



LICENSED  
BUILDING  
PRACTITIONERS



# Exempt building work – part 1

Do you know when work is exempt from requiring a building consent? This first article in a three-part series explains exempt building work and some of the common and measurable exemptions.

**CHECKING** if you need a building consent is an important step in any building project. If a building consent isn't issued and was required, the council may issue an infringement notice. It could also seek to prosecute the homeowner - with possible heavy fines - who is then likely to want answers from you.

### **Obligation lies with the homeowner**

The homeowner has the ultimate obligation to obtain all required permissions and consents. They can do this themselves or get someone to do it on their behalf.

Carrying out work without first obtaining a building consent is a common failing the Building Practitioners Board often sees, and considers, when acting on complaints against LBPs. We want to help make sure you don't make this mistake.

### **Section 41 of Building Act**

Under the Building Act 2004, all building work requires a building consent unless it is covered by sections 41 and 42A of the Act. Work covered by section 41 is known as exempt building work, which means it doesn't require a building consent.

Section 41 recognises that several things considered building work are low risk. It allows for a list of building work that doesn't require a building consent under Schedule 1 of the Act. If your building work isn't covered by an exemption, you must make sure there is a building consent before you begin work.

All building work must comply with the Building Code, regardless of whether a building consent is required.

### **Schedule 1 exemptions**

Schedule 1 lists the items of exempt building work. If you're working outside of those items listed, you need to obtain a building consent before beginning work. Here are some generalised examples - always refer to Schedule 1 for the details of what's exempt and what's not.

#### **Exemption 3 – single-storey detached buildings not exceeding 10 m<sup>2</sup>**

You can build single-storey detached buildings like sheds, cabins or sleepouts with a net floor area (total usable floor area within the enclosing walls) less than 10 m<sup>2</sup> without a consent.

There are exceptions, for example, it cannot include any sanitary facilities. If the building has a net floor area of more than 10 m<sup>2</sup> or it does not meet the details of the exemption, it will need a building consent. Also, this structure cannot be closer to the boundary or any residential building than its total height. In this case, you'll need a building consent and possibly a resource consent.

#### **Exemption 20 – retaining walls**

A retaining wall does not require a building consent if it is retaining less than 1.5 m of ground and does not support a surcharge. A surcharge is an additional load on the land, such as a car park or driveway, a slope or a building (see Figure 1). Schedule 1 guidance provides more detail.

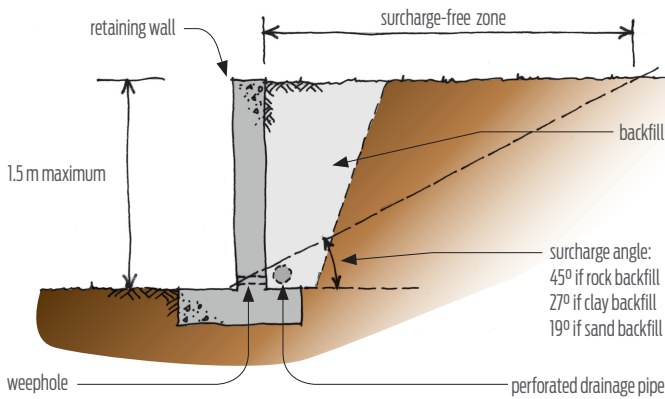


Figure 1a: Retaining wall surcharge-free zone.

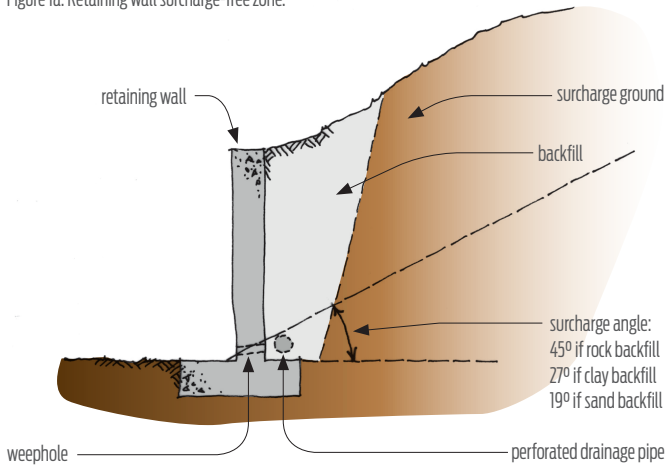


Figure 1b: Retaining wall with additional surcharge - sloping ground.

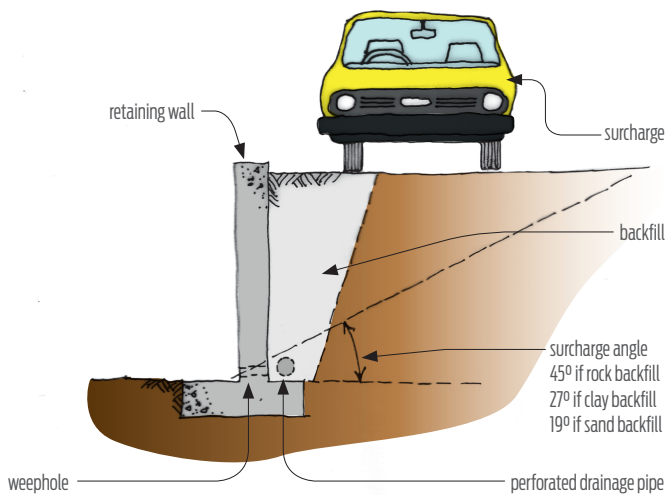


Figure 1c: Retaining wall with additional surcharge - roadway above the wall.

### Exemption 21 – fences and hoardings

You can build a fence or a hoarding up to 2.5 m above the supporting ground without a building consent. However, you still need to comply with requirements of the Fencing Act 1978 for boundary fences and, in many cases, with district plans. This may mean a resource consent is required if the fence is above 2 m high.

### Exemption 24 – decks, platforms, bridges and boardwalks

Building work in relation to decks, platforms, bridges and boardwalks does not require a building consent so long as it is not possible to fall more than 1.5 m from that surface, even if it collapses.

You'll still require a compliant safety barrier where there is a potential fall of 1 m or more, but no consent would be required.

### Next issue we get more complex

The next article in our exempt building work series will cover some of the more complex, common exemptions.

Until then, you can read about exempt building work in detail, including practical examples, in the guidance provided on MBIE's Building Performance website. Note that this guidance will be updated to include exemption 21A *Means of restricting access to small heated pools*.

**For more** Visit MBIE's Building Performance website at <https://tinyurl.com/l3yv7am>.

### Quiz

- Which of the following statements is true?
  - All building work must have a building consent.
  - All building work must comply with the Building Code.
  - All building work must have a building consent and comply with the Building Code.
- If I want to build a fence at the rear of my property, how high can I build without needing to obtain a building consent?
  - 1 m.
  - 3 m.
  - 2.5 m.
  - 1.5 m.
- I am building a 15 m<sup>2</sup> detached sleepout for my son. Do I need to obtain a building consent?
  - Yes.
  - No, you can start right away.
- I want to build a retaining wall down one side of my property which will be only 1 m high. What else should I look out for if I don't want to get a building consent?
  - Whether any additional load will be weighing on the retaining wall, such as a driveway.
  - Whether I had a building consent to build my house.
  - Whether my neighbour will grow plants on my nice new wall.

1. b 2. c 3. a 4. a

**ANSWERS**