



Understanding Planning

Fences

Planning & building rules

Under the provisions of the Nelson Resource Management Plan (NRMP) a fence that meets specific height requirements can be erected without resource or building consents.

A fence (or wall other than a retaining wall) no higher than 2.0m is not classed as a building for the purposes of the NRMP but is classed as a structure.

Buildings (as defined in the NRMP) are also controlled by daylight provisions and location within yards – this is to ensure that buildings do not cause any adverse environmental effect to adjoining neighbours.

A fence more than 2.0m high requires a building consent and a resource consent – this is to ensure such structures are erected to a satisfactory safety standard and do not impose on the amenity of the area.

Meaning of words

Fence includes a hedge.

Hedge means a row of shrubs capable of developing to a height of over 1.0m, having branches or leaves that interleave so as to form a visual or physical barrier.

Height in relation to a structure means either:

- a) the vertical distance between any part of the structure and ground level immediately below that part of the structure, or
- b) the vertical distance between the highest part of the structure and mean ground level.

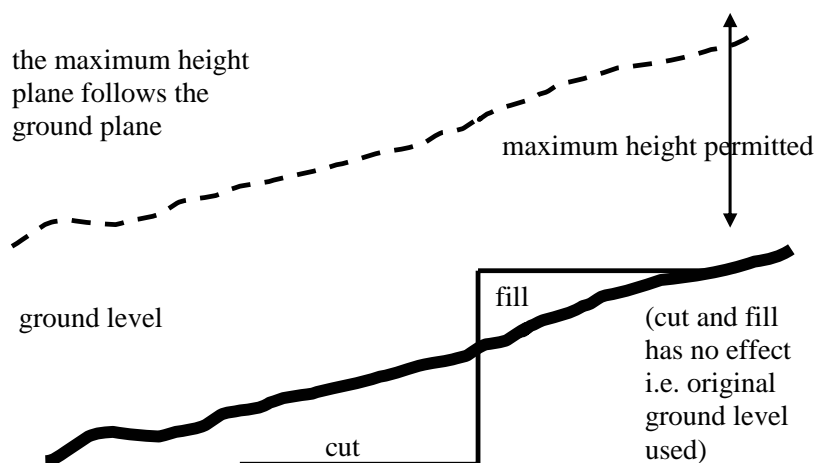
Snipe means a corner set back 1.5m from each direction within which no structures (other than a fence 1.0m high maximum) is permitted in order to improve traffic visibility.



Ground Level means the original ground level, or the finished ground level for earthworks where:

- a) 'original ground level' means the level of the ground that existed before any excavation for new buildings or structures on the land undertaken, and
- b) 'finished ground level' accords with the ground level dictated by i), ii) or iii) below, where infilling must be undertaken to the level required to deal with the hazard, but before any excavation or infilling for new buildings or structures on the land is undertaken:
 - i) a rule in the plan relating to low lying sites, or
 - ii) a resource consent granted in relation to flooding or inundation, or
 - iii) a resource consent granted for a subdivision.

Where there is a retaining wall or other engineering structure at the boundary of the site required to achieve b) above, the finished ground level (for the purposes of defining daylight angles) will be the level of the site immediately behind the structure intended to ensure the stability of the site at the finished level.



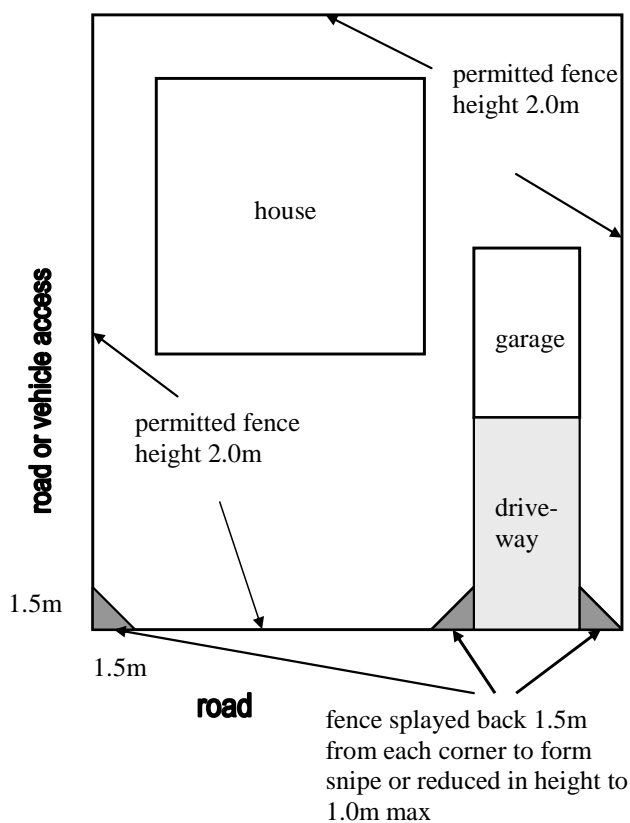


Council requirements

Where the fence is within 1.5m of any (yours or your neighbours) vehicle or on corner sites where the two road frontages converge the fence must either:

- be reduced in height to 1.0m **or**
- be set back from the corner 1.5m from each corner

also the fence must not overhang the vehicle access and any gate must not be able to be opened beyond the road boundary of the site



Fencing Act provisions

The Fencing Act 1978 is the law that controls the issues between neighbours regarding the construction and/or maintenance of fences.

Note that the Council does not enforce this Act. Any disputes are a civil matter, which must be resolved between the affected parties.

Sometimes properties have covenants (agreements) registered on titles, which may direct what arrangements are to be made regarding fencing issues.

Usually in a new subdivision the subdividing owners exempt themselves from having to contribute to the cost of a fence.

In all other cases the following provisions under the Fencing Act apply:

- you do not have to have a fence but any fence erected must be adequate, i.e. reasonably satisfactory for its purpose depending on the circumstances;
- the cost of building and/or maintenance of a fence is borne equally between adjoining owners (if one neighbour damages the fence that person however must pay the cost of all repairs);
- all fences that are jointly paid for must be on the boundary line;
- you can obtain a contribution to the cost of the fence from your neighbour only if you serve them a notice and otherwise follow the procedures laid down under the Fencing Act;
- disputes regarding a fence, such as its type and cost, can be dealt with by a court but it is obviously better to reach agreement if you can. If you think you may have to take legal proceedings you would be wise to contact your solicitor

There are special provisions under the Property Law Act 1952 which enables the occupier of a residential property to apply to a district court to remove or alter a fence if the fence is injuriously affecting the land or is unduly obstructing a view.

Any fence that is provided as a safety barrier to a swimming pool under the Fencing of Swimming Pools Act 1987 must comply with special provisions and you have to obtain Building Consent before you can erect such a fence.

If you need any further information please do not hesitate to contact the Nelson City Council's Planning and Consents Division and ask to talk to the Duty Planner.
Direct Dial Tel: (03) 546 0357