

11 March 2009

Dear ,

RE: OVERLOOKING -

Firstly please allow me to explain that there is a physical situation where people can look into your property from neighbouring or nearby windows, and then there is the legal definition of “overlooking.” It is only when the line of sight falls within the legal definition of “Overlooking” that windows need to be treated or other physical measures taken to prevent overlooking. I have attached a copy of the legal definition, but in summary if a neighbour’s window is more than 9 metres from your window, or at more than a 45 degree angle then it does not qualify as overlooking and does not require special treatment.

I understand that this will not help you as people will still be able to see your windows and back yard and at times it may not seem very private, but it appears the owners and the DRC have complied with all appropriate regulations. I believe the best option for Waterways residents is to ensure the trees required under the guidelines are strategically placed to block the line of sight from your neighbours’ windows.

Please call me if you would like further explanation of this letter.

Yours Sincerely,

Terry Harwood
Local Site & Compliance Officer

Overlooking - Extract from Consolidated Victorian Building Regulations 2006

419. Overlooking

(1) A habitable room window or raised open space of a building on an allotment must not provide a direct line of sight into a habitable room window or on to a secluded private open space of an existing dwelling on an adjoining allotment.

(2) In the case of a direct line of sight from a habitable room window, the line of sight is any line measured from a height of 1.7m above the floor level of the habitable room and contained within the space enclosed by-

- (a) a vertical plane measured at an angle of 45° from each side of the window; and
- (b) a horizontal plane 1.7m above the floor level of the habitable room; and
- (c) the ground level below; and
- (d) a horizontal distance of 9m from the window.

(3) In the case of a direct line of sight from a raised open space, the line of sight is any line measured from a height of 1.7m above the floor level and along the perimeter of the raised open space to any point within a horizontal distance of 9m from the raised open space and extending 45° beyond any point where the perimeter of the raised open space meets a wall of a building.

(4) In the case of a secluded private open space, the horizontal distance of 9m referred to in subregulation (2)(d) or (3) is to be measured at ground level.

(5) A habitable room window complies with this regulation if-

- (a) in the case where a habitable room window provides a direct line of sight into a habitable room window of an existing dwelling on an adjoining allotment, it is offset a minimum of 1.5m from the edge of one window to the edge of the other; or
- (b) it has a sill height at least 1.7m above floor level; or
- (c) it has obscure glazing in any part of the window below 1.7m above floor level; or
- (d) the direct line of sight is obscured by a permanent and fixed screen that has no more than 25% of its area open.

(6) A raised open space complies with this regulation if the direct line of sight into the habitable room window or on to the secluded private open space on the adjoining allotment is obscured by a permanent and fixed screen which has no more than 25% of its area open.

(7) A window referred to in subregulation (5)(c) may be able to be opened provided that when open the obscure glazing does not permit a direct line of sight on to the secluded private open space or into the habitable room window referred to in subregulation (1).

(8) This regulation does not apply to a new habitable room window or raised open space that faces a property boundary if-

- (a) there is a visual barrier at least 1.8m high at the boundary; and
- (b) the floor level of the room or the raised open space is less than 800mm above ground level at the boundary.

(9) The report and consent of the relevant council must be obtained to an application for a building permit in relation to a design that does not comply with this regulation.

(10) In this regulation-

raised open space means a landing with an area of more than 2m², a balcony, a terrace, a deck or a patio;

secluded private open space means any part of private open space on an allotment- (a) which is screened for at least 90% of its perimeter by a wall, fence or other barrier that is at least 1.5m high and that has no more than 25% of its area open; and (b) which is primarily intended for outdoor recreation activities.