

Fencing – Part 9

Division 1 - Preliminary

Definitions

9.1 In this Part, unless the context otherwise requires-

“**Building Surveyor**” means the Building Surveyor of the Council;

“**Commercial Zone**” means any part of the district classified as a Commercial, Town Centre, Service Commercial, or similar Zone under the provisions of a Town Planning Scheme of the Shire of Murray and used for the purposes of a business or trade;

“**Dangerous**”, in relation to any fence, means a fence which is likely to collapse or fall, or part of which is likely to collapse or fall, by reason of its faulty design, location or construction, deterioration of materials, damage by termites, decay, changes in ground levels or any other cause whatsoever;

“**Dividing Fence**” means a fence that separates the lands of different owners whether the fence is on the common boundary of adjoining lands or on a line other than the common boundary;

“**Dividing Fences Act**” means the *Dividing Fences Act 1961*;

“**Fence**” means any fence or wall and includes a retaining wall;

“**Height**” in relation to a fence means the distance between the top of a fence at any point and the ground immediately below that point;

“**Industrial Zone**” means any part of the district classified as an Industrial Zone under the provision of a Town Planning Scheme of the Shire of Murray;

“**Residential Zone**” means any part of the district classified as a Residential Zone under the provisions of a Town Planning Scheme or, in the absence of any Town Planning Scheme, means land in a street of which the majority of lots are occupied by houses;

“**Rural-Residential Zone**” means any part of the district classified as a Special Rural, Hills Landscape Protection, Farmlet, or similar Zone under the provisions of a Town Planning Scheme of the Shire of Murray;

“**Special Residential Zone**” means any part of the district classified as a special residential zone under the provisions of a Town Planning Scheme of the Shire of Murray;

“**Rural Zone**” means any part of the district classified as a Rural Zone under the provisions of a Town Planning Scheme of the Shire of Murray, and includes any land within the Shire used solely or predominantly for rural purposes;

“**Special Use Zone**” means any part of the district classified as a Special Zone Use under the provisions of a Town Planning Scheme of the Shire of Murray;

“**Sufficient Fence**” means a sufficient fence relating to dividing fences on boundaries between lots or other holdings and may be more particularly prescribed by the Council from time to time.

Division 2 – Construction of Fences

- 9.2 Subject to Section 9.4, 9.7 and 9.8 of these Local Laws a person shall not commence to erect, proceed with the erection, rebuild, reconstruct or alter any fence, pergola or hood attached to any gateway or fence if it is situated within nine metres (9m) of a street alignment and exceeds 1.2 metres in height unless and until he has lodged with the Council two copies of the plan and specifications of the proposed fence or the proposed rebuilding, reconstruction, or alteration, and the Council has approved a copy of the plan and specifications.
- 9.3 A person shall not commence to erect, proceed with the erection, rebuild, reconstruct or alter any fence exceeding 1.8 metres in height on any other boundary of an allotment unless and until he has lodged with the Council two copies of the plan and specifications of the proposed fence or the proposed rebuilding, reconstruction or alteration and the Council has approved a copy of the plan and specifications.
- 9.4 A person shall not erect a fence exceeding 0.75 metres in height on any frontage of an allotment which is situated at the intersection of two or more streets within a distance of six metres (6m) from the point of intersection of the lines obtained by producing the streets alignments fronting the allotment provided however than on an allotment being lawfully used for industrial purposes the Council may permit a link mesh fence to be erected to a greater height if the Council is satisfied that any such fence would not materially affect the visibility of drivers of vehicles approaching the intersection.
- 9.5 A person shall not erect a fence exceeding 1.0 metres in height within twelve metres (12m) of the natural waterfront boundary of lots as set out in the Seventh Schedule.
- 9.6 A person shall not erect or affix or allow to remain on any fence bounding an allotment owned or occupied by him in a Residential or Commercial Zone, barbed or other wire with spiked or jagged projections nor shall any person erect or affix or allow to remain on any fence bounding an allotment owned or occupied by him in an Industrial Zone, any barbed or other wire with spiked or jagged projections unless the wire is carried on posts bend back into the allotment from the boundary at an angle of 45 degrees, nor unless the bottom row of wire is set back 150mm from the face of the fence and is not nearer than 2.1 metres to the ground.
- 9.7 (1) The owner or occupier of a fence on land within a Rural Zone may place or fix barbed wire thereon provided that where a fence to which such wire is fixed is adjacent to a road or other place open to the public such wire shall be fixed to the side of the fence posts furthest from such road or other place.
- (2) Within a Rural Zone or Rural-Residential Zone a fence which is parallel to and within 7.5 metres of a street may be constructed to a height of not more than 1.5 metres.

- 9.8 A wire mesh fence of not more than 1.8 metres in height may be erected on land within a Commercial Zone.
- 9.9 A person shall not affix to or allow to remain upon any fence on an allotment owned or occupied by him in a Residential or Commercial Zone any broken glass, nor shall a person affix to or allow to remain upon any fence which is erected upon an allotment owned or occupied by him in such zones and which abuts onto any street or public place any broken glass.
- 9.10 A person shall not construct any fence with second hand galvanised steel sheet or other second hand material unless he shall previously have obtained the written consent of the Council, which consent the Council may in its absolute discretion refuse or grant upon such terms and conditions as it deems fit.
- 9.11 A person shall not construct any fence with any material other than approved recognised new durable building products or other material approved by the Council.
- 9.12 A person shall not erect or commence to erect an electric fence in the district except in the case of an electric fence erected in compliance with AS3129/1981 in a Rural Zone or Rural-Residential Zone for the purpose of controlling stock.

Division 3 – Maintenance of Fences

- 9.13 The owner or occupier of any land shall maintain all fences erected thereon in good condition and so as to prevent them from becoming dilapidated, dangerous, unsightly or prejudicial to the property or the inhabitants of the neighbourhood.
- 9.14 The Council may give notice in writing to the owner or occupier of any land upon which there exists a fence that has not been maintained in accordance with Section 9.13 of these Local Laws, requiring such owner or occupier to repair, paint or maintain such fence within the time stipulated in the notice.
- 9.15 A person who fails to comply with a notice given to him pursuant to Section 9.14 commits an offence.
- 9.16 If an owner or occupier of land who has been given notice pursuant to Section 9.14 fails to comply therewith the Council may enter upon such land and maintain the fence and recover the amount of the expenses thereof from the owner in a court of competent jurisdiction and may prosecute the owner for committing a breach of Section 9.13

Division 4 – Fencing Specifications

9.17 Fencing Specifications

- (a) A fence must be constructed in a Residential Zone in accordance with the specifications set out in the First Schedule.
- (b) A fence must be constructed in a Rural Zone in accordance with the specification set out in the Second Schedule.
- (c) A fence must be constructed in a Rural-Residential Zone in accordance with specifications set out in the Third Schedule.
- (d) A fence must be constructed in an Industrial and a Commercial Zone in accordance with the specifications set out in the Fourth Schedule.
- (e) A fence must be constructed in a Special Residential Zone in accordance with specifications set out in the Fifth Schedule.
- (f) A fence to be constructed in a Special Use Zone shall be constructed in accordance with specifications determined by Council from the First to Fifth Schedules inclusive.

9.18 Sufficient Fences

- (a) A fence constructed in accordance with the specifications set out in Schedules One to Four is hereby prescribed as a sufficient fence for the purposes of the Dividing Fences Act 1961.
- (b) Where a fence is erected on the boundary between a Residential Zone and another Zone other than a Rural or Rural-Residential Zone, a sufficient fence is that prescribed for a Residential Zone.
- (c) Where a fence is erected on the boundary between a Residential Zone and a Rural Zone or Rural-Residential Zone, a sufficient fence is that prescribed for a Rural Zone or Rural-Residential Zone.
- (d) Where a fence is erected on the boundary between differing zones, neither of which is a Residential Zone, the Council shall determine which Zone shall apply.
- (e) Where a fence is erected on the boundary between lands zoned Special Use and land zoned other than Residential, the Council shall determine which zone shall apply.
- (f) Where a fence is erected on the boundary between lots zoned Special Use, the Council shall determine which Zone shall apply.

9.19 Any person who does anything in contravention of any of the provisions of these Local Laws or who fails to carry out any duty or requirements imposed upon him by these Local Laws commits an offence and shall be liable, on conviction, to a maximum penalty of \$500 and in addition to a maximum daily penalty of \$50 per day for every day during which the offence continues.

Division 5 – Schedules for Zones
First Schedule
Fences in Residential Zones

- (1) A fence shall be constructed of any new, durable, sound, recognised building product, fixed and supported in accordance with the Australian Standards appropriate to the material used.
- (2) River frontages: on land with frontage to rivers, for a distance of 12 metres from the riverside lot boundary, fences shall comply with the requirements of Section 9.5
- (3) Where all or portion of the side boundary of one lot forms all or portion of the rear boundary of another lot, the provisions relating to rear boundaries shall apply to such boundary or portions.

Second Schedule
Fences in Rural Zones

A fence shall be constructed to comply with the following;

1. Posts are to be;

(a) either-

(i) standard iron star pickets; or

(ii) timber posts that are-

- Sawn, split or round
- Treated effectively against termites and with an adequate fungicide; and
- Cut not less than 1800mm long x 100mm diameter at the small end if round or 125mm x 75mm if split or sawn;

(b) set 600mm in the ground and 1200mm out of the ground;

(c) spaced 3500mm apart; and

(d) bored with 5 suitably spaced holes of 5mm diameter to be threaded with 5 plain high tensile steel galvanised wires each of which is to be 2.5mm in diameter;

Strainer posts are to be;

- (a) either-
 - (i) cut from timber being not less than 150mm in diameter at the small end; or
 - (ii) tubular steel having a nominal bore of 80mm and an outside diameter of
- (b) 2300mm long;
- (c) sunk in the ground a minimum of 1000mm and, where the strainer posts are of tubular steel, encased in concrete having a minimum diameter of 300mm;
- (d) strutted or braced;
- (e) wrapped with plain high tensile steel galvanised wire and strained tightly; and
- (f) set at all corners, gateways and fence line angles but not exceeding 200m apart;

Where the fence fronts a road, any barbed wire is to be affixed to the inside of the posts.

OR

2. Concrete posts to Australian Standard N36-1964, with not less than six suitably spaced high tensile galvanised steel wires of not less than 2.5mm in diameter. A barbed wire may be affixed along the top of the fence or on the inside of such fence.

OR

3. Steel posts and wire to such specifications as may be from time to time approved by the Council, provided that such specifications shall provide for a standard of fencing generally compatible with alternatives (1) and (2)

A fence may be erected with a combination of timber, concrete or steel posts provided that the general standards are adhered to and that the specifications of such fence are approved in writing by the Council.

Wire netting or “ringlock” type fencing may be used in place of or in conjunction with plain wires provided specifications are approved in writing by the Council.

OR

4. A suitably constructed electric fence with a minimum of three (3) live wires at sufficient spacing to be an electric barrier;

OR

5. Any other material and of a specification approved by Council.

**Third Schedule
Fences in Rural- Residential and Special Residential Zones**

A fence shall be constructed to comply with the following;

1. Posts are to be;

(a) either-

(i) standard iron star pickets; or

(ii) timber posts that are-

- Sawn, split or round
- Treated effectively against termites and with an adequate fungicide; and
- Cut not less than 1800mm long x 100mm diameter at the small end if round or 125mm x 75mm if split or sawn;

(b) set 600mm in the ground and 1200mm out of the ground;

(c) spaced 3500mm apart; and

(d) bored with 5 suitably spaced holes of 5mm diameter to be threaded with 5 plain high tensile steel galvanised wires each of which is to be 2.5mm in diameter;

Strainer posts are to be;

(a) either-

(i) cut from timber being not less than 150mm in diameter at the small end; or

(ii) tubular steel having a nominal bore of 80mm and an outside diameter of

(b) 2300mm long;

(c) sunk in the ground a minimum of 1000mm and, where the strainer posts are of tubular steel, encased in concrete having a minimum diameter of 300mm;

(d) strutted or braced;

(e) wrapped with plain high tensile steel galvanised wire and strained tightly; and

(f) set at all corners, gateways and fence line angles but not exceeding 200m apart;

Where the fence fronts a road, any barbed wire is to be affixed to the inside of the posts.

OR

Any other material and of a specification approved by the Council.

**Fourth Schedule
Fences in Industrial and Light Industrial Zones**

- (1) Corner posts shall have not less than two struts at right angles to each other, and gate posts not less than one strut.
- (2) Intermediate posts shall be constructed of galvanised steel tubing having an internal diameter of not less than 40mm and shall have caps to tops and be set in concrete blocks having a depth of not less than 450mm and sides of a width not less than 225mm spaced at not more than 3.6 metres.3) Cables shall be affixed to the top, centre and bottom of all posts and shall consist of two or more 3.15mm wires twisted together.
- (4) Galvanised steel link mesh shall be not less than 1.8 metres high and constructed of 50mm mesh 2.5mm galvanised iron and shall be strained neatly, secured and laced to the posts and affixed to the cables.
- (5) Gates shall provide an opening of not less than 3.5 metres and shall be constructed of 25mm tubular galvanised steel framework with one horizontal and one vertical stay constructed of 18mm piping, and shall be covered with 50mm mesh 2.5mm galvanised link mesh strained and laced to framework. Gates shall be fitted with a drop bolt and locking attachment.
- (6) Dividing fences along side or near boundaries: Corner and gate posts shall be constructed of galvanised steel tubing having an internal diameter of not less than 50mm and shall have caps to tops and be set into concrete blocks having a depth of not less than 750mm and sides of a width of no less than 225mm.

Fifth Schedule

Fences in Specified Area – North Yunderup

Section 9.5

Residential Zone fencing specifications as set out in Schedule One hereto shall apply to the undermentioned localities –

From Part Location 182 to Lot 52 of Part Location 186 Culeenup road, North Yunderup, inclusive, as defined on Plan Numbers 4970,4841 and 5503, Lands and Surveys Lithographs Murray 3 and 5.