

# Fact sheet

## Fencing Legislative Requirements

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### Introduction

The Building Regulations 2018 control and monitor fences on allotments exceeding 300m<sup>2</sup>.

Residential properties within an area controlled under the planning scheme must comply with any siting control of the local planning scheme. Contact Council's Planning Department for information on the Planning scheme.

For Building permit requirements for fences, please refer to the Fencing Fact Sheet.

### **Building Regulations 89 - Front fence height**

The height of a fence, or part of a fence, that is within 3m of the street alignment at the front of that allotment must not exceed a maximum height of 2m for declared road (major road as referenced in Melways. i.e. Nepean Highway) and 1.5m in any other case.

### **Building Regulations 90 - Fence setbacks from side and rear boundaries**

A fence exceeding 2m in height must be set back from a side or rear boundary (including a boundary that is a side or rear street alignment) not less than the distance specified in the following table:-

Fence height at any point	Minimum setback from side or rear boundary at that point
More than 2m but not more than 3.6m.	1m
More than 3.6m but not more than 6.9m	1m plus an additional distance calculated at the rate of 300mm for every metre of height over 3.6m
More than 6.9m	2m plus an additional distance calculated at the rate of 1m for every metre of height over 6.9m.

### **Building Regulation 91 - Fences on or within 150mm of side or rear boundaries**

The total length of fences that are more than 2m in height and that are constructed on, or within 150mm of, a side or rear boundary of an allotment, or that total length combined with the length of any wall, or carport, or wall and carport must not exceed the greater of the following:-

- 10m plus 25% of the remaining length of the boundary of an adjoining allotment; or
- the length of any wall or carport constructed on the adjoining allotment that is on or within 150mm of the boundary of that allotment and that abuts those fences.

A fence constructed on or within 150mm of a side or rear boundary of an allotment must not exceed:-

- an average height of 3m; and
- a maximum height of 3.6m along the boundary.

If a fence abuts an existing wall, it may be constructed to the same height as that wall.

These requirements do not apply to a fence if it is:-

- constructed on or within 150mm of a boundary that is a side or rear street alignment, or
- provided to comply with the overlooking requirements or with any planning scheme that regulates the same matters as the overlooking provisions of the Building Regulations and
  - is not greater than 2.5m in height; and
  - the part of the fence between 2.0m and 2.5m in height has between 20% and 25% of its area open.

### **Building Regulation 92 - Fences on street alignments**

Despite the requirements outlined in Regulation 425 above the maximum height of a corner fence within 9 metres of the point of intersection is not permitted to exceed 1m in height above the footpath.

A fence adjacent to a street alignment or public open space must not contain barbed wire or other sharp protrusions unless:

- the fence is setback at least 150mm from the street alignment or public space, or
- the barbed wire or other sharp protrusion is at a height of at least 2m, above the level of the street or public space.

### **Building Regulation 94 - Fences and daylight to windows in existing dwelling**

A fence more than 2m in height must be set back from a habitable room window in an existing dwelling on an adjoining allotment to provide for a light court to the window that has a minimum area of 3m<sup>2</sup> and a minimum dimension of 1m clear to the sky.

The area of the required light court may include land on the adjoining allotment.

A fence with an average height of more than 3m opposite a habitable room window in an existing dwelling on an adjoining allotment must be setback from that window at least half the height of the fence if the fence is within 55° angle in the horizontal plane about a vertical axis through the centre of the window.

The angle may be swung to not less than 35° from the plane of the wall containing the window.

If the window is above the ground floor level, then for the purposes of that sub-regulation, the fence height is to be measured from the floor level of the room containing the window.

**Building Regulation 95 - Fences and solar access to existing north-facing habitable room windows**

This regulation applies if:-

- a fence more than 2m in height is to be constructed on an allotment; and
- a north-facing habitable room window or part of a window of an existing dwelling on an adjoining allotment is within 3m of a boundary of the allotment on which the fence is to be constructed; and
- the window is orientated towards the boundary.

The proposed fence must be setback from the boundary not less than the distance specified in the table below for a distance of 3m from the edge of each side of the window or that part of the window that is within 3m of the boundary.

Fence height at any point	Minimum setback from side or rear boundary at that point
3.6m or less	1m
More than 3.6m but not more than 6.9m	1m plus an additional distance calculated at the rate of 600mm for every metre of height over 3.6m
More than 6.9 metres	3m plus an additional distance calculated at the rate of 1 metre for every metre of height over 6.9 metres

A north facing window is defined as a window with an axis perpendicular to its surface oriented north 20° west to north 30° east.

**Building Regulation 96 - Fences and overshadowing of recreation private open space**

A fence more than 2m in height must not reduce the sunlight to a recreational private open space of an existing dwelling on an adjoining allotment to the extent that less than the required minimum area of the recreational private open space has less than 5 hours of sunlight between 9a.m. and 3p.m. on 22 September.

If a fence is to be constructed on an allotment and the existing amount of sunlight to a recreational private open space on an adjoining allotment is less than the amount required, the amount of sunlight to that area must not be further reduced by the construction of a fence.

In this regulation the required minimum area of a recreational private open space is the lesser of:

- 75% of the recreational private open space; and
- 40m<sup>2</sup> with a minimum dimension of 3 metres.

For the purpose of this regulation, *Recreational Private Open Space* means any part of private open space on an allotment which is:

- at the side or rear of an existing dwelling on the allotment; or
- within the front setback of an existing dwelling on the allotment and 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
- which is primarily intended for outdoor recreational activities.

### **Building Regulation 97 – Masts, poles, etc.**

The report and consent of Frankston City Council must be obtained prior to an application for a building permit to construct a mast, pole, aerial, antenna, chimney, flue, pipe or other service pipe which:-

- when attached to a building , exceeds a height of 3m above the highest point of the roof of the building; or
- when not attached to a building, exceeds 8m above ground level.

### **NOTES**

- As a fence between properties is usually joint ownership, both parties need to be in agreement prior to any alterations or additions to that fence.
- Irrespective of whether a building permit is required or not, all fences must comply with the building regulations.

The information contained in this Fact Sheet is based on the current legislation at the time of publishing. It is recommended that specific information be obtained prior to the design process with respect to compliance with the Building Act 1993 and Building Regulations 2018.

For further information please telephone the Victorian Building Authority on 1300 815 127 during business hours or email <http://www.vba.vic.gov.au/about/contact>.