



FENCING GUIDELINE

1. INTRODUCTION

It is common practice that property owners' erect fences around their homes and property to provide security from passive surveillance and stray animals from entering the property. At the same time, safeguard young children from entering the street/main road. As a result, there is an increasing number of fencing activities noticeable throughout the country. These activities can often give rise to disputes around fence location and installation as well as visually impacting on the streetscape and obscuring traffic views.

This guideline outlines the requirements for erecting property fences in order to manage and control the construction of fences in both urban and rural areas. It also provides advisory notes for property owners on designs/types of fences to ensure community character is maintained and to provide for the efficient functioning of the road network for vehicles and pedestrians.

This March 2022 version of the Fencing Guideline is the updated versions and succeeds the Draft Guideline for erecting property Fences 2011.

2. PURPOSE

The purpose of the guide is to provide standard requirements for erecting a fence in order for the Agency to consistently assess development consent applications for fencing. The standards will form a basis for discussion between the applicant and the Planning and Urban Management Agency.

However, it is recognized that situations may arise where fencing standards may be negotiated to suit particular purposes for erecting a fence, for instance as noise barriers or firewall. In such circumstances non-compliance will require a greater level of assessment and the appropriate requirements will be determined by the Agency.

3. OBJECTIVES

The following objectives have been identified for this guide:

- Provide the requirement for a Development Consent Application for fences.
- Assist developers with understanding the requirements when planning for a fence
- To avoid any dispute between neighbors on the location, height or visual impacts of fences being constructed.
- To ensure that the safety of road vehicles and pedestrians is considered when fences are constructed.
- Encourage appropriate designs to minimize adverse impacts on community amenity.

4. DEVELOPMENT CONSENT APPLICATION (DCA) REQUIREMENTS

The guideline provides standards for any types of fencing. For the Agency to assess applications for fence construction, the developer or applicant must submit the following:

4.1. Site Plan

A site plan—sometimes called a layout plan/site layout/site analysis/plot plan—is an architectural document that functions as a readable map of a building site, giving all the details that is needed to know about how the structure will be oriented on the lot. An architect, draftsman, engineer, builder or contractor can create Site Plans that shows the plot of land and its property lines, along with its landscape features, structural elements, setbacks, driveways, utility poles and power lines, fencing, and on-site structures.

The Site Plan must be based on a survey drawing produced by a qualified surveyor and contain a reference number and date as well as include an analysis of existing environmental, physical and socio-cultural features. A Site Plan ensures that.

- The design of the proposed fence should respect the conditions of the site and external influences on the site environment.
- Preparing a site analysis will ensure that the site and its environment have been considered during the site assessment process. The applicant can then view these features as opportunities or constraints during the design process. In this way, the applicant can potentially take advantage of the special features of the site including any risks and hazards, thus contributing to a better-quality living environment.
- The applicant must submit a Site Plan and the design response (or design drawings) when applying for a Development Consent with PUMA. This is mandatory and very vital for all the applicants to show within the site analysis they provide the actual location of the proposed fence on owner land parcel.

Importance of Site Plan

- To show the proposed alignment of the fence to ensure it will not be encroaching on road reserves and neighboring land lots.
- To ensure that the proposed fence alignment will not impact or negatively affect the existing environment.
- To ensure that the proposed fence alignment will not impact or block drainage paths.

DEVELOPMENT STANDARDS

4.1.1. Title

The Site Plan must have a title to explain what the proposed development is, the developers and location of proposed development (E.G Site Plan for New chain-link Fence for Mr. and Mrs. Ato, Vaiala, Vaimauga West.)

4.1.2. North Arrow Direction (True North)

The Site Plan must be accurately orientated to True North in order to determine the layout of the proposed fence on the site. The True North must be indicated by a North Arrow on the top right hand of the Site Plan.

4.1.3. Property Boundary Line

The Site Plan must be scaled and provide accurate dimensions of the legal (or surveyed) property boundaries and easements (right of way access into the property). The property boundary and easements must use Metric Measurement Units in meters (m).

4.1.3.1. Freehold Land Property Line

The Site Plan must clearly show the surveyed Property lines for the land parcel that the fence will be built on.

If the property line is unclear the land must be surveyed by a licensed surveyor in order to determine land boundaries.

4.1.3.2. Customary Land

For Customary land that have no formal land boundaries, the site plan must show the:

- a) the proposed alignment of the fence and its distance/setbacks from the nearest neighboring properties.

4.1.4. Fence alignment

The Site Plan must also clearly show the building footprint or the alignment of where the proposed fence is to be built. This guideline includes all types of fences whether they be property boundary fences or when proposed fence is within the developer's property. These include but not limited to.

- A. Security fences
- B. Pool fencing
- C. Livestock fencing (livestock however is not recommended in urban areas)
- D. Temporary construction fence

4.1.5. Setbacks

For Fences, the alignment of where the fence must be built is strictly the two situations below

- i. Exactly on the surveyed legal property boundary line.
- ii. Within the legal property boundary line of the developer.

4.1.6. Drainage

Fencing, particularly solid fences, should allow for all-natural drainage to proceed across the surface of the ground without hindrance. Overland flow paths shall be shown on the site plan.

4.2. Land Ownership Documentation

The Development Consent Application also requires evidence of land ownership of where the proposed fence will be built. The Samoan Land Tenure system consists of three main types of land ownership; Freehold or Privately owned Land, Government (or State) owned Land and Customary Owned Land (Also known as Traditional or Cultural Land). The Development Consent Application requires documentation, evidence and proof of ownership

Freehold land includes private individually owned land, co-owned land, estates, corporation or company owned land and Church Land. Lands that are leased are also included in this type of land ownership.

Customary Land are traditional lands under the custodianship of the Family chiefs or Matai's and the Alii and Faipule Council of each traditional village.

The Development Standards below give details on the correct and accepted types of land ownership documentation specific to each type of land ownership type that must be provided in the Development Consent Application.

DEVELOPMENT STANDARDS

4.2.1. FREEHOLD LAND

4.2.1.1. Computer Folio from MNRE

This is the land registry which registers titles and properties, and the computer folio shows the name of the owner. It shows details of other person's rights over the land such as mortgages/charges easements and other rights. It is a document to prove rightful owner/s of a land and it is issued from the Ministry of Natural Resources and Environment.

4.2.1.2. Land Deed with Stamp Duty

A property deed is a legal document that transfers the ownership of real estate from a seller to a buyer. For a deed to be legal it must state the name of the buyer and the seller, describe the property that is being transferred, and include the signature of the party that is transferring the property and include a legal seal.

4.2.2. Government Land

4.2.2.1. MNRE Lease Agreement

A copy of the formal and current Lease Agreement between the Landowners (Government Land is administered by the Ministry of Natural Resources and Environment 'MNRE') and the Lessee (who must be the developers that are signing off in the DCA).

4.2.2.2. Endorsement from CEO

For land under the ownership of Samoa Land Corporation or are registered to a specific Government Agency or State-Owned Enterprise a consent letter from the head of the respective Government agency must be provided and must clearly state

- The date (no less than 14 days older than the date when the DCA is lodged)
- the name of the landowner(s)

- their consent for the developer (state the name)
- the location of the land
- legal land parcel details
- survey plan number
- Stamped with the Common Seal of the office
- Signature of Head of the Agency

4.2.3. Private or Other Type of Leased Land

4.2.3.1. Copy of Lease Agreement

A copy of the formal and current Lease Agreement between the Landowners and the Lessee (who must be the DCA applicant/developers that are signing off in the DCA).

4.2.3.2. Consent Letter

In the absence of a formal lease, the applicant may provide a Letter of Consent (preferably typed and if handwritten then the writing must be legible) it must clearly state

- The date (no less than 14 days older than the date when the DCA is lodged)
- the name of the landowner(s)
- their consent for the developer (state the name)
- the location of the land
- legal land parcel details
- survey plan number
- Signature of the Owner

4.2.4. Customary (Traditional/Cultural) Land

Customary Land are administered and are under the custodianship of the Family or Village Matai either individually or through the council of Alii and Faipule.

4.2.4.1. Certification Document(s) from Land & Title Court Division of the Ministry of Justice and Court Administration.

The Applicant MUST provide certification from the Land & Title Courts (LTC) with the official Courts stamp/seal, of the recognized Matai Title and also the registered person(s) under that Matai title that has authority to make decisions for the land in the application.

The provided document(s) from the LTC will confirm the rightful matai title and also the current registered person holding that matai title associated with the land in the development application and will ensure that there will be minimal disputes. The certification from LTC will also provide confirmation on

- the title for land in question is vacant and who can make decisions pertaining to the land and its uses, in the interim
- customary lands or titles are under legal disputes
- registered and uncontested person holding the matai title.
- Any other related issues to the land title.

4.2.4.2. Consent Letter

The Applicant also must provide a Letter of Consent (preferably typed and if handwritten then the writing must be legible) from the Sa'o(s) who is the confirmed custodian of the customary land for the proposed development named in the Lands and titles Court documents in 4.2.4.

The Consent letter must clearly state.

- The date (no less than 14 days older than the date when the DCA is lodged)
- the name of the true land custodians (the Sa’o who land is under, and this should match the certification from Lands and Titles Court)
- their consent for the developer (state the name)
- their consent for the proposed fence (clearly state the proposed development)
- the location of the land
- Must be signed with an ink pen

The applicant must submit the original signed Consent Letter together with the DCA.

4.2.4.3. Signed Consent in DCA Form

The applicant must also have the landowner(s) sign and date the section on Land Ownership within the PUMA Development Consent Application form.

4.3. Design Plans/Drawings

The design plan must include a site plan or sketches showing the proposed development to scale. The applicant will be expected to show how the design of the proposed development derives from the site plan.

DEVELOPMENT STANDARDS

4.3.1. Height

Height is measured from the ground level adjacent to the outside edge of the fence. When fences are constructed on top of walls (see section 6.2 Structural Walls), only the height of the fence in the calculation of height. The structural walls will need to comply with the standard listed in section 6.2.

Fences shall not exceed the following height limits:

Table 1: Fence Location and Standard Heights

Fence location:	Standard height (maximum):	
	Opaque fences type (cannot see through)	Transparent fences type (Can see through)
Front yard on an interior parcel	2.5 meters	2.8 meters
Front yard on a corner parcel	2.5 meter	2.8 meters
Side yard on a flanking road	2.5 meter	2.8 meters
Interior side and rear yards	2.5 meters	2.8 meters
Vision clearance triangle	1.5 meter	2.8 meters

A specific case where the maximum height is exempted is in the example of a Prison/Correctional facility where the required height for a fence for this type of property may exceed the height standard for normal fences in order to serve its function and purpose of building, the height standard can then exceed the maximum height standards given in Table 1 and should strictly follow the building standards of the National Building Code 2017.

4.3.2. Gate

Property fences should allow for at least one gate suitable for a standard road vehicle for property access.

- 4.3.2.1. Swing gates must open into the property to avoid hindering pedestrians and traffic flow.
- 4.3.2.2. For vehicular access gate, the gate must be located at a minimum of 5.5 meters from the road shoulder to ensure that when vehicles turn in and out of the access, that they do not block traffic.
- 4.3.2.3. Minimum gate width for road vehicles should be 3.0 meters and minimum gate width for pedestrians should be 1.5 meters.
- 4.3.2.4. Gates for vehicles shall be located no closer than 5 meters to any road intersection corner.

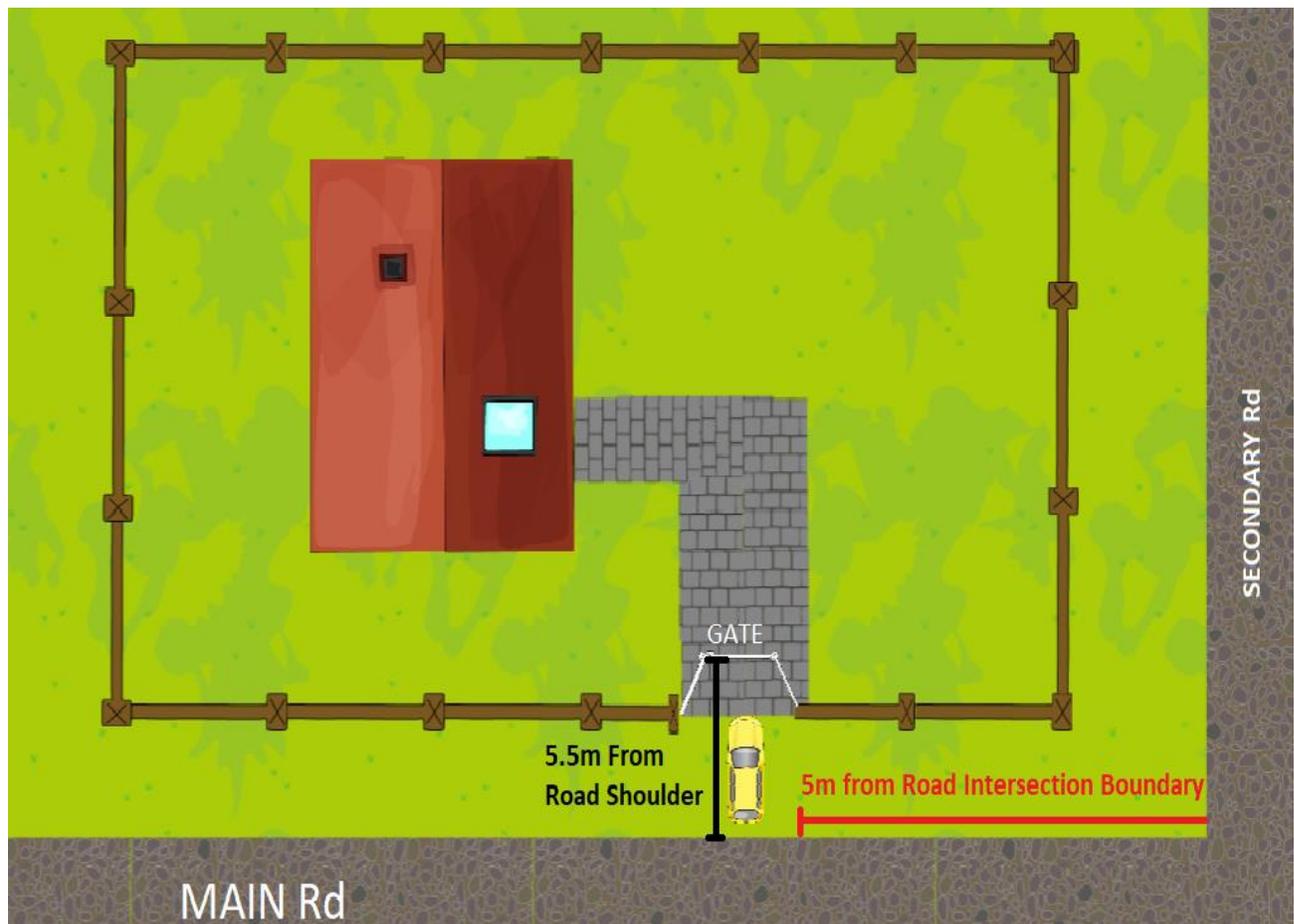


Figure 1: Illustration showing the set back of the gate from the road shoulder as stipulated in 4.3.2.2 (shown in the *black* line) and the setback of the gate from an intersection corner as stipulated in 4.3.2.4 (shown in the *red* line)

4.3.3. Vision Clearance Triangle

A vision clearance triangle also known as a clear sight triangle is a triangular portion of corner lots where the fencing must comply with the standards for Vision clearance triangles provided below. This vision triangle is extremely important to provide a line of sight for drivers so to avoid accidents (see Figure 2).

The vision clearance triangle shall be measured from the corner of the road intersection (at the road shoulder). See the figure below for an illustration.

The following table outlines the Vision Clearance Triangle lengths for two types of roads.

Table 2: Standard Clearance at Road Intersection

Intersection	Standard
Access Road x Access Road	3m x 3m
Main Road x Access Road	5m x 5m
Main Road x Main Road	5m x 5m

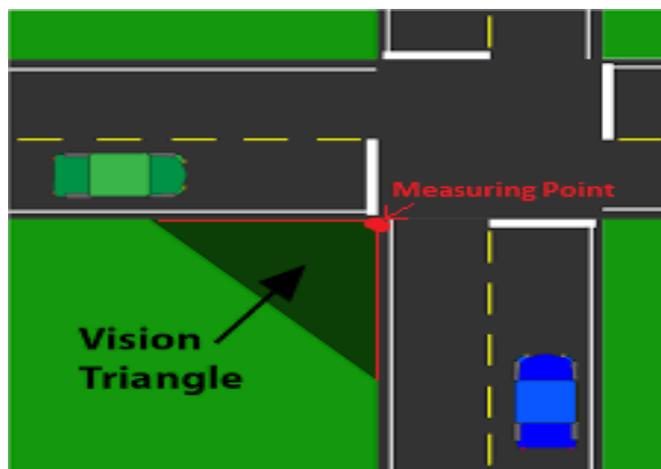


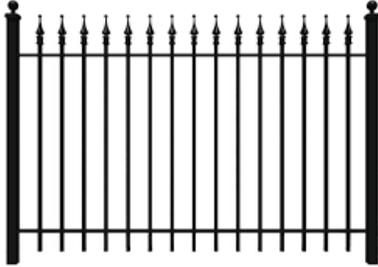
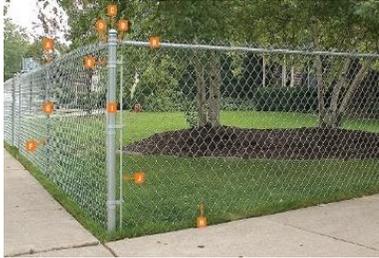
Figure 2: Vision Clearance Triangle

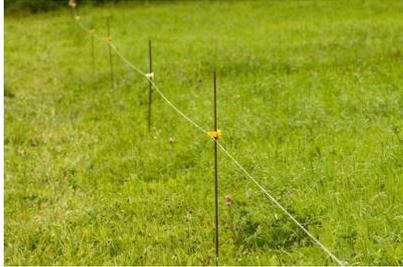
For these Vision Clearance triangle area, the fencing requirements must comply with the following

- 4.3.3.1. The fence is see-through (example a chain link fence with no hedge) this type may follow the specified height standards in section 4.3.1.
- 4.3.3.2. For opaque fences including hedges, the maximum height for the vision clearance triangle is 1 meter.
- 4.3.3.3. The fence can also be a mix of opaque fence type (for example a brick wall or a hedge) up to 1 meter in height and a transparent type (e.g., a chain link or metal mesh) from the 1-meter mark up to the maximum height specified in the Heights section 4.3.1. (Refer Appendix: Type of Mixed Fences). This will be assessed further in the DCA process, and it is important that the design must keep a clear vision sight.

4.3.4. Materials

Permanent and/or temporary fence materials include the below materials (or a mix of the below) but not limited to:

Fence Material	Images	Opaque or Transparent
Iron wrought bars		Transparent
Fencing Chain link Wire		Transparent
Uncut field stone		Opaque
Concrete block		Opaque

<p>hedges</p>		<p>Opaque</p>
<p>Corrugated iron/color bond steel/dust mesh</p>		<p>Opaque</p>
<p>Vinyl/ plastic fence</p>		<p>Opaque</p>
<p>Electric fence</p>		<p>Transparent</p>
<p>Wood/iron post and barbed wire</p>		<p>Transparent</p>
<p>Retaining wall</p>		<p>Opaque</p>

Steel welded mesh/aluminum bars		Transparent
Palisade fence		Transparent
Gabion Basket		Opaque

Table 3: Fence Materials

Fence materials such as: used corrugated iron sheets scrap wood, chicken wire, wood pallet is to be used only IF they are in good conditions and must be securely constructed to withstand strong winds and avoid causing injury to others.

5. GENERAL REQUIREMENTS

5.1. Neighboring Landowners' Agreement

5.1.1. Must consult and get consent, a written approval from shared boundary landowner and if on a customary land, a written approval must provide, signed and dated by the Sa'o o le Aiga or Matai for the family responsible for the land described in the application (Refer to Section 4.2.4: Customary Land for clarification).

5.1.2. When occupier of the neighboring property is unknown, absent or cannot be found for consultation then.

- a. the owner of property shall publicly notify on media for a duration of not less than 28 days.
- b. Notice shall address to the neighboring property owner/occupier describing him or her:
 - i. The detail of land to be fenced
 - ii. Neighboring site information
 - iii. Type of fence proposed to be constructed
 - iv. Due date for submission

- c. If the neighboring property owner after the expiration of one month notice fails to make submission the property owner may proceed with undertaking the proposed development by submitting a development consent application to the Planning and Urban Management Agency. Evidence of such notification must be attached to the application to the Planning and Urban Management Agency.

5.2. Construction

5.2.1. All fencing construction and/or maintenance work must be carried out during daytime between the hours of 8am - 6pm to avoid unnecessary noise to adjoining neighbors and/or community. If alternative times are required, then an approval from MCIL must be sought and also approval from MCIL must also be provided in the DC application.

5.2.2. Upon completion of fence construction, the property owner must carry out appropriate measures to prevent any impacts to the adjoining properties. All areas which were disturbed by the development must be stabilized so that accelerated erosion or sedimentation or both will be prevented. All surrounding lots must be cleaned of all debris and dirt mounds leveled and return to its natural stage.

5.2.3. Fencing activities should not affect or block natural overflow paths

5.3. Maintenance

5.3.1. All fences are required to be properly always maintained and kept in good repair. Fences shall be maintained by the owner of the property and their successor to the title of the property.

5.3.2. In the case where two owners share the ownership of the fence, both are liable/responsible to the maintenance and repairing of fence.

6. Other Fence Types

6.1. Hedges

6.1.1. Hedges are considered the cheapest type of fencing. However, overgrown hedges can obstruct traffic view and impact on pedestrians' safety. Property owner must consider the following:

- a) Regularly pruning of hedges and maintain height to the height standards applied for opaque fence type (cannot see through). This shall also apply to hedges grown along a permanent fence structure.
- b) Encourage local plant species that are commonly used for hedges.
- c) Avoid using plant species that may be toxic or have thorns or spikes that may cause harm to pedestrians especially for fences that border public walking spaces.
- d) Avoid species of plants that can overgrow and can create an obstacle for pedestrians and drivers.
- e) These species are easy to prune but are not limited to the following:
 - i. Tagitagi (*Polyscias* spp).
 - ii. Aute – (*Hibiscus* spp).
 - iii. Lautivao – (*Cordyline fruticosa*)

- iv. Lauulu – (*Cordium variegatum*)
- v. Crotons
- vi. Pate (*Coleus* spp)

6.2. Structural Walls (including Retaining Walls and fire walls)

6.2.1. For erecting a structural wall, retaining wall or a fire wall, all development application requirements and standards mentioned above relevant to such development must be submitted in office for a development consent assessment. The structural details of these types of walls must strictly comply with the standards within National Building Code 2017 and may need a Building permit.

6.2.2. In process of assessment, structural wall may trigger the need of an Environmental Impact Assessment (EIA), depending on the scale of the structural wall development. The developer/applicant must consult with the Agency (PUMA) if development needs to undertake an EIA.

Special Requirement for Large Scale Fence/Structural Wall

7. Environmental Impact Assessment Reports

An EIA is a systematic assessment of likely environmental impacts resulting from a proposed development. It predicts the impacts and recommends mitigation measures to assure that the environment is not degraded beyond acceptable limits. It addresses impacts on the physical, social and economic environment of an area. It not only considers the predicted impacts of the proposed development, but also the current state of the environment, and the sustainability of a proposed development. It is carried out in a holistic approach and should be bias free to enable the Agency and the whole community to understand the impacts of your proposed development. It is also important to note that a developer is encouraged to consult with PUMA the details of the development in order to determine if an EIA is required and if yes, what type of EIA report is appropriate for the development. Please refer to the EIA regulations 2007 and the PUMA EIA Guidelines for more details.

There are two (2) types of Environmental Impact Assessment (EIA) reports and the determine of which type is suitable for the proposed development is based on how significant the impacts will be on the environment.

7.1. Preliminary Environmental Assessment Report (PEAR)

A PEAR is required when the Agency considers your proposed activity will not be likely to have a significant adverse impact on the environment. This report is a lesser detailed report and will be based on a quick or a rapid assessment of the environment and it will examine the environmental impacts of the proposed development and makes recommendations for their reduction. Consultation of the neighboring property owners and affected person is a must for PEAR's and the outcomes, discussions as well as evidence of attendance of these people must be well documented within the PEAR.

A PEAR should have the following.

- a brief description of the development proposal.
- a brief description of the area to be affected and the nature of the proposed change to the area (including a location map and site plan).
- a brief justification for the development proposal.

- a summary of the stakeholder consultation undertaken, the general issues raised, and responses to those issues.
- an assessment of all reasonably foreseeable adverse and positive environmental impacts, including long-term and short-term, primary and secondary consequences.
- an indication of possible alternatives to mitigate any identified adverse environmental impacts; and
- an indication of measures that the proponent intends to take to mitigate or avoid identified adverse environmental impacts

7.2. Comprehensive Environmental Assessment Report (CEAR)

If the proposed development is deemed to generate significant environmental impacts, then it will require a CEAR. A Comprehensive Environmental Assessment Report (or CEAR) otherwise known as a full EIA is a complete and comprehensive investigation report which will clearly list and reflects all the possible negative impacts of the proposed development on people and the environment. A full study of all the environmental social and economic impacts both positive and negative must be thoroughly investigated and reported. The CEAR will provide possible solutions and measures to reduce negative impacts on all the different aspects of the environment and to ensure sustainability for the proposed building development at all levels. Like PEAR, consultations are also a key component of the CEAR.

Environmental consequences.

- a review of direct and indirect environmental effects, their significance, and risks.
- a consideration of any potential cumulative environmental impacts that might arise in conjunction with other activities in the location.
- a consideration of the environmental effects of alternatives.
- an assessment of the likely need for additional infrastructure, including energy and public utilities.
- an assessment of impacts on the area's physical locality and amenity (including visual quality), its historic and cultural resources, and the design of the built environment.
- an assessment of social impacts on the local population and its uses of the land.
- an assessment of the implications of the use of potential environmental pollutants.
- a review of options proposed to mitigate adverse environmental impacts.
- a description of any unavoidable adverse environmental impacts, including any permanent change in the physical, biological, social or cultural characteristics of the affected environment or in the possible future use of that environment.
- an analysis of the costs and benefits that may result from the development proposal.
- the identification of any irreversible or irretrievable commitments of resources required for the development proposal.

Mitigation and conditions apply.

- identify any significant environmental impacts that cannot be avoided.
- identify appropriate mitigation measures to minimize any significant environmental impacts arising from the preferred alternative; and
- Recommend any proposed conditions.

Appendix: Type of Mixed Fences



1. Mixed of concrete with chain link



2. Chain Link with Dust Mesh



3. Iron Wrought Bars with hedges



4. Chain Link with barbed wire

8. Glossary

Fence: any permanent or temporary structure and/or hedge erected or used as a barrier to define property boundaries. Fences may be attached to, but shall not otherwise be part of, any building. Structural fencing must obtain development consent through the Agency's development consent application process. Hedges are exempt from the process but must meet hedge fencing requirements provided in this guideline.

Fence Alignment: it is the fence position to be lined up with the property boundary line.

Opaque: refer to types of fences that cannot be seen through

Passive Surveillance: any observation from passerby and pedestrians. It occurs when there are direct lines of sight between buildings or houses.

Transparent: refer to types of fences that can or allow to see through

Reference

Australia (1999) *Fences Act 1968; Reprint No.6*, State of Victoria, Melbourne

Websites

03/03/09. www.mkedcd.org/build/pdfs/fencereq.

03/03/09. www.vincent.wa.gov.au/cproot/1597/26056/FENCING%20REQUIREMENTS

03/03/09 <http://www.norwalkct.org/CodeEnforcement/FENCES%20AND%20WALLS.pdf>

03/03/09 <http://www.cityofclarksville.com/building&codes/pdf/Fence%20Requirements.pdf>