting or dining.’

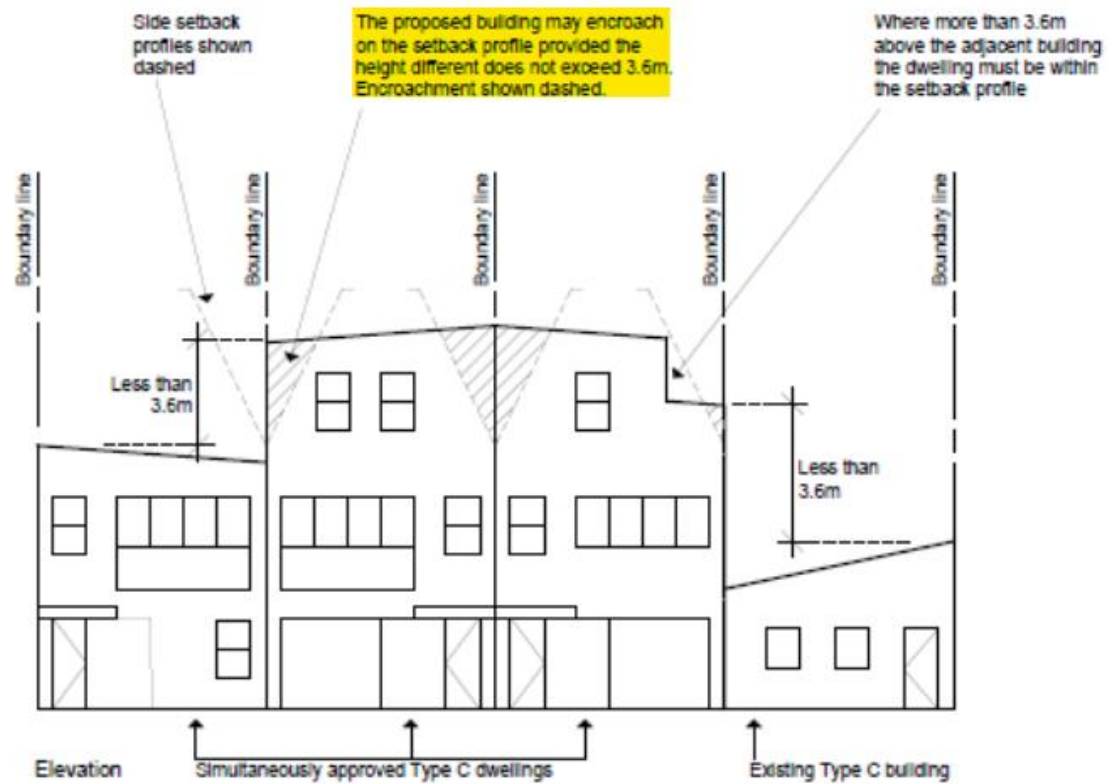
This definition is open for interpretation. It is already difficult to establish if a room is habitable or non-habitable, now this will make it even more difficult to establish what the use of the room may be.

“Required habitable room window” is a window required in accordance with National Building Code of Australia Volume Two that provides the minimum amount of light or ventilation to a habitable room.

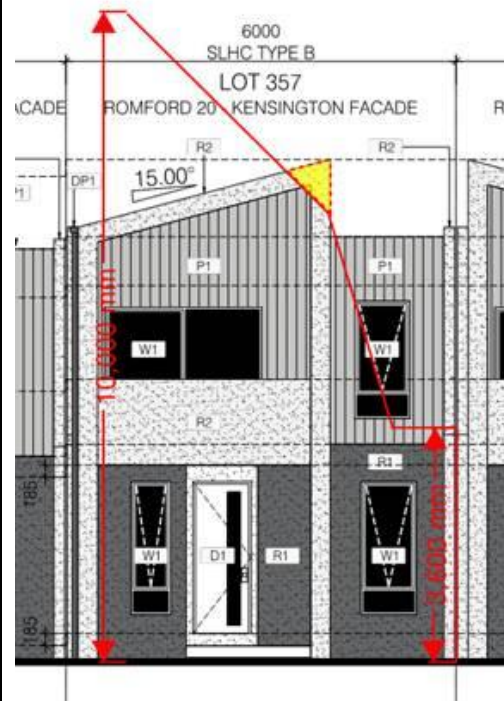
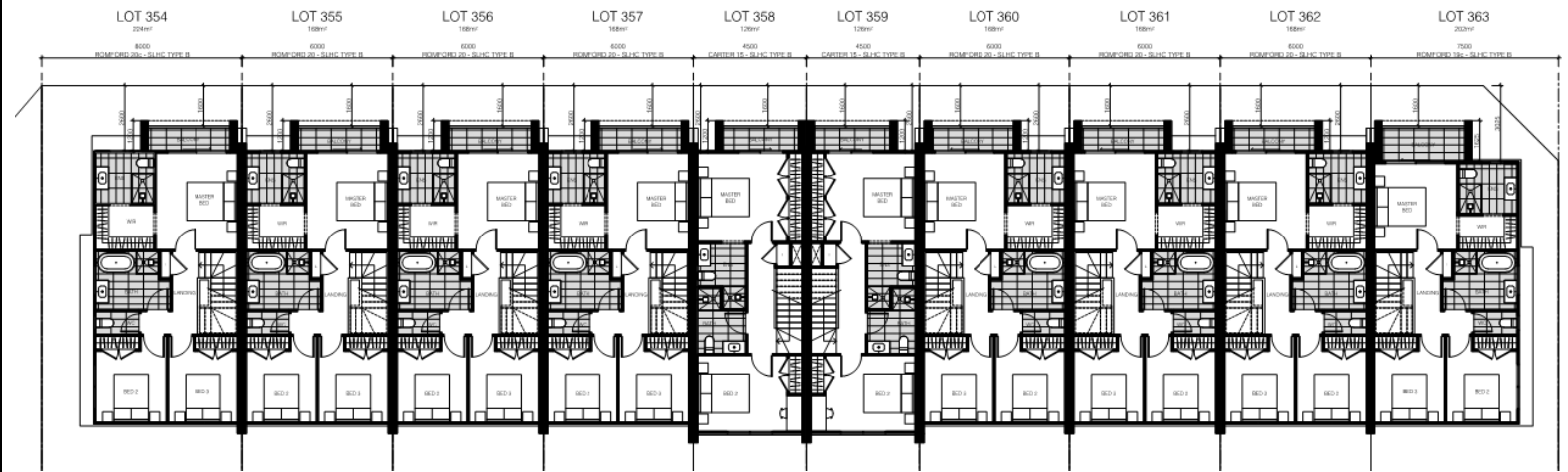
This definition has been removed. Refer to Chapter 3 for why this definition should remain.

	<p>raised private open space means</p> <ul style="list-style-type: none"> a) an area of more than 2 square metres that is elevated at least 1 storey from finished ground level and is open on at least one side as a balcony, deck or similar; and b) if a balcony, is connected by a doorway to a habitable room; or <p>if a rooftop, with convenient access from a habitable room.</p> <p>Formatting error?</p> <p>wall on boundary means <u>building on any boundary of an allotment.</u></p> <ul style="list-style-type: none"> a) buildings on or within 200mm of a side or rear boundary of an allotment; and b) carports constructed on or within 1.0 metre of a side or rear boundary of an allotment and which is open on the side facing the boundary or boundaries. <p>What is the purpose of this change? The original definition was aligned to the SLHC Standards and Building Regulations.</p>
Chapter 3: Type A and B Standards	
Standard 1: Maximum Street Setback	<p>Requirement deleted.</p> <p>Recommend keeping the heading and include the notation:- “The application is exempt from the requirements of the Building Regulations 2018.” to be consistent with other Standards.</p>

Standard 2: Minimum Street Setbacks and Articulation	<p>Table 2: Articulation at front and side street</p> <table border="1"> <thead> <tr> <th>Minimum articulation at front Street Alignment</th><th>Minimum articulation at side Street Alignment</th></tr> </thead> <tbody> <tr> <td>No less than 25 per cent of the area of the front façade of a building must be setback at least an additional 300mm</td><td>If a wall is more than 10.0 metres in length, 10 per cent of the area of the wall must be setback at least an additional 300mm</td></tr> <tr> <td>No less than 25 per cent of the area of the front façade of a building must be setback at least an additional 300mm</td><td>If a wall is more than 10.0 metres in length, 10 per cent of the area of the wall must be setback at least an additional 300mm</td></tr> </tbody> </table> <p>Double up of information in Table 2?</p>	Minimum articulation at front Street Alignment	Minimum articulation at side Street Alignment	No less than 25 per cent of the area of the front façade of a building must be setback at least an additional 300mm	If a wall is more than 10.0 metres in length, 10 per cent of the area of the wall must be setback at least an additional 300mm	No less than 25 per cent of the area of the front façade of a building must be setback at least an additional 300mm	If a wall is more than 10.0 metres in length, 10 per cent of the area of the wall must be setback at least an additional 300mm
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Standard 3: Building Height	<p>OK.</p>						
Standard 4: Site Coverage	<p>OK.</p>						
Standard 5: Permeability	<p>OK.</p>						
Standard 6: Car Parking	<p>6.6 Despite Standard 6.4, if the 2 required car parking spaces adjoin each other in a garage or carport or in a space constrained by walls, the double space may be 5.5 metres in width.</p> <p>Word 'required' to be deleted.</p>						
Standard 7: Side and Rear Setbacks	<p>Recommendation to include an allowance for the proposed building to enroach on the seback profile formed by Column 2 of Table 6. Similarly to the below diagram for Type C dwellings.</p>						



This would allow well designed products like below. Instead of the balcony encroachment being non-compliant with Standard 7 Table 6.



Standard 8: Walls on Boundaries	OK.
Standard 9: Daylight to Existing Habitable Room Windows	OK.
Standard 10: Solar Access to Existing North-Facing Windows	OK.
Standard 11: Overshadowing	OK.
Standard 12: Overlooking	<p>It is the intent that the overlooking provisions from proposed habitable room windows will be limited to 'living room' windows in the existing dwelling on the adjoining allotment as opposed to all habitable room windows in the existing dwelling and secluded private open space on the adjoining allotment.</p> <p>The requirement for overlooking provisions from a raised open space remains to limit overlooking to all habitable room windows in the existing dwelling and secluded private open space on the adjoining allotment.</p> <p>Why is the requirement different between a proposed habitable room windows and proposed raised open space? Standard 12.1 and 12.2.</p> <p>It I already difficult to establish if a room is habitable or non-habitable, now to determine if it meets the definition of a 'living room' will make it even more difficult to establish what the use of the room may be.</p> <p>The wording of Standard 12.1 would need to be re-worked to align with the wording from Regulation 84.</p>

12. Overlooking

12.1 A ~~window in a~~ habitable room window, where the floor level of the room is more than 2.5m above natural ground level and the window faces (at an angle less than 45°) ~~secluded private open space or habitable~~ living room, windows of an existing dwelling within a horizontal distance of 4.5 metres, the window must either –

- a) have a sill height at least 1.7 metres above floor level; or
- b) have fixed obscure glazing in any part of the window below 1.7 metres above floor level.

In this Standard, a window facing a habitable room window means living it is offset a minimum of 1.5 m from the edge of one window to the edge of the other. ~~a window within 1.5 m from the edge of the other habitable room window on the existing building.~~

If an adjoining allotment is not subject to the Small Lot Housing Code regulation 84 of the Building Regulations 2018 apply to the extent that they relate to the adjoining allotment.

Commented [VPA8]: Intent is reduce the r screening.
To be in effect from gazettal.

It will be a big shift in public perception that it is compliant to overlook into bedroom windows. I don't believe this is a positive change.

Standard 13: Daylight to Habitable Room Windows

The requirement for a 'Required' habitable room window has been removed and the requirement applies to all habitable room windows.

The definition of a "Required habitable room window" has also therefore been removed.

Although the change aligns the requirement with Regulation 85 I believe Standard 13 from SLHC Nov 2019 was a good deviation from Regulation 85 and should remain as per Standard 13 from SLHC Nov 2019.

Example below where a positive design outcome was achieved:-

The kitchen window (W11) is not deemed as a "required habitable room window" as it is not required to provide the minimum amount of light and ventilation to the habitable room. See below calculations where W6 & W7 provide the minimum amount of light and ventilation required as per clause 3.8.4.2 & of the BCA 2019 Volume 2.

Light:

A = 36.535m²

R = 3.654m²

W = 7.560m²

A = Floor area of the room

R = 10% of the floor area of the room

W = Area of light from other windows providing light to habitable room.

Ventilation:

A = 36.535m²

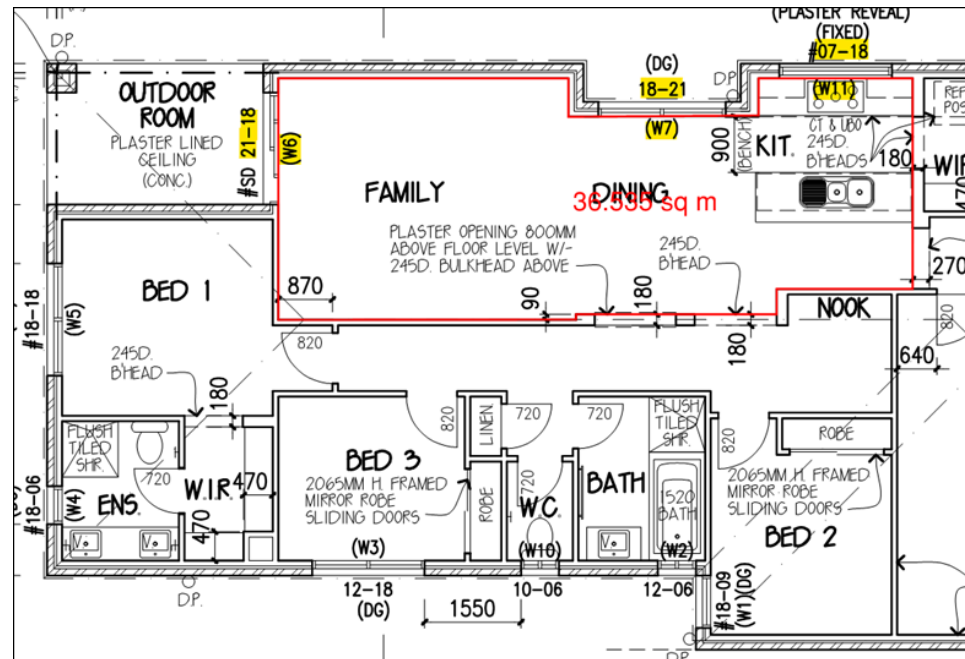
R = 1.826m²

W = 2.837m²

A = Floor area of the room

R = 10% of the floor area of the room

W = Area of light from other window openings providing ventilation to habitable room.



In light of the above kitchen window (W11) is compliant with the siting requirements of the SLHC.

Standard 14: Private Open Space

Standard 14.3 is not clear if the private open space (POS) is provided on a balcony, that it must have access to direct sunlight. The requirement only applies to POS and the side or rear of a dwelling or as a roof top area.

Standard 15: Front Fence Design

OK.

Standard 16: Fences Setback more than 150mm from Side and Rear Boundaries	OK.
Standard 17: Fences on or within 150mm of Side or Rear Boundaries	OK.
Standard 18: Fences Forward of Front Walls	OK.
Standard 19: Fences on Street Alignments	OK.
Standard 20: Fences and Daylight to Windows in Existing Building	OK.
Standard 21: Fences and Solar Access to Existing North-Facing Habitable Room Windows	OK.
Standard 22: Fences and Overshadowing of Secluded Private Open Space	OK.
Chapter 4: Type C Standards	
General Comments:	Should the numbering system be revised? Should Standards in Chapter 4 begin at Standard 23, a continuation from Chapter 3? This would help when referencing parts of the Code.
Standard 1: Articulation of third storey massing	OK.
Standard 2: Repetition of Façade Design	OK.
Standard 3: Building Height	OK.

Standard 4: Setback - Maximum Front Setback	OK.									
Standard 5: Setback - Minimum Street Setback	<div>Table 1: Street setbacks</div> <table><tr><th>Type</th><th>Minimum setback from front street alignment</th><th>Minimum setback from side street alignment</th></tr><tr><td>Type C</td><td>2.5 metres; or</td><td>The setbacks specified in table 2 at column 4 'Minimum setback from the side street alignment on a corner allotment' apply;</td></tr><tr><td>Type C2</td><td>0.5 metres from the allotment boundary, if the allotment adjoins an open space reserve that provides a landscape buffer of at least 1.5m.</td><td>0 metres if the allotment adjoins an open space reserve that provides a landscape buffer of at least 1.5m.</td></tr></table> <div>Table 1 should nominate the minimum setback from side street alignment for Type C and not refer to another table. Type C which is designed for Lots between 60m2 – 150m2 requires a 1.5 metre setback from a side street alignment and a Type B which is designed for allotments up to 299m2 requires only a 1.0 metre setback from the side street alignment. Is this correct? In addition to the above, refering Type C minumum setback from side street alignment to Table 2 Column 4, now requires the buiding more than 6.9 metres to have a profile to setback the building. Type A and B are less restricted and allows a building height of 11.0 metres with setbacks of 1.0 metres and 1.5 metres respectivley. Is this corrct?</div>	Type	Minimum setback from front street alignment	Minimum setback from side street alignment	Type C	2.5 metres; or	The setbacks specified in table 2 at column 4 'Minimum setback from the side street alignment on a corner allotment' apply;	Type C2	0.5 metres from the allotment boundary, if the allotment adjoins an open space reserve that provides a landscape buffer of at least 1.5m.	0 metres if the allotment adjoins an open space reserve that provides a landscape buffer of at least 1.5m.
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Standard 6: Setback - Wall on Boundary	I recommend Standard 6 should set out the wall on boundary height requirements and not refer to Standard 7.2 inter alia Table 2.									
Standard 7: Setback – Side and Rear Profile	Standard 7.1 would make more sense with the above Standard 6 recommendation.									

**Standard 8: Setback –
Allowable Encroachments**

8. Setback - Allowable encroachments

8.1 The following elements may encroach into the front or side setback distance required by Standard 5.1;

by no more than 1 metre for an:

a) entry canopies less than 2.5 metres wide;

by no more than 0.75 metres for:

b) eaves, fascia and gutters;

c) sunhoods, sunshades or fins;

d) roofed pergolas, porches and verandahs on the ground floor;

e) balconies on the second storey or above;

up to the boundary for:

f) unroofed pergolas;

Provided these encroachments do not project beyond the allotment boundary.

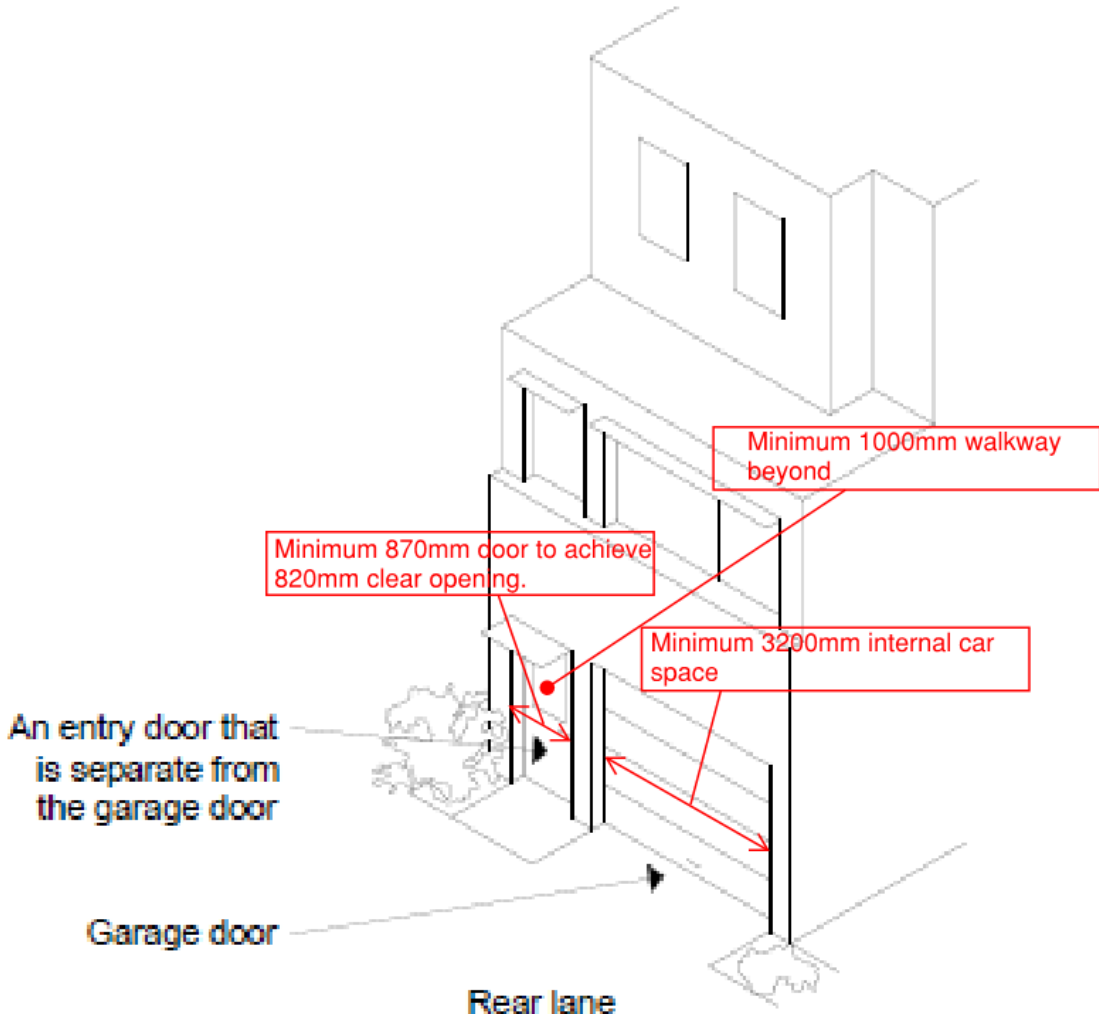
8.2 Where a Type C rear boundary is adjacent to a street, lane or public open space, or where a Type C2 boundary is adjacent to a street, lane or public open space, sunhoods and sunshades may project no more than 600mm beyond the allotment boundary, provided:

- a) the sunhood is at least 5.0 metres above any part of a street that may be used by a motor vehicle or 2.4 metres above ground level of a street, laneway or park in any other case; and
- b) the total length of encroaching sunshades is no more than 25 per cent of the total frontage length.

Standard 8.1 should be included in Standard 5 as they relate to encroachments of street setbacks.

Standard 8.2 are requirements for projections beyond the title boundary. Standard 8 Title heading should be amended to make this more clearer.

	<p>8. Setback - Allowable encroachments</p> <p>8.1 The following elements may encroach into the front or side^{street} setback distance required by Standard 5.1;</p> <p>Add additional word to make accurate.</p>
Standard 9: Setback – Garage from the Street	<p>Standard 9.1 should be included in Standard 5 as they relate to minimum street setbacks.</p>
Standard 10: Articulation – Entrance to the Dwelling	<p>10. Articulation - Entrance to the dwelling</p> <p>10.1 A front, side or rear entry to the dwelling must be set forward of the garage at least 0.5 metres where the garage faces the front street.</p> <p>Delete side or rear.</p> <p>10. Articulation - Entrance to the dwelling</p> <p>10.1 A front, side or rear entry to the dwelling must be set forward of the garage at least 0.5 metres where the garage faces the front street.</p> <p>The word 'entry' is ambiguous and does not have a definition. Does this mean the 'front wall' or one of the 'elements' from Standard 8.1. This should be clarified.</p> <p>Standard 10.3, an entry door at the laneway for rear loaded products.</p> <p>Type A and Type B which are designed for allotments up to 299m2 do not have this requirement.</p> <p>Type C which is designed for Lots between 60m2 – 150m2 which will result in a more narrow allotment requires a entry door.</p> <p>The NCC 2022 introduces livable housing requirements which requires a 1.0 metre clear path of travel to the dwelling from entry to the allotment. Having a single car garage with a compliant path of travel will result in the width of the allotment to be a minimum of 4.9-5.0 metres. Has this been considered?</p>

	
Standard 11: Articulation – Massing	OK.
Standard 12: Articulation – Facades through Materials	OK.

<p>Standard 13: Articulation – Detailed Design</p>	<p>Standard 13.1 should list the elements and not refer to another Standard.</p> <p>Standard 13.2 states the element in Standard 13.1 must project at least 300mm forward of the 'façade'. There is a definition for 'façade'.</p> <p><u>façade means the part of the building facing a street or public open space. For calculations it is measured from a two-dimensional elevation and excluding any roof area.</u></p> <p>Is the intent of this Standard for the element to project at least 300mm forward of the 'front wall'? I can see designers including an element forward of the 'façade' but not necessarily forward of the 'front wall'.</p> <p>front wall means the wall most forward of the building towards the front street or public open space, <u>it does not include an allowable encroachment for articulation.</u> -alignment.</p> <p style="text-align: center;">13.2</p> <p>13.3 For the purposes of this Standard, the length is totalled for discontinuous elements such as sunshades.</p> <p>Add additional word to make clearer.</p>
<p>Standard 14: Activation and Passive Surveillance</p>	<p>14.2 Any front, side or and rear boundary must have at least one habitable room or balcony overlooking any adjacent street, lane, footpath, park, or other open space.</p> <p>Standard 14.2. There needs to be a clear calculation documented on how to measure the overlooking from a habitable room window, or raised open space to the adjacent street, lane, footpath, park or other open space.</p> <p>Is it to be measure similarly to Regulation 84?</p> <p>The Practice note provides a basic illustration, but an illustration should only accompany clear documented calculations.</p>

Standard 15: Car Parking	<p>15. Car parking</p> <p>15.1 One car park must be provided on site unless the dwelling is rear-loaded.</p> <p>Standard 15.1 reads as though no car park is required if the dwelling is rear-loaded. This should be re-worded to state that a maximum of 1 car park is required, unless dwelling has a rear-loaded garage. Then if the dwelling does have a rear-loaded garage, can additional car park's be provided? If so how many and what dimensions?</p> <p>15.5 The minimum ceiling height to a garage or car parking space is 2.1 metres.</p> <p>As the car park is allowable in an un-roofed area, there is no ceiling. Are there any allowable projections above this un-roofed area? Similarly to Regulation 78(3)?</p> <p>(3) A building may project into a car parking space if it is at least 2.1 m above that space.</p>
Standard 16: Site Coverage	OK.
Standard 17: Private Open Space	OK.
Standard 18: Daylight to Private Open Space	OK.
Standard 19: Landscape Permeability	OK.
Standard 20: Deep Soil Zone	<p>A definition and additional clarifications for 'Deep Soil Zone' is required. Refer to attached examples:-</p> <ul style="list-style-type: none"> ▪ Calculating deep soil areas. SPP 7.3 R-Codes Volume 2 – Apartments, 3.3 Tree canopy and deep soil areas; & ▪ Planning Practice Note 84 May 2022. Applying the minimum garden area requirement.
Standard 21: Overshadowing of Secluded Private Open Space	OK.

Standard 22: Daylight to Existing Habitable Room Windows	OK.
Standard 23: Solar Access to Existing North-Facing Windows	OK.
Standard 24: Overlooking	<p>It is the intent that the overlooking provisions from proposed habitable room windows will be limited to 'living room' windows in the existing dwelling on the adjoining allotment as opposed to all habitable room windows in the existing dwelling and secluded private open space on the adjoining allotment.</p> <p>The requirement for overlooking provisions from a raised open space remains to limit overlooking to all habitable room windows in the existing dwelling and secluded private open space on the adjoining allotment.</p> <p>Why is the requirement different between a proposed habitable room windows and proposed raised open space? Standard 24.1 and 24.2.</p> <p>24. Overlooking</p> <p>24.1 A habitable room window must have a sill height or be screened to a height of 1.7 metres if it:</p> <p style="margin-left: 40px;">if a habitable room window is within 4.5 metres of an adjoining allotment it will always required to be screened regardless of the windows it faces on an adjoining allotment.</p> <ul style="list-style-type: none"> a) Within 4.5 metres of a living room window and an adjoining allotment; and b) Is more than 2.5 metres above natural ground level; and c) Faces a living room window of an adjoining allotment at an angle less than 45 degrees. <p>should this be secluded private open space?</p> <p>Standard 24.1(a) states a habitable room window must have a sill height or be screened to a height of 1.7 metres if it is within 4.5 metres of an adjoining allotment. Is this the intent? I don't believe so, I am assuming it is meant to read as secluded private open space?</p> <p>It is already difficult to establish if a room is habitable or non-habitable, now to determine if it meets the definition of a 'living room' will make it even more difficult to establish what the use of the room may be.</p>

it is offset a minimum of 1.5 metres from the edge of one window to the edge of the other.
In this Standard, a window facing a living room window means ~~a window within 1.5 metres from the closest point of other habitable room window on an adjoining allotment.~~

The wording of Standard 24.1 would need to be re-worked to align with the wording from Regulation 84.

If an adjoining allotment is not subject to the Small Lot Housing Code regulation 84 of the Building Regulations 2018 apply to the extent that they relate to the adjoining allotment.

This is to be moved to after Standard 24.2.

24.2 A raised private open space that faces secluded private open space or living room windows of an existing or approved dwelling within a horizontal distance of 4.5 metres, must be screened to a height of at least 1.7 metres above the floor level and be no more than 25 per cent transparent.

simultaneously

Word simultaneously is missing.

It will be a big shift in public perception that it is compliant to overlook into bedroom windows. I don't believe this is a positive change.

Standard 25: Daylight to Habitable Rooms

25. Daylight to habitable rooms

required

25.1 Each habitable room window must face either of:

The requirement for a 'Required' habitable room window should be included.

I

This change would align with Standard 13 from SLHC Nov 2019 which was a good deviation from Regulation 85 and should be included in Standard 25 of the SLHC 2022.

Example below where a positive design outcome was achieved:-

The kitchen window (W11) is not deemed as a “required habitable room window” as it is not required to provide the minimum amount of light and ventilation to the habitable room. See below calculations where W6 & W7 provide the minimum amount of light and ventilation required as per clause 3.8.4.2 & of the BCA 2019 Volume 2.

Light:

A = 36.535m²

R = 3.654m²

W = 7.560m²

A = Floor area of the room

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W = Area of light from other windows providing light to habitable room.

Ventilation:

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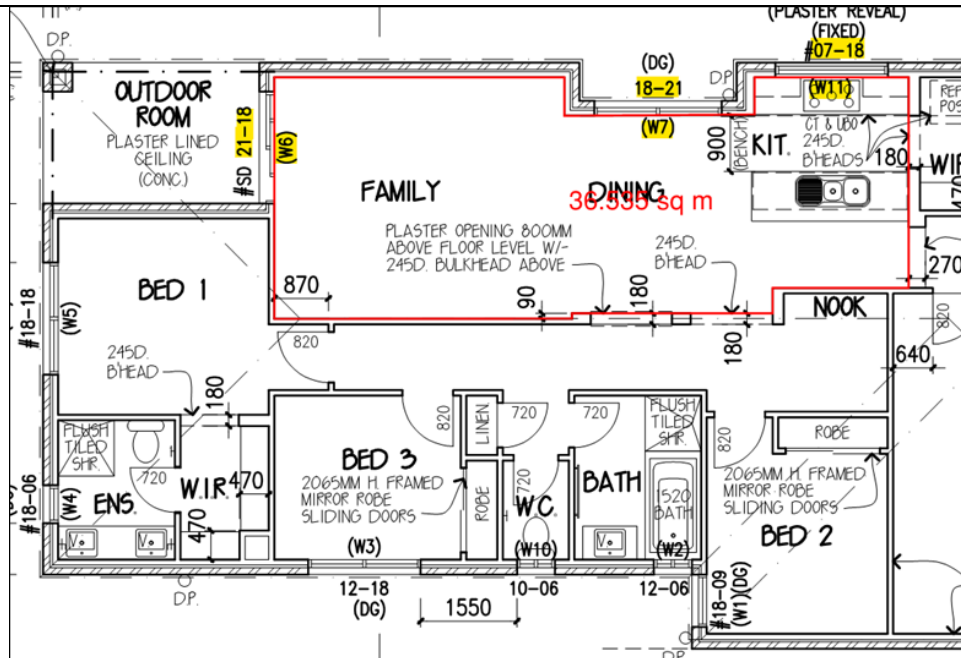
R = 1.826m²

W = 2.837m²

A = Floor area of the room

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W = Area of light from other window openings providing ventilation to habitable room.



In light of the above kitchen window (W11) is compliant with the siting requirements of the SLHC.

"required habitable room window" is
a window required in accordance with
National Building Code of Australia Volume
Two that provides the minimum amount of
light or ventilation to a habitable room;

The definition of a **"Required habitable room window"** should be included.

- a) an outdoor space or light court with a minimum area of 3 square metres and a minimum dimension of 1.0 metre clear to the sky, with a minimum dimension of 2.5 metres measured perpendicular to the window. ~~This may borrow from a street or public open space;~~ **This may include adjoining land from a street, public open space or the like**

Standard 25.1(a) should be re-worded.

	<p>b) A verandah, patio, porch or balcony that is open for more than one third of its perimeter</p> <p>For the purposes of sub regulation (b), a side of a verandah, patio, porch or balcony may be taken to be open if it is setback to that side is not less than 500 mm from another building on the allotment or the adjoining allotment boundary.</p> <p>Standard 25.1(b) should clarify what 'open' is.</p>
Standard 26: Garage Storage	OK.
Standard 27: Bin Storage	OK.
Standard 28: Water Tanks	OK.
Standard 29: Water Meters, Gas Metres and Other Services	OK.
Standard 30: Front and Side Boundary Fence	OK.
Standard 31: Side and Rear Boundary Fences	OK.
Standard 32: Fences Forward of Front Walls	OK.
Standard 33: Fences on Street Alignments	OK.
Standard 34: Fences and Daylight to Windows in Existing Building	OK.
Standard 35: Fences and Solar Access to Existing North-Facing Habitable Room Windows	OK.
Standard 36: Fences and Overshadowing of Secluded	OK.

Private Open Space	
Standard 37: Roof Reflectivity	I don't believe this should be addressed in the SLHC. Energy Efficiency is addressed in the National Construction Code.

For further discussion, please do not hesitate to contact me.

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Calculating deep soil areas

KEY INFORMATION

- Deep soil areas (DSA) occurs within the lot boundary.
- Recommends 10% DSA minimum, or 7% if a tree is retained on site.
- DSA may be co-located with either a retained existing tree or planted tree/s and meet a minimum dimension.
- Minimum DSA dimensions depend on size of tree at maturity.
- 20% of the DSA may be covered with permeable paving or decking.
- If located adjacent to a rootable soil zone (RSZ) the minimum dimension may be nominally reduced, provided the RSZ is contiguous.
- RSZ does not contribute to overall DSA requirements
- If site conditions prevent 10% DSA from being achieved, planting on structure at two times the shortfall may be considered.

DEFINITIONS

R-Codes Vol. 2 Definitions

Deep soil area - soft landscape area on **lot** with no impeding **building** structure or feature above or below, which supports growth of medium to large canopy trees and meets a stated minimum dimension. Used primarily for **landscaping** and open to the sky, deep soil areas exclude **basement** car parks, services, swimming pools, tennis courts and **impervious surfaces** including car parks, **driveways** and roof areas.

Rootable soil zone / space - areas beyond the primary **deep soil area** under adjacent pavements that are engineered and constructed to support tree root penetration. This is achieved by the use of structural soil and structural cells which are materials for creation of rootable soil zone beneath pavements and other structures. Structural soil involves the use of structural materials, such as rock, that interlock under specified compaction loads while leaving macro spaces that provide rootable soil zone for tree roots. Structural cells are similar but utilise a plastic cell structure to meet the required compaction and loading.

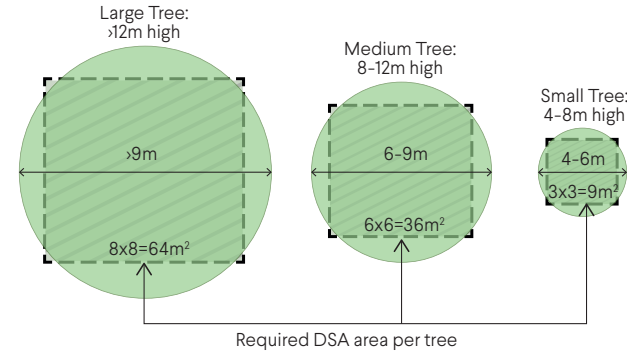


Figure 3.3b Tree size definitions when mature for deep soil areas.

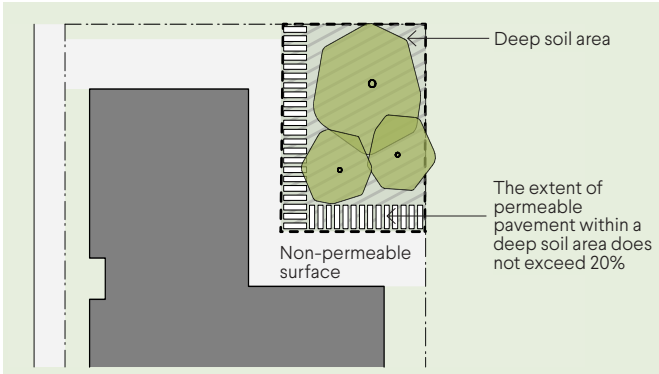


Figure 3.3e Deep soil area and permeable paving (refer A3.3.6).

Table 3.3b Tree sizes

Tree size	Indicative canopy diameter at maturity	Nominal height at maturity	Required DSA per tree	Recommended minimum DSA width	Minimum DSA width where additional rootable soil zone (RSZ) width provided¹ (min 1m depth)	Indicative pot size at planting
Small	4-6m	4-8m	9m²	2m	1m (DSA) + 1m (RSZ)	100L
Medium	6-9m	8-12m	36m²	3m	2m (DSA) + 1m (RSZ)	200L
Large	>9m	>12m	64m²	6m	4.5m (DSA) + 1.5m (RSZ)	500L

¹ Rootable areas are for the purposes of determining minimum width only and do not have the effect of reducing the required DSA.

Table 3.3a Minimum deep soil area and tree provision requirements

Site Area	Minimum deep soil area	Minimum requirement for trees¹
Less than 700m²		1 medium tree and small trees to suit area
700 – 1,000m²	10% OR	2 medium trees OR 1 large tree and small trees to suit area
> 1,000m²	7% if existing tree(s) retained on site (% site area)	1 large tree and 1 medium tree for each additional 400m² in excess of 1000m² OR 1 large tree for each additional 900m² in excess of 1000m² and small trees to suit area

¹ Minimum requirement for trees includes retained or new trees Refer Table 3.3b for tree sizes

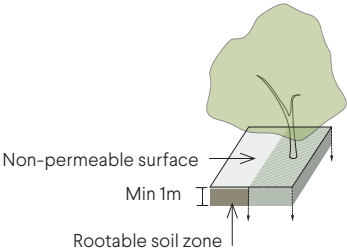


Figure 3.3f Rootable soil zone.

This version of **Planning Practice Note 84: Applying the minimum garden area requirement** has been prepared for use with screen reader software. The printed publication may contain various photographs, captions and design features that have been necessarily omitted from this version. In other respects, this document contains identical text to that in the PDF version of the document which is available at www.planning.vic.gov.au

Planning Practice Note 84

May 2022

This practice note gives guidance about the operation of the minimum garden area requirement in the Neighbourhood Residential Zone and General Residential Zone.

Applying the minimum garden area requirement

What is the minimum garden area requirement?

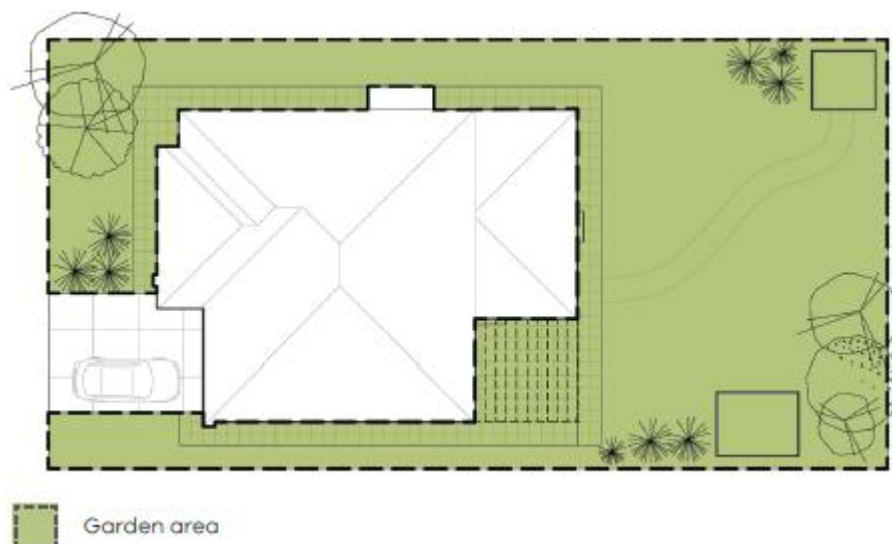
The minimum garden area requirement specifies the percentage of a lot that must be set aside to ensure the open garden character of suburbs is protected.

A dwelling or residential building, including any associated driveway and car parking cannot be included in the area set aside as garden area.

Where does it apply?

The minimum garden area requirement applies to land in the Neighbourhood Residential Zone and General Residential Zone and must be met when:

- constructing or extending a dwelling or a residential building; or
- subdividing land to create a vacant residential lot less than 400 square metres in area.



How much garden area must be provided?

When subdividing land that creates a vacant lot that is capable of being developed for a dwelling or a residential building in the Neighbourhood Residential Zone or General Residential Zone, 25% must be set aside as garden area on each vacant lot created that is less than 400 square metres in area.

When constructing or extending a dwelling or residential building in the Neighbourhood Residential Zone or General Residential Zone, the size of the existing lot determines the minimum percentage of the lot that must be set aside as garden area.

Lot size	Minimum percentage of a lot set aside as garden area
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400 – 500 sqm	25%
Lot size Above 500 – 650 sqm	Minimum percentage of a lot set aside as garden area 30%
Lot size Above 650 sqm	Minimum percentage of a lot set aside as garden area 35%

How is garden area defined?

Garden area is defined in Clause 73 of all planning schemes as:

Garden area

Any area on a lot with a minimum dimension of 1 metre that does not include:

a) a dwelling or residential building, except for:

- an eave, fascia or gutter that does not exceed a total width of 600mm;*
- a pergola;*
- unroofed terraces, patios, decks, steps or landings less than 800mm in height;*
- a basement that does not project above ground level;*
- any outbuilding that does not exceed a gross floor area of 10 square metres; and*
- domestic services normal to a dwelling or residential building;*

b) a driveway; or

c) an area set aside for car parking.

Why are some buildings, works and hard surface areas allowed to be included in the garden area?

The minimum garden area requirement allows the construction of buildings and works that are typically associated with the use and enjoyment of the outdoor areas of a dwelling or residential building.

Consequently, outbuildings and structures such as garden sheds, covered barbeque areas, swimming pools, tennis courts and paved areas including pathways and outdoor entertaining areas can be included in the garden area.

Other relevant planning definitions

Other definitions in clause 73 of the planning scheme are also relevant when applying the minimum garden area requirement. These include:

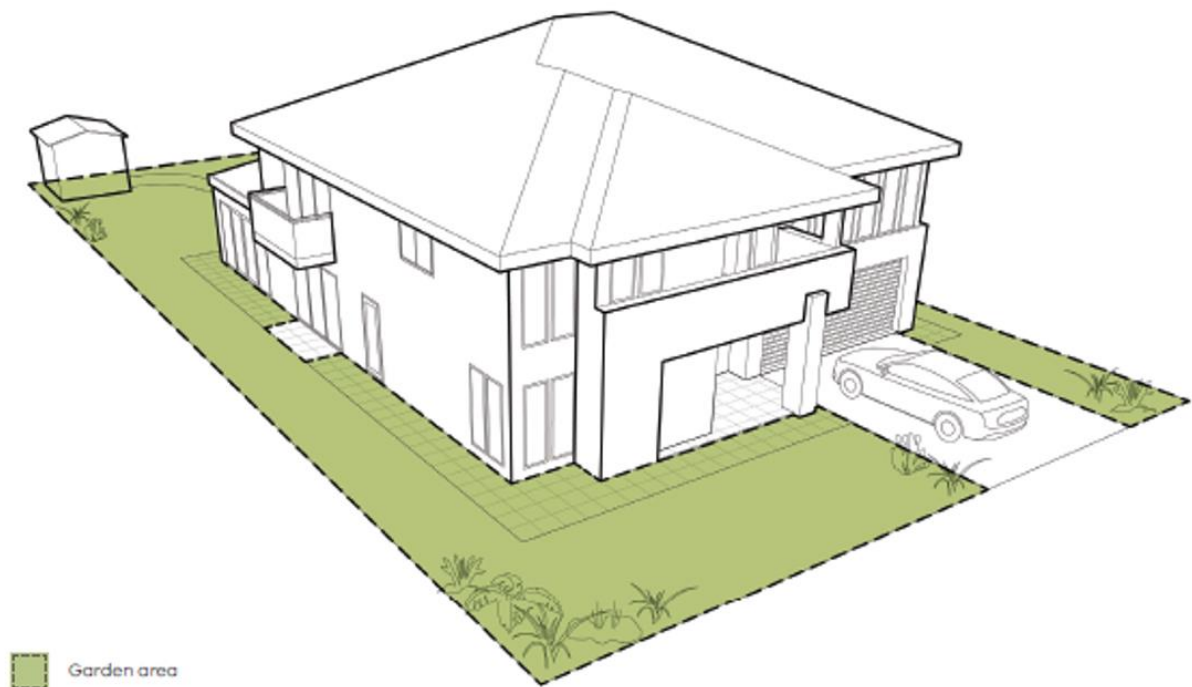
- Basement
- Domestic services normal to a dwelling
- Dwelling
- Ground level
- Lot
- Residential building

Garden area inclusions and exclusions

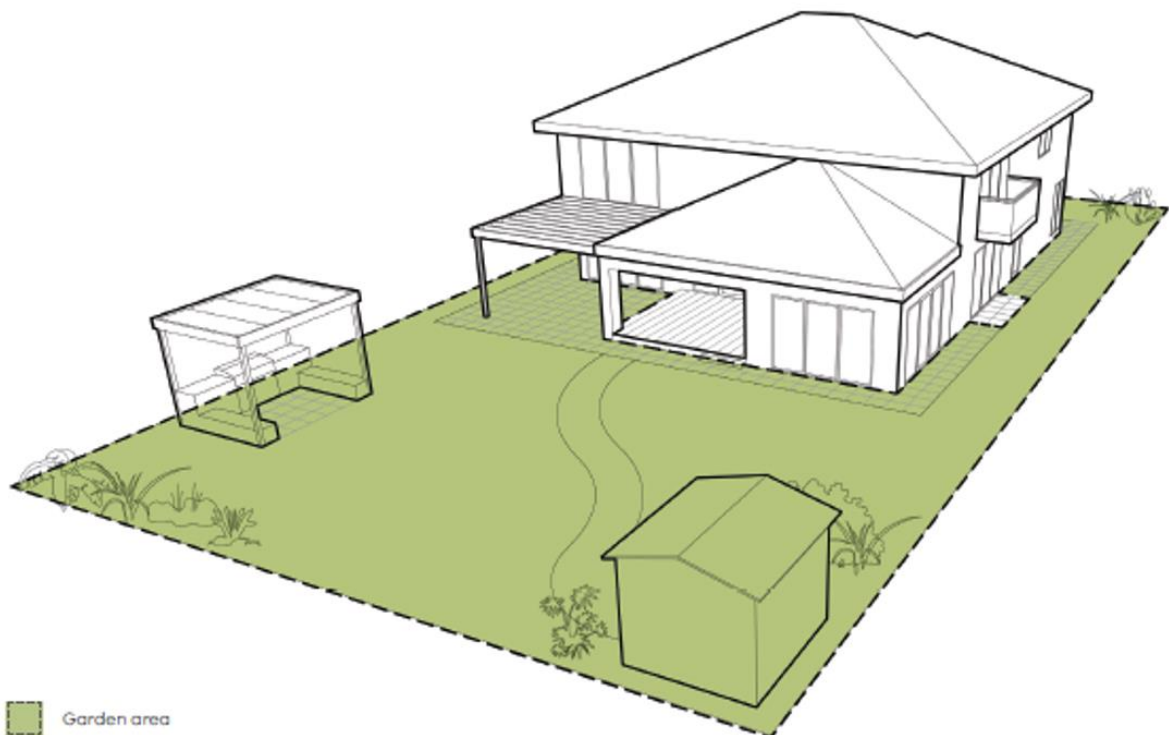
What can be included in the garden area?	What is excluded from the garden area?
<ul style="list-style-type: none"> • The width of any eave, fascia or gutter of a dwelling that does not exceed a total width of 600mm • A pergola 	<ul style="list-style-type: none"> • A dwelling (including any roofed outdoor area forming part of the dwelling) • A basement that projects above ground level

<ul style="list-style-type: none"> • Unroofed terraces, patios, decks, steps or landings less than 800mm in height • A basement that does not project above ground level • Any outbuilding that does not exceed a gross floor area of 10 square metres such as: <ul style="list-style-type: none"> - A garden shed - A gazebo - An arbor - A pool house - A greenhouse - A covered barbeque area • Domestic services normal to a dwelling or residential building including: <ul style="list-style-type: none"> - Sunblinds and shade sails - Flues and pipes - Domestic fuel tanks and water tanks, heating and cooling equipment and other services - Waste receptacle enclosures - Letterboxes • Other structures: <ul style="list-style-type: none"> - A swimming pool or spa - A tennis court - A retaining wall - A fence - A paved area - A private bushfire shelter 	<ul style="list-style-type: none"> • Any area set aside as a driveway providing vehicle access to car parking • Any uncovered or covered car parking including a garage and carport • Any area that has a dimension of less than 1 metre
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Typical single dwelling – front view



Typical single dwelling – rear view



Garden Area Inclusions

Basement below ground level

Any area over a basement that does not project above ground level can be included in garden area.



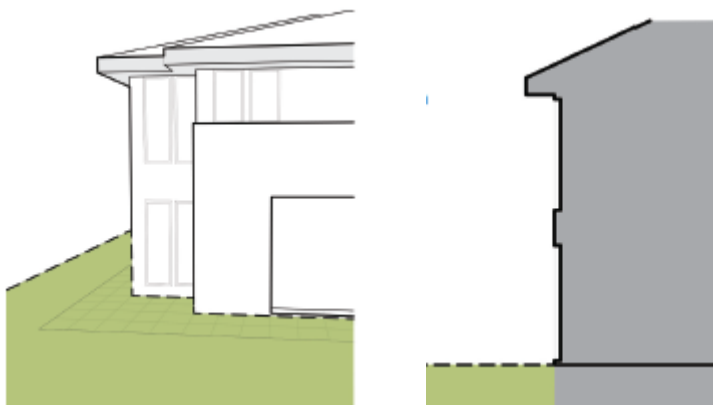
Unroofed terraces, patios, decks, steps or landings

Any unroofed terraces, patios, decks, steps or landings less than 800mm in height can be included in garden area.



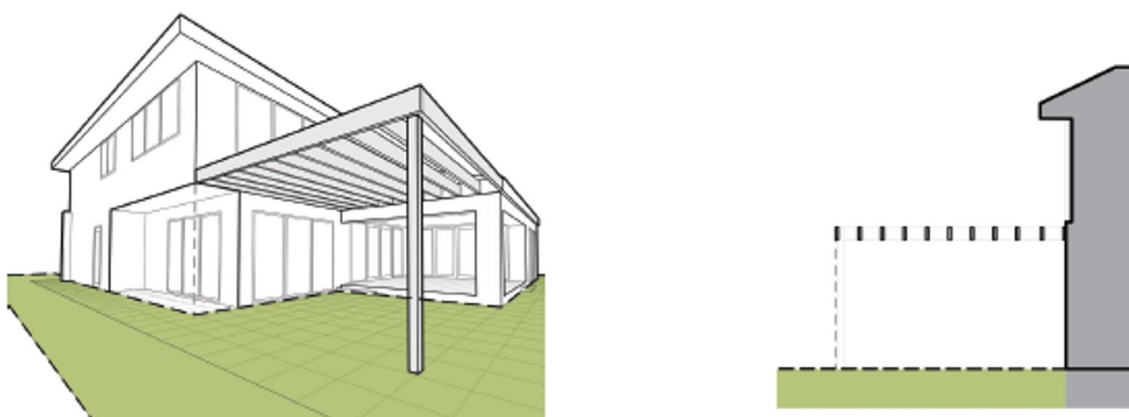
Eaves

Any area under an eave, fascia or gutter that does not exceed a total width of 600mm can be included in garden area.



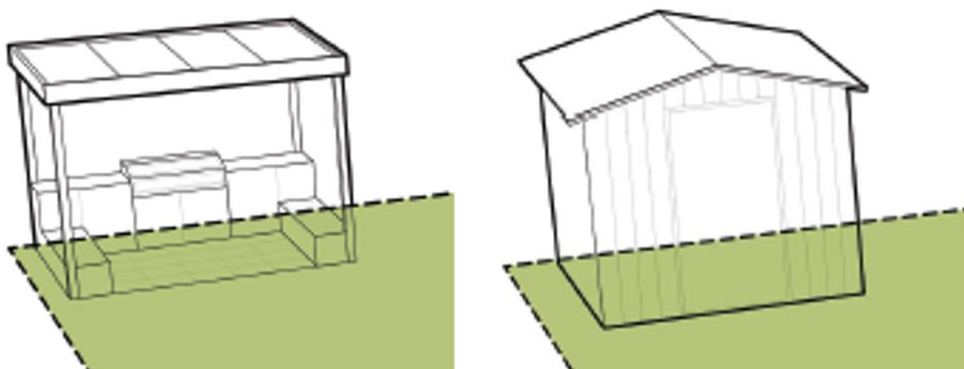
Pergola

Any structure normal to a dwelling, such as a pergola, can be included in garden area.



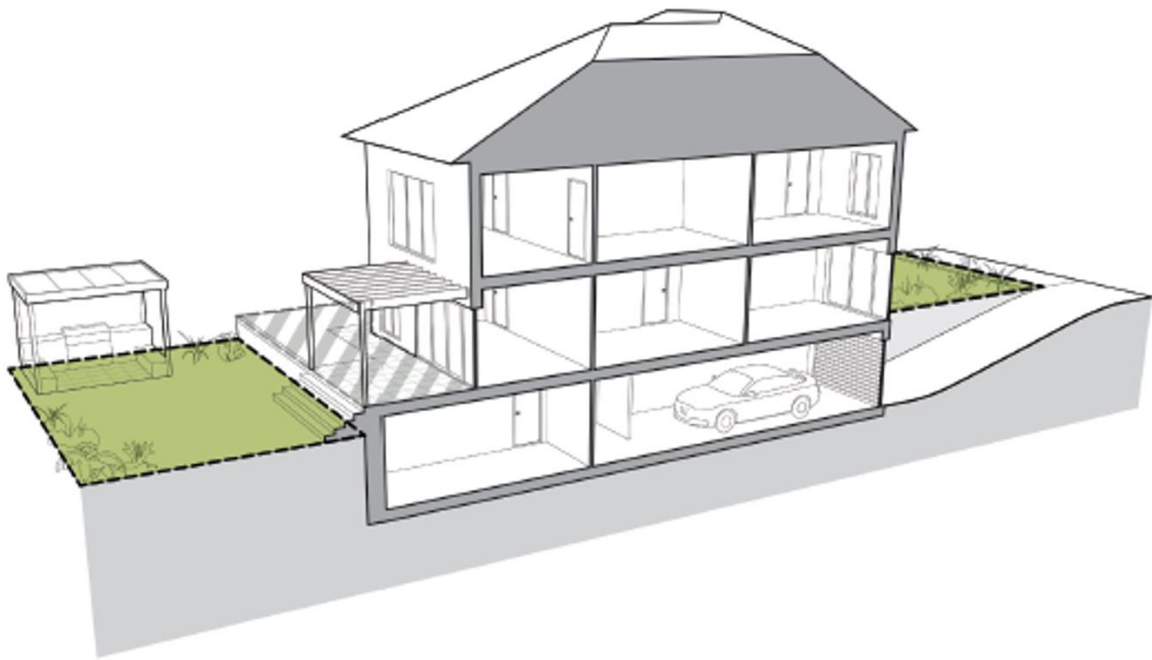
Covered barbeque, Garden shed

Any outbuilding that does not exceed a gross floor area of 10 square metres can be included in garden area.



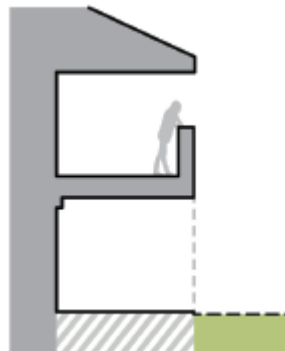
Projecting basement

Any area over a basement that projects above ground level cannot be included in garden area.



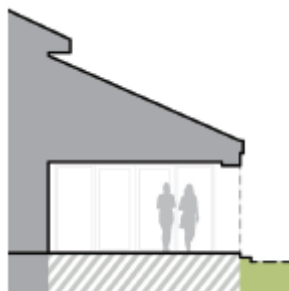
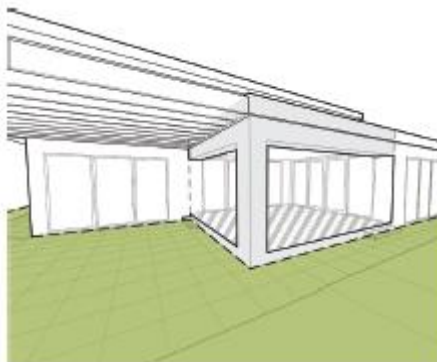
Verandah and porch

Any area under a porch or verandah forming part of a dwelling cannot be included in garden area.



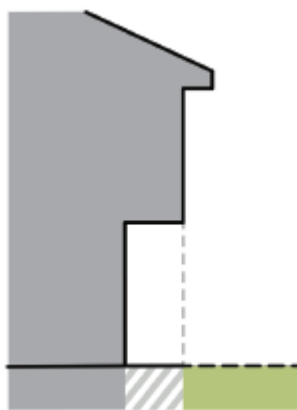
Roofed alfresco area

Any area under a roofed outdoor area forming part of the dwelling cannot be included in garden area.



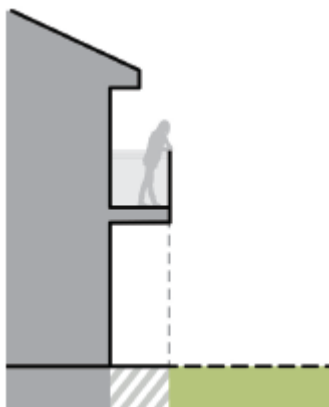
Upper storey building projection

Any area under a building projection forming part of the dwelling cannot be included in garden area.



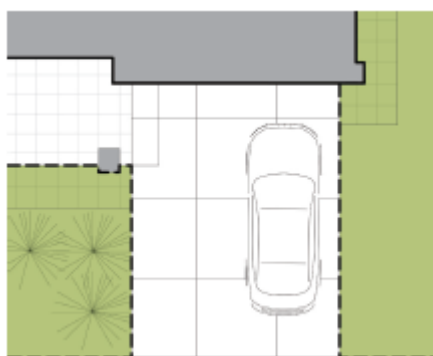
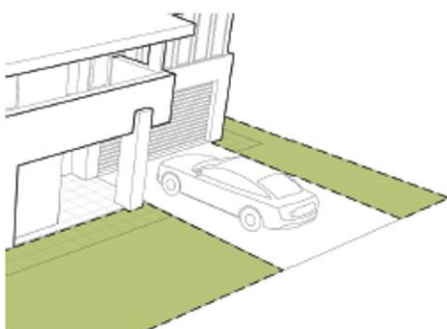
Balcony

Any area under a balcony forming part of the dwelling cannot be included in garden area.



Driveway and car parking

Any area set aside as a driveway and car parking cannot be included in garden area.



How do the subdivision provisions operate?

The minimum garden area requirement applies to a permit application to subdivide land to create a vacant lot that is less than 400 square metres in area capable of being developed for a dwelling or a residential building.

A vacant lot is a lot that does not have an existing dwelling or residential building.

A minimum garden area of 25% must be set aside on each vacant lot created that is less than 400 square metres in area. The minimum garden area requirement is based on the area of the vacant lot being created, not the area of the lot that is being subdivided.

For example, a proposal to subdivide a vacant corner lot of 900 square metres into 3 x 300 square metre vacant lots will require a 25% garden area to be provided on each lot created, not 25% of the original lot.

This ensures that where a dwelling or residential building does not form part of the subdivision application, any housing that is subsequently developed on the vacant lot respects the existing open garden character of the neighbourhood.

Where a vacant lot is used for another purpose such as a local road widening or public open space the minimum garden area requirement does not apply to that non-residential use.

Where a vacant lot less than 400 square metres is proposed, council should satisfy itself as to the best way to secure the 25% minimum garden area. Options include:

- Requiring the garden area to be included as a restriction on the plan of subdivision submitted for certification. This could be in the form of a text notation.
- Entering into an agreement with the owner of the land under section 173 of the *Planning and Environment Act 1987* which requires the approved minimum garden area to be implemented to the satisfaction of the responsible authority.

It is important when securing the minimum garden area that it only applies to residential development of the land so that other non-residential purposes that may occur on the lot are not affected.

Exclusions from the garden area requirement for subdivisions

The minimum garden area requirement does not apply to an application to subdivide land to create a vacant lot that is:

- 400 square metres or greater
- less than 400 square metres where there is an:
 - approved precinct structure plan or equivalent strategic plan.
 - incorporated plan
 - approved development plan.

How do the development provisions operate?

The minimum garden area requirement applies to a planning permit to construct or extend a dwelling or a residential building.

When constructing or extending a dwelling or a residential building in the Neighbourhood Residential Zone or General Residential Zone, the minimum percentage of the lot that must be set aside as garden area is determined by the lot size.

Lot size 400-500 sqm	Minimum percentage of a lot set aside as garden area 25%
Lot size Above 500-650 sqm	Minimum percentage of a lot set aside as garden area 30%
Lot size Above 650 sqm	Minimum percentage of a lot set aside as garden area 35%

Where an application proposes two or more dwellings on a lot, the minimum garden area does not need to be equally distributed to each dwelling. For example, an upper floor apartment does not need to provide any minimum garden area as the garden area requirement relates to the original lot.

Where an application proposes two or more dwellings on a lot and subdivision of the land, the application will be assessed against the minimum garden area requirement for the construction of the dwellings and not the minimum garden area requirement for subdivision.

Where a planning permit has been issued for two or more dwellings, any subsequent subdivision of the land ahead of building construction will not need to be assessed against the minimum garden area requirement.

Exclusions from the garden area requirement for developments

The minimum garden area requirement does not apply to an application to construct or extend a dwelling or a residential building if:

- the lot is less than 400 square metres in area (unless encumbered by the 25% garden area requirement)
- the lot is 400 square metres or greater and is designated as a medium density housing site in an:
 - approved precinct structure plan or an equivalent strategic plan
 - incorporated plan
 - approved development plan
- there is an existing building and it did not comply with the minimum garden area requirement on the approval date of Amendment VC110
- the lot is identified in a schedule to the General Residential Zone that has switched off the minimum garden area requirement.

Why are there exclusions from the garden area requirement?

The garden area exemptions recognise both existing and future residential development patterns that are incompatible with the application of the garden area requirement.

There is no requirement to set aside garden area when creating a vacant lot 400 square metres or greater in area because the minimum garden area requirement only applies when the vacant lot will be developed for a dwelling or residential building.

Conversely, the minimum garden area requirement does not apply to an application to subdivide land where there is an approved residential development as the minimum garden area requirement has already been satisfied as part of the residential development permit.

Lots less than 400 square metres in area that existed before the introduction of the minimum garden area requirement are exempt as they are typically found in older inner-city areas where housing tends to be more urban in style with small front setbacks and compact rear yards or courtyards and in existing suburbs where land has been developed for villa units and town houses.

Applying the minimum garden area requirement to these lots would unfairly limit the capacity to redevelop or renew existing dwellings.

Vacant lots less than 400 square metres in area created in larger brownfield and greenfield locations which are normally master planned from the outset to create a more dense and compact urban character are also exempt. Master planned communities typically integrate small lots and medium density housing sites with the public domain, including accessible green open space areas.

Smaller strategic redevelopment sites or areas with good access to services and facilities may also be identified for conversion and redevelopment to more intensive housing.

The preferred future character of these areas and sites may be different to the existing suburban character that the garden area requirement was introduced to protect so the minimum garden area

requirement may not be appropriate for these locations.

Minimum garden area and precinct structure plans

Precinct structure planning is fundamental to the development of greenfield sites and, along with consolidation in urban areas, is an important part of the State Government's strategy to address strong population growth and the housing and employment demands that flow from this growth.

While the precinct structure plan has become the predominant strategic planning document guiding urban development in greenfield locations, there are older strategic documents that perform the same function and are recognised as an equivalent strategic plan. This may include an Outline Development Plan, a Strategic Framework Plan, a Concept Plan, a Master Plan or a Cell Plan.

Where a Neighbourhood Residential Zone or a General Residential Zone applies to a precinct structure plan or equivalent strategic plan, vacant lots less than 400 square metres in area that are designated medium density housing sites do not need to meet the minimum garden area requirement.

Typical precinct structure plan



Minimum garden area and incorporated plans and approved development plans

Outside designated growth areas there are many areas identified for housing change in established urban areas across Victoria including:

- large urban renewal sites
- areas around major activity centres
- areas along public transport corridors and around train stations
- areas with good access to services and facilities

- small strategic redevelopment sites.

Where these areas are in a Neighbourhood Residential Zone or a General Residential Zone, and an incorporated plan or approved development plan applies to achieve more intensive housing outcomes, vacant lots less than 400 square metres in area and designated medium density housing sites do not need to meet the minimum garden area requirement.

Minimum garden area and the schedule to the General Residential Zone

The schedule to the General Residential Zone also allows the minimum garden area to be ignored for any land identified through the schedule.

Councils will need to determine on a 'case-by-case' basis whether relying on the general exemptions for small lots and designated medium density housing sites in areas covered by a precinct structure plan, other incorporated plan or approved development plan is sufficient; or whether all land in an identified area should be exempted from the minimum garden area requirement to achieve other housing objectives.

Minimum garden area and Rescode

While there may be some overlap between the minimum garden area requirement and some of the existing clause 54 and clause 55 residential standards, such as site coverage and permeability, the minimum garden area requirement is a different requirement to these standards.

The minimum garden area requirement differs from the existing siting and amenity standards regulated under clause 54 and clause 55 of the *Victoria Planning Provisions* in two fundamental ways:

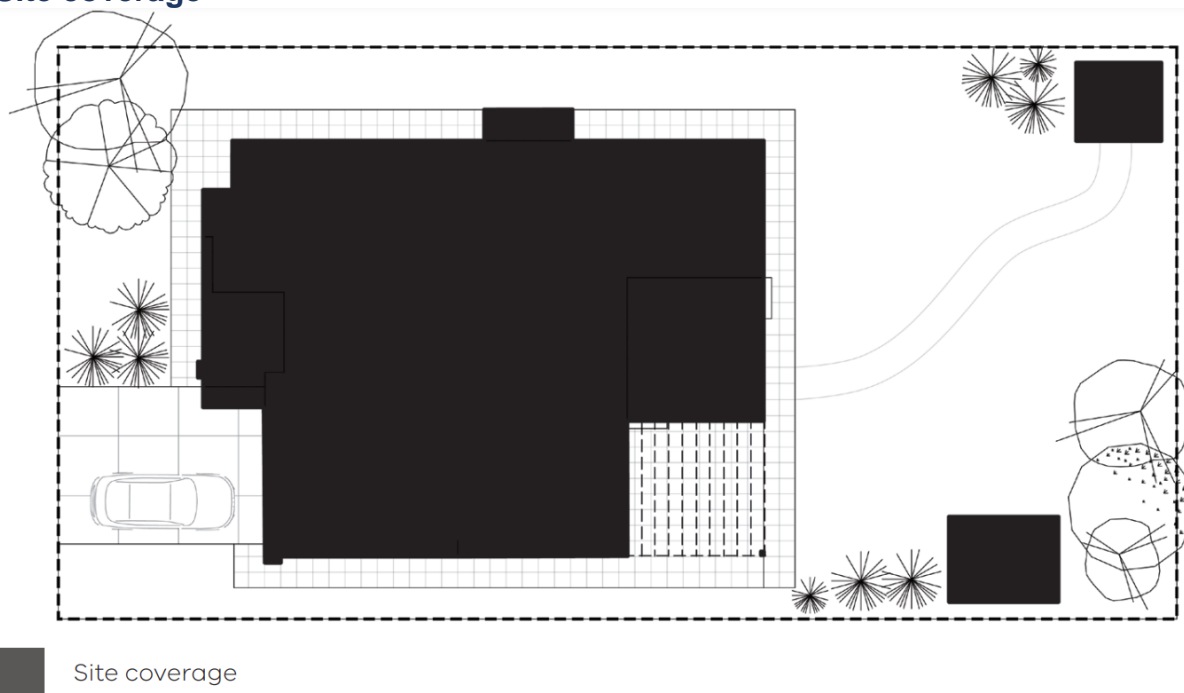
- The minimum garden area requirement is a **mandatory** requirement that must be met and cannot be reduced.
- The minimum garden area requirement is a **separate** requirement that must be met as well as the requirements under clause 54 and clause 55.

ResCode Clauses 54 and 55	Minimum garden area Clauses 32.08-4 and 32.09-4
<ul style="list-style-type: none"> • Must meet all of the objectives that apply to the application. • Should meet all of the standards that apply to the application. 	<ul style="list-style-type: none"> • No objective is required to be met. • Must meet the minimum percentage specified to be set aside as garden area that applies to the application.
ResCode Clauses 54 and 55	Minimum garden area Clauses 32.08-4 and 32.09-4
<ul style="list-style-type: none"> • If a zone or a schedule to a zone specifies a requirement of a standard different from a requirement set out in clauses 54 and 55, the requirement in the zone or schedule to the zone applies.* • If the land is included in a Neighbourhood Character Overlay and a schedule to the overlay specifies a requirement of a standard different from a requirement set out in clauses 54 and 55 or a requirement in the zone or a schedule to the zone, the requirement in the schedule to the overlay applies.* • If the land is included in an overlay, other than a Neighbourhood Character Overlay, and a schedule to the overlay specifies a requirement different from a requirement of 	<ul style="list-style-type: none"> • No scope to specify a different percentage for minimum garden area. • The minimum garden area requirement can be ignored through the schedule to the General Residential Zone.

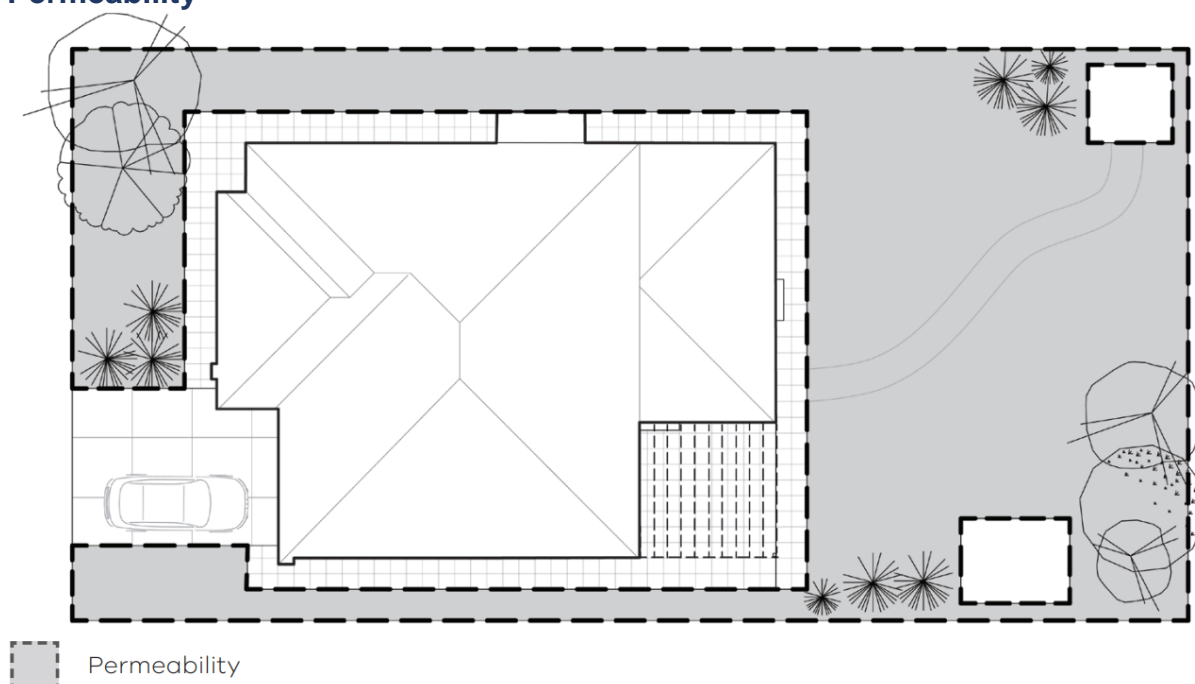
a standard set out in in clauses 54 and 55 or a requirement of a standard set out in the zone or a schedule to the zone, the requirement in the overlay applies.*

* This does not apply to building height. Maximum building height is a mandatory requirement in the Neighbourhood Residential Zone and the General Residential Zone and does not operate as a discretionary Rescode standard under clauses 54 and 55.

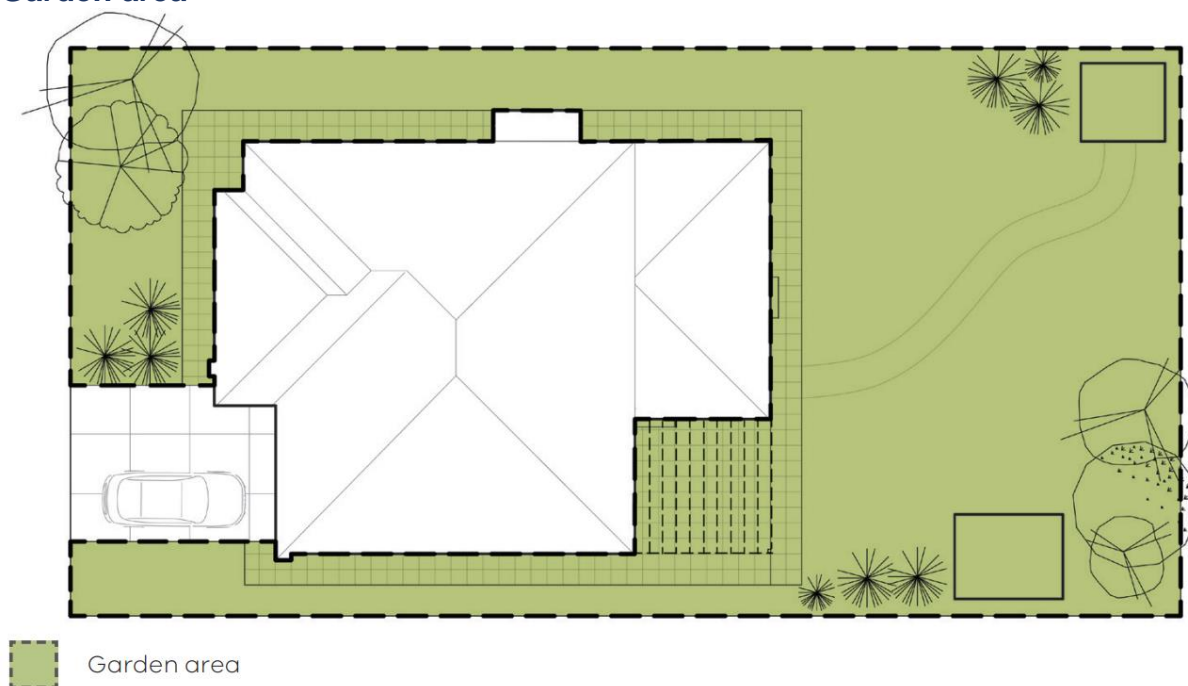
Site coverage



Permeability



Garden area



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