

FACT FILE

Fences - Building Regulations 2018

OVERVIEW

The rules that apply to building a fence can be confusing. This Fact File seeks to clarify some of the issues that need to be considered when constructing a fence.

The Building Act 1993 and Building Regulations 2018 stipulate the requirements for the construction of fencing on a property. Under the Building Regulations there are two areas that need to be considered when constructing any fence. The first relates to the Part 5 Siting Building Regulation provisions, which govern the height and location of fences (similar to any planning controls), and the second is whether a building permit is required to erect the fence.

Additional controls are also in place throughout some areas of the Shire under the Mornington Peninsula Planning Scheme. If the planning controls for your property do not stipulate fencing heights, then the Siting Part 5 regulations outlined in the Fact File below will apply. Always check the Planning Controls for your property prior to any works. The Shire's Planning team can be contacted on: 5950 1010.

Even if both the Planning Controls and the Siting Part 5 Building Regulations don't apply a building permit may still be required, please refer to the information below.

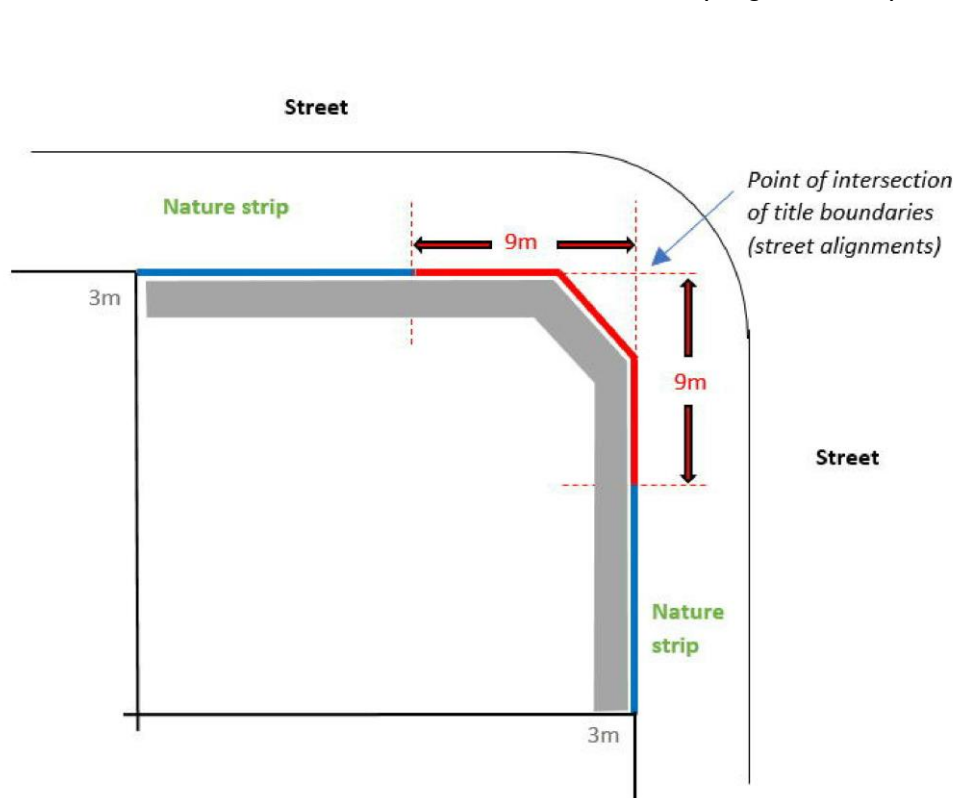
FRONT FENCES

If you are building a fence along the front of your property do not presume that your front title boundary is the back of the kerb or the asphalt, the nature strip is part of the road/street reserve. The title boundary could be located anywhere from, say 1 metre to perhaps 6 metres from the street. But it should be somewhere near your water meter. If you are still in any doubt the only way to locate the title boundary is to employ the services of a licensed land surveyor.

The Siting provisions under Part 5 of the Building Regulations state that a front fence within 3 metres of the front title boundary must not exceed a height of 1.5 metres (Regulation 89). If your property abuts a Freeway or an Arterial Road, however, you may build a fence to a maximum height of 2 metres. Freeway and Arterial Road are defined in the Road Management Act 2004.

Refer to diagram on following page.

Further restrictions apply to fences on corner sites. The maximum height of the fence is 1.0 metre when within 9 metres of the intersection of the title boundaries (Regulation 92).



— Front fence within 3 metres of the front title boundary must not exceed a height of 1.5 metres

— Front fences on corner sites must not exceed 1.0 metre in height when within 9 metres of a point of intersection of street alignments

A building permit is required for the construction of :

- a front fence within 3 metres of street alignment if it is greater than 1.5 metres in height (1.2m if constructed of masonry), and
- a front fence greater than 1m in height within 9m of a point of intersection of street alignments.

FENCES ON COMMON BOUNDARIES

The Siting provisions under Part 5 of the Building Regulations state that fences between adjoining properties may be constructed to a maximum height of 2 metres. There are opportunities to increase the height of a side or rear boundary fence either by setting the fence back from the boundary or meeting the requirements of Regulation 91.

It should also be noted that if you wish to increase the height of a boundary fence greater than 2m consideration needs to be given to the daylight and solar access to windows (both yours and your neighbours) as well as adjoining properties recreational space. These matters are dealt with by regulations 94, 95 & 96 (Refer to Report & Consent Part 5 Siting on our website for further information).

A building permit is required for the construction of a side or rear boundary fence greater than 2m in height.

What if my design does not meet the Part 5 Siting requirements?

The report and consent of the relevant council (Mornington Peninsula Shire's Statutory Building Team) must be obtained for an application for a building permit in relation to a design that does not comply with the requirements of Part 5 of the Building Regulations 2018 (Refer to Report & Consent Part 5 Siting on our website for further information).

My boundary fence is also my pool safety barrier

A building permit is required for any modifications to or the replacement of an existing boundary or front fence that forms part of a swimming pool safety barrier. Please contact a private building surveyor regarding a building permit for the proposed works.

Replacing a fence between neighbours

When constructing a fence between two adjoining properties the Fences Act 1968 outlines the sharing of costs and what is required to serve a notice on an adjoining property owner to get them to assist with getting a fence constructed. Please visit <https://www.disputes.vic.gov.au/information-and-advice/fencing/notice-to-fence> for a copy of the notice template.

Is my existing fence on my property boundary?

The existing location of your boundary fence is not guaranteed to be on the title boundary. The only way to locate the title boundary is to employ the services of a licensed land surveyor.

I want to install barbed wire to the top of my fence

Fences containing barbed wire or sharp protrusions must not be constructed within 150 mm of the street alignment (title boundary) or public open space (park) or alternatively must be placed a minimum of 2 metres above the adjacent ground level (the above regulations apply).

I share a fence with Council

Please contact the Shires customer service team for further information on 1300 850 600 or (03)5950 1000.

How do I get in contact with my neighbours?

If you wish to contact your neighbours regarding fencing issues please contact the Shires customer service team for further information on 1300 850 600 or (03)5950 1000.

Disputes

Fencing disputes between property owners is a civil matter between the two parties. Further information regarding fencing disputes, please visit <https://www.disputes.vic.gov.au/information-and-advice/fencing-0>.

FURTHER INFORMATION

For further information you can contact Customer Service on: 1300 850 600 or (03)5950 1000.
