

## Building above certain public facilities

This updates the previous *Practice Note No. 2005-06* issued June 2005.

### 1. Summary

Regulation 514 relates to buildings above or below public facilities. This Practice Note explains under what circumstances the provisions of Regulation 514 of the *Building Regulations 2006* (the Regulations) must be complied with. Division 2 (regulations 504 to 513) of Part 5 of the Regulations should be read in conjunction with this Note.

### 2. Background

Previously, the provisions of regulation 514 were contained under regulation 3.13 of the Building Regulations 1994. Under regulation 3.13 (revoked in 1995), consent was required from the Building Commission for buildings built above or below public facilities. It was recognised that these applications were best dealt with by councils, which resulted in the removal of the regulation. Responsibility for consent was passed to the council.

### 3. Application

Examples of public facilities to which this regulation applies include a street, railway or bus terminal. The term “above or below” a public facility should only be construed to mean an elevated or tunnel type building, or structure such as the elevated multi-level pedestrian overpasses connecting major department stores within the City of Melbourne. An airline terminal building constructed at ground level, or bus shelters built at street level, should not be regarded as constructed “above” a public facility.

### 4. Projection-related regulations

Regulations 504 to 511 inclusive and regulation 513 all deal with situations where a part of a building, or attachment to a building, projects beyond the allotment boundary. Pursuant to regulation 504, these projections are as-of-right, provided that they meet the prescribed limitations of this regulation. Regulation 513 provides discretionary powers for the council to vary the as-of-right requirements.

### 5. Purpose of regulation 514

Regulation 514 is intended to be read as a stand-alone provision, dealing with “a building”, including a part of a building, constructed above or below certain public facilities. It relates to a broader range of buildings than those described in the other projection-related regulations. Accordingly, Regulation 514 clarifies that this requirement relates to all buildings above or below the prescribed public facility and is not aimed at building work projecting from other buildings.

Consent by council pursuant to Regulation 514 eliminates the need to obtain a modification to Regulation 504 from the Building Appeals Board.