

# BUILDING FACT SHEET FENCES

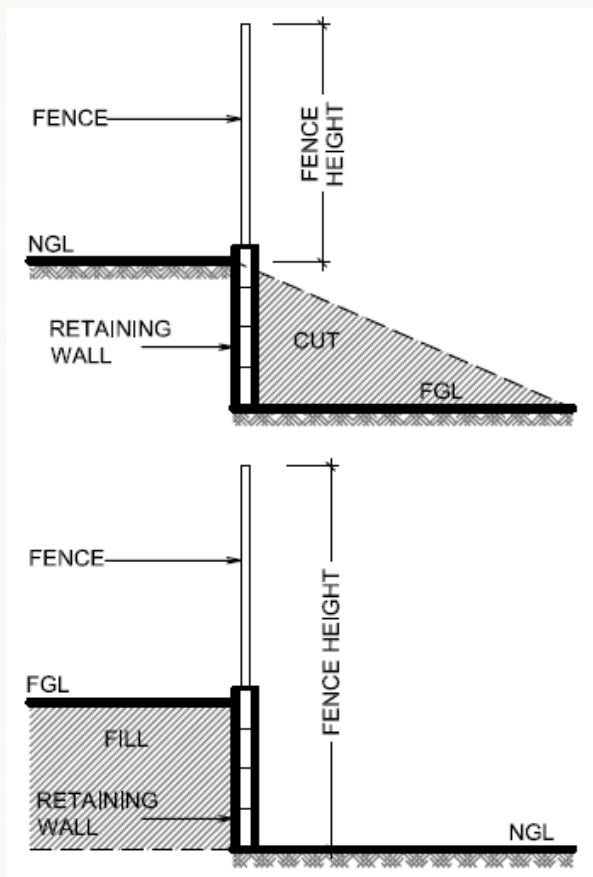
This fact sheet explains the requirements for fences and when a building permit is required to construct a fence – Division 4, Part 5, Building Regulations 2018.

## DEFINITIONS

**Fence** – includes a screen or a structure similar to a fence.

**Height** – in relation to a fence, at any point, means the vertical distance between the natural ground level at the base of the fence to the top of the fence.

When built on top of a retaining wall, the height of the fence is measured as shown in Fig.1 below.



NGL – natural ground level      FGL – finished ground level

**Fig.1 – Fences built on top of retaining walls**

**Street alignment** – means the line between a street and an allotment.

**Street** – includes road, highway, carriageway, lane, footway, square, court, alley and right of way.

**Declared road** – means a freeway or an arterial road within the meaning of the Road Management Act 2004.

## ALLOWABLE FENCE HEIGHTS

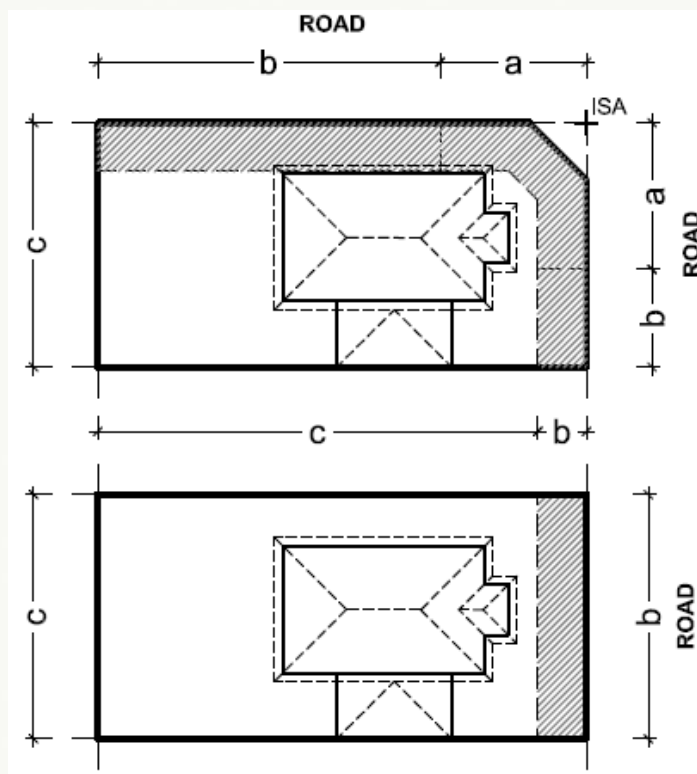
Maximum allowable fence heights are prescribed by Division 4 of Part 5 of the Building Regulations 2018. Please refer to Fig.2 below for fence locations and heights.

“a” **Front / corner** fences located within 9m of an intersection of a street alignment must not exceed the height of 1m.

“b” **Front** fences must not exceed the following heights, if constructed within 3m from a street alignment:

- 2m for a declared road
- 1.5m for any other street

“c” Fences erected along the **side and rear** boundaries, which are not within 3m of a street alignment, must not exceed the height of 2m.



ISA – intersection of street alignments, measured along the boundary line of the property

**Fig.2 – Allowable fence heights**

## WHEN IS A BUILDING PERMIT REQUIRED TO CONSTRUCT A FENCE

Building permit **is required** for construction of a fence if:

- The fence is more than 2m high (regardless of materials used or location)
- The fence is more than 1.5m high, constructed of lightweight materials, and is located within 3m of a street alignment
- The fence is more than 1.2m high, constructed of concrete or masonry, and is located within 3m of a street alignment
- The fence is more than 1m high when measured from the footpath level (regardless of materials used) and is located within 9m of the intersection of street alignments (corner fence)
- The fence contains barbed wire or sharp protrusions and is constructed adjacent to a street alignment
- The fence forms part of the swimming pool or spa pool safety barrier

In some circumstances, retaining walls forming part of the fence construction may also require a building permit.

Prior to a building permit being issued, Council's Report and Consent will need to be obtained in relation to a fence design, which does not comply with Part 5 of the Building Regulations 2018. Your Building Surveyor will determine if Council's Report and Consent is required as part of the building permit application process.

Building permit is not required for construction of a chain wire fence surrounding a tennis court.

## WHAT OTHER REQUIREMENTS NEED TO BE CHECKED

In addition to the above requirements, the type and height of a fence may also be restricted by the following:

- Planning overlays – please contact Council's Statutory Planning Department to verify
- Section 173 Agreements, Covenants, Easements – please check your Title Certificate for details
- Developer's Design Guidelines for new subdivisions - please check Contract of Sale and Section 32 documents for details.

It is the owner's responsibility to comply with any restrictions listed on the relevant Title Certificate.

## WHAT IS THE PROCEDURE WHEN A NEW BOUNDARY FENCE IS TO BE CONSTRUCTED

Construction of a new fence or replacement of a dilapidated fence along the common boundary between the adjoining allotments is a civil matter, which does not require Council's involvement. This process is regulated by the Fences Act.

Before proceeding with any work, it is important to contact the adjoining property owner to discuss the proposal. "Notice to fence" should be served if the adjoining owner cannot be contacted or agreement cannot be reached with respect to the proposed work.

If the property is vacant or not occupied by the owner, owner's details may be obtained from Council upon a written request. Application form is available on Council's website at [www.ballarat.vic.gov.au](http://www.ballarat.vic.gov.au) or can be collected from Council's office located in the Phoenix Building at 25 Armstrong Street South, Ballarat Central.



The lawful location of the property boundary should be established prior to commencement of the construction process. This can be verified by engaging a suitably qualified and registered Land Surveyor. It should not be assumed that the existing fence has been erected along the property boundary.

If your property abuts land owned by Council and the dividing fence needs to be repaired or replaced, please contact Council's Customer Service Centre on 5320 5500.

Should a dispute arise and an agreement cannot be reached between the parties, legal advice should be sought.

Further information and advice regarding fencing disputes is also available by contacting The Dispute Settlement Centre of Victoria ("DSCV"). DSCV also offers mediation services, which are free of charge. Contact details for Ballarat DSCV are:

**Ballarat Justice Service Centre**  
206 Mair Street, Ballarat VIC 3350  
Ph: 4301 7000