

Fences and Retaining Walls



Gawler

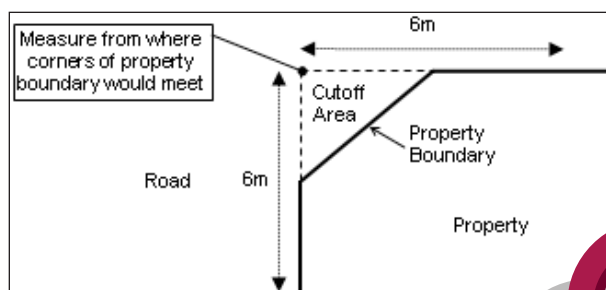
Fact Sheet



When does a fence or retaining wall require council approval?

Colour bond and Timber Fences	Approval is required where height exceeds 2.1 metres (measured (if relevant) from the lower of the 2 adjoining finished ground levels), or if your property is in a Historic (Conservation) Zone.
Masonry Fences	Approval is required where height exceeds 1 metre (measured (if relevant) from the lower of the 2 adjoining finished ground levels), or if your property is in a Historic (Conservation) Zone.
Brush Fences	Approval is required where height exceeds 2.1 metres, or where fence would be closer to than 3 metres to a Class 1 or 2 structure (e.g. dwelling, granny flat, office or shop building), or if your property is in a Historic (Conservation) Zone.
Retaining Walls	Approval is required where height of the land to be retained exceeds 1 metre, or if the retaining wall has a structure built directly on top of it (i.e. fence) and the total height of both structures exceeds 1 metre.
Pool Fencing	Safety fencing constructed in association with an approved swimming pool does not require approval.

Fencing on Corner Allotments	Any fencing on corner allotments requires approval if it exceeds 1m in height within 6m of the intersection of two boundaries of the land where those boundaries both face a road, other than where a 4m x 4m cutoff is already provided (most cutoffs are 3m x 3m - generally only corner properties located on main roads will have a 4m x 4m cutoff).
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If your fence or retaining wall requires approval, a development application is required before it can be erected. Please refer to Information Sheet - **Applying for Development Approval** for assistance in lodging a development application.

Encumbrances and Land Management Agreements

Your property may be affected by a Land Management Agreement or Encumbrance which may restrict the type of fence you may have on your property. Please refer to your Certificate of Title to determine if any apply to your land. If that is the case you should contact the relevant organization or body noted to determine what is allowed.

Giving Notice to Adjoining Landowner(s) Prior to Construction

Before constructing any fence or retaining wall on the boundary of an adjoining property(s) you are required under the Fences Act to give 30 days' written notice to the adjoining owner(s) concerned – for more information please call the Legal Services Commission on 1300 366 424 or refer to "Fences and the Law" booklet available at <http://www.lawhandbook.sa.gov.au> or from Council offices.

Neighbour Disputes

Disputes between neighbours regarding fencing issues are administered under the Fences Act. **Council is not responsible for the administration of the Fences Act, and therefore has no authority in resolving fencing or boundary disputes between neighbours.**

For information about erecting fences and the legal procedure you need to follow when you want to erect, replace or repair a boundary fence please refer to the Legal Services Commission information booklet "Fences and the Laws".

Boundaries and Encroachment

The identification of property boundaries is the responsibility of the landowner. Council does not employ a licensed surveyor and is unable to locate property boundaries or boundary pegs. Only a licensed land surveyor can lawfully determine where boundaries are located.

Your **Certificate of Title** provides information on the parcel of land and shows the lengths of the boundaries but does not locate these out on site.

It is important to note that a fence is not necessarily positioned on the boundary and should not be used to determine the boundary location.

Where a structure is built over a boundary or overhangs the boundary, it is called **Encroachment**. This is a civil matter to be dealt with between the two property owners concerned. Further information on how to resolve these disputes can be found in the "Fences and the Law" booklet.

If a fence or other structure is built on Council owned land without the Council's permission, you may be held liable for the costs of removal of that structure and could be liable for any damage or injury associated with the structure.

Additional Information Regarding Retaining Walls

What is a Retaining Wall?

A retaining wall is a wall that holds back or supports soil when the natural ground level has been altered. When a person 'cuts' into the natural ground level, the soil on the high side is to be prevented from collapsing with the use of a wall. Alternatively when a person 'fills' or provides extra soil where the natural ground slopes downwards, (to make it level) then the additional fill needs to be prevented from moving further down the incline. This again is achieved with the use of a retaining wall. Most commonly a retaining wall is required between neighbours who build on sloping sites.

Responsibility for Construction?

The owner who alters the natural lie of the land should be responsible for providing a retaining wall. However, where both property owners alter the land, they should be considered jointly responsible. The sharing of costs for the retaining is a civil matter that must be negotiated between neighbours.

Location of Retaining Walls

Should only one property owner require a wall to be built on a boundary, the retaining wall itself must be entirely on one side with only the outside face of the wall on the boundary. Alternatively, if both neighbours share in the construction of the wall equally, the retaining wall should be built straddling the boundary. A retaining wall may be constructed in other locations on the property, however if you have any concerns, please contact the council for further advice.

