

# The Coorong District Council Information Guide

## Planning & Development

### Fences & Retaining Walls

#### Introduction

Front fences should improve amenity for residents and contribute positively to the streetscape and to the appearance of adjacent buildings. The design and materials of fences and walls abutting streets should:

- Be compatible with the associated development and with attractive fences and walls in the locality; and
- Enable some presentation of buildings to the street to enhance safety and surveillance.

#### The Fences Act

Council has no authority for the administration of the *Fences Act* and has no role to play in resolving disputes between neighbours about dividing fences, except where such a dispute may relate to a development application which has, or will be subject to public notification.

Neighbours should reach agreement in writing prior to the commencement of construction of any dividing fence.

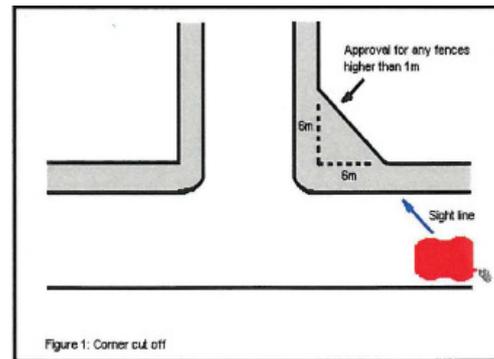
Legal Services Commission of South Australia have created a booklet information guide for neighbours "Fences and the Law" which can be obtained from Council or on-line at [www.lsc.sa.gov.au](http://www.lsc.sa.gov.au) This booklet answers common questions and explains the legal procedures you need to follow on dividing fences and the implications with the construction, replacement or repair of a boundary fence.

#### Does My Fence Require Council Approval?

The following **do not** require Council approval (other than in the River Murray Flood Zone)

A fence not exceeding 2.1 metres in height (including any combined height of any retaining wall and attached fence) measured from the lower of the two adjoining finished ground level, except for:

- A masonry fence that would exceed 1 metre in height (measured from the lower of the two adjoining finished ground levels).
- A fence that is to be a safety fence for a swimming pool which was, or is to be approved for construction after 1 July 1993, or
- A brush fence that is to be closer than 3 metres to any wall of an existing or proposed dwelling (other than repair work which does not increase the height or extend the brush fence).
- An extension to an existing fence, which brings the total height of the fence to exceed 2.1 metres when measured from the lower of the two adjoining finished ground levels.
- A fence that would exceed 1 metre in height within 6 metres of the corner of a corner allotment, other than where a 4 x 4 metre cut-off has already been provided (and is to be preserved).



Please note that only a post and wire fence (not including chain mesh fencing) is excluded from the definition of development in the River Murray Flood Zone.

No part of the fencing is permitted to encroach onto Council land and so all front boundary gates are required to either slide or open inwards.

#### Brush Fences

A brush fence is a fence or gate that is primarily constructed of brush such as Broombrush.

Brush fences in close proximity to dwellings have been identified as a potential fire hazard that could pose a risk to the safety of occupants of those dwellings.

The State Government moved to address this issue by introducing new fire safety requirements regarding brush fences in 2007.

The changes, which were driven by SA's fire services, affect new homes or home additions and new brush fences and are reflected through adoption of Minsters Specifications SA 76C, and are designed to prevent the spread of a brush fence fire to a home.

The new requirements include:

- a new brush fence, or a rebuilt existing brush fence cannot be erected within 3 metres of an existing or proposed dwelling, unless the dwelling materials meet certain fire resistance measures
- dwellings and dwelling additions cannot be erected within 3 metres of an existing brush fence, unless the dwelling materials meet certain fire resistance measures.



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The changes do not affect existing brush fences, or existing dwellings, if no changes are being made to the fence or dwelling. Existing brush fences will be able to be repaired/maintained, but not replaced with another brush fence unless the new conditions are met.

These provisions are additional to those required by the Building Code of Australia and the South Australian Housing Code.

You can find out more about the Minister's Specification SA 76C and Brush Fences by contacting the Department of Planning, Transport and Infrastructure by ringing Building and Policy Branch on 8303 0602 or going online at <http://sa.gov.au> and searching "Brush Fences".

#### Swimming Pool Safety Fence

Swimming Pools approved before 1 July 1993, must comply with the Swimming Pools (Safety) Act 1972. The Act requires, as a minimum, fencing at least 1.2 metres high which restricts access from outside the property. Suitable barriers which restrict access from the house which comply with the Act may also be an option. A swimming pool includes a paddling pool and spa pool, but not a spa bath.

From 1 October 2008, prior to the sale of your property containing a swimming pool, you will need to ensure that your swimming pool safety features – no matter when the pool was built – are in line with the requirements which apply to pools built on or after 1 July 1993.

A transfer of property cannot occur unless a compliant fence is in place. Council will inspect properties at this time to ensure compliance.

If no fence is in place, or any upgrades are required to meet compliance, then a development application will be required to be lodged and approved for these works.

Please note that the fence ceases to be compliant if it does not meet the requirements of acting as a barrier. It is up to the owner to ensure that any repairs are undertaken immediately, with the area secured or pool emptied until such time as these works are completed.

See Council's information Guide - Swimming Pools, Spas & Pool Fencing

All swimming pools must have a continuous safety barrier maintained by the pool owner that restricts access by young children to the pool. These must meet the Australian Standard in regards to compliance. Pool fencing is also classified as development and will be assessed in association with any pool or spa development application.

Essentially the following is required to be met:

- The fencing must be a permanent, non-climbable structure and be a minimum of 1.2 metres high, with young children not being able to crawl under or over it by using foot or hand holds.
- Any boundary fences used as part of the child-safety barrier are at least 1.8 metres high on the pool side with a 900mm non-climbable zone at the top on the pool side of the fencing. Alternatively, the non-climbable zone can be on the adjoining owner's side.
- If the pool wall is a minimum of 1.2 metres high above the surrounding ground/deck/paved area, and is non-climbable, then it can act as a barrier fence. The ladder/s entering the pool (whether permanent or moveable) must however be enclosed by a compliant fence/gate.
- Gates to the pool area must swing outward from the pool area, be self-closing from any position and be fitted with a latching device at least 1.5 metres above ground level. They should never be propped open.

#### Retaining Walls

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 downward (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.

Any alteration of more than 300mm in the natural ground level requires retaining. However, only a wall, or a series of walls, that retains a difference in ground level exceeding one metre requires the approval of Council. The owner who alters the natural lie of the land is generally responsible for providing a retaining wall.

Retaining walls should generally be built entirely on the site where they are called for, with only the outside face of the wall on the boundary. However, retaining walls may straddle the property boundary where both neighbours are in agreement.

*Development Information Guides are intended to help applicants to submit applications which are complete, well prepared, and can be processed efficiently. The information provided is intended as a general guide only and applicants are encouraged to refer to The Coorong District Council's Development Plan and to seek advice from our staff if necessary.*