



Fences or freestanding walls

If you are thinking about building a fence or freestanding wall there are some things you need to consider, including rules about how high the fence can be and whether you need to get development approval.

Some fences and freestanding walls don't need development approval. This fact sheet outlines provisions in legislation for development approval exemptions for fences and freestanding walls.

Under legislation some smaller outdoor structures such as fences and free-standing walls, called Class 10 structures, can be exempt from needing development approval if they meet certain parts of the Planning and Development Regulation 2008. The Common Boundaries Act 1981 also specifies general requirements and dispute resolution mechanisms for fences.

When building a fence or wall, give some thought to the types of materials used and how the location of the fence might affect costs and maintenance shared with neighbours.

Exemption from development approval

For fences, generally you will not need development approval if:

- a fence or wall is no higher than 2.7m above natural ground level if it is a mesh fence in an industrial zone
- in any other case, a fence panel or wall is no higher than 2.3m above natural ground level
- the support post or column of a fence or wall is no higher than 2.5m above natural ground level
- no part of the fence or wall is between a front boundary and a building line
- no part of the fence or wall diverts or concentrates the flow of surface water in a way that causes ponding or flows onto other land
- it complies with the general exemption criteria.

Boundary fences onto open space are exempt provided that:

- a development requirement for the block requires the building of a basic paling fence for the boundary
- the fence is not more than 1.85m above natural ground level
- no part of the fence diverts or concentrates the flow of surface water in a way that causes ponding or onto other land

- it complies with relevant general exemption criteria
- it is a basic paling fence or a metal fence that complies with subsection (2)
- if is a metal fence provided
 - it is of unperforated metal
 - it is finished in a pre-coloured proprietary finish
 - it is used in accordance with the manufacturer's instructions
 - all sharp edges of metal sheets are capped
 - for any one side of the fence, panels are the same material, flatness and corrugation (if any); and all visible components (other than fasteners, footings and cut ends of components) are the same external colour as the panels
 - the component's colour is a solid colour that is, or closely matches, a colour from AS 2700 (Colour Standards for General Purposes) mentioned in part 1.4 (Permitted open space boundary fence colours)
 - the form, finish and colour is the same for the full length of the open space boundary for the block for that side of the fence.

You also do not need development approval if you are rebuilding an exact replacement of an original fence that has been so damaged or destroyed that immediate repair or replacement must be made to protect people or prevent animals escaping.

You may consider requesting a survey to ensure the fence is built in the correct location and that no encroachments are made.

Exemptions from building approval

The fence does not need building approval if it complies with relevant provisions of the Building (General) Regulation 2008, Schedule 1. In summary, the fence is exempt provided it:

- is not forming an integral part of a required enclosure for a swimming pool
- is not more than 1.8m above ground



- is not more than 2m above ground if:
 - no masonry or concrete components (other than cement sheet products) are more than 1.8m above ground and
 - is not part of a roofed building or retaining wall
- is not more than 3m above ground if:
 - no masonry or concrete components (other than cement sheet products) are more than 1.8m above ground and
 - it complies with the exempt building code.

Also see www.legislation.act.gov.au/sl/2008-3/ for relevant provisions relating to structures, fires and health.

Other things to consider

Even if no approval is required, restrictions may apply. These include:

- fences facing the street in standard residential areas are not allowed, but property boundary demarcation is permitted, for example by hedges
- lease and development conditions that specify the heights and types of fence materials, colours and styles to be used on your block
- fence materials, colours (listed in the Planning and Development Regulation 2008), styles and construction techniques, which can vary, however some fence materials are banned, including tea tree and brush fencing, pine and other soft woods, bamboo and copper chrome arsenate treated timber.

Lodging a development application

If your proposed fence does not meet the exemption criteria, or if you wish to build a 'front' fence, you will need to lodge a development application. For more information on lodging a development application please visit the ESDD website www.actpla.act.gov.au

Ownership

All front fences are built and maintained at the cost of the owner. Private property owners who share side or rear fences are each responsible for half the cost and maintenance of a basic urban fence.

The basic urban fence is 1.5m high and made of hardwood palings. Other fence types can be erected if allowed and neighbours agree on the design and cost beforehand.

Talking about your fence with neighbours

The *Common Boundaries Act 1981* requires that neighbours who share a common boundary fence must be given an opportunity to discuss the replacement or repair of a shared fence which would include detail such as the financial arrangements, type and colour of the fence.

If you and your neighbour cannot agree or have a dispute unrelated to exemptions you can contact the Conflict Resolution Service at www.crs.org.au or make an application to the Small Claims Court. The Environment and Sustainable Development Directorate is not a party to such actions.

More information

For more information on building a fence or freestanding wall we suggest reading the Residential Boundary Fences General Code, which can be found in the Territory Plan on the ESDD website. You should also talk to your neighbour. Contact us to find out if any restrictions apply to your situation or if you are unsure if you need permission.

Information in this fact sheet was accurate at the time of publication.

Please note: The new Environment and Sustainable Development Directorate (ESDD) unites ACTPLA (ACT Planning and Land Authority) with environmental policy and protection, sustainability policy, the Government architect, heritage, transport planning and nature conservation.

The planning development provisions are taken from the Planning and Development Regulation 2008 and the Building (General) Regulation 2008. ESDD recommends you read these documents, which are accessible on our website, and understand that planning exemption does not affect the operation of other territory laws.

It is advisable to discuss any inquiry with the ESDD Customer Service Centre on 6207 1923 as requirements may have changed.

Website: www.actpla.act.gov.au

Email: actpla.customer.services@act.gov.au