

## DIVIDING FENCES

The laws covering dividing fences can be found under the [Dividing Fences Act 1991 \(the Act\)](#). Generally, dividing fences do not require Council approval and Council does not arbitrate disputes between neighbours involving dividing fences.

### What is a dividing fence?

A **fence** is defined under the Act as:

*a structure, ditch or embankment, or a hedge or similar vegetative barrier, enclosing or bounding land, whether or not continuous or extending along the whole of the boundary separating the land of adjoining owners, and includes:*

- (a) any gate, cattlegrid or apparatus necessary for the operation of the fence, and
- (b) any natural or artificial watercourse which separates the land of adjoining owners, and
- (c) any foundation or support necessary for the support and maintenance of the fence,

*but does not include a retaining wall (except as provided by paragraph (c)) or a wall which is part of a house, garage or other building.*

A **dividing fence** is defined as:

*a fence separating the land of adjoining owners, whether on the common boundary of adjoining lands or on a line other than the common boundary.*

### When is Council approval not required for a dividing fence?

In most cases, development consent is not required for construction of a dividing fence provided that it is constructed in accordance the relevant provisions of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (SEPP Codes)*.

The provisions differ depending on land zoning e.g. residential or rural. Zoning information for a property can be found via the [Eplanning Spatial Viewer](#).

Once a site has been searched, zoning information can be obtained by generating a property report (**green**), selecting the actual map (**magenta**), or selecting the search result (**blue**). The blue also contains a link to the legislation where you can view the land use table (see **Figure 1**).

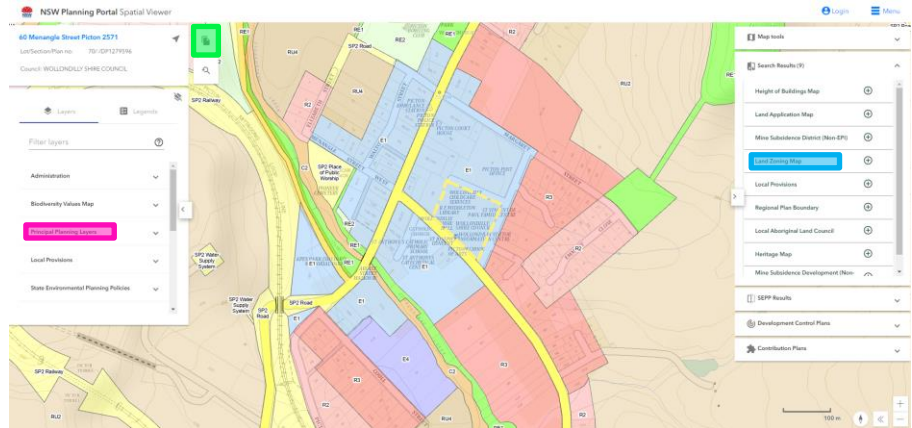


Figure 1: Eplanning spatial viewer

Land zoning differences can relate to type and style of materials used, as well as if electrification is permitted. As an example, for a residential zone, boundary and dividing fences must not exceed the heights shown in **Figure 2** and can be constructed of solid materials such as colorbond or masonry. In contrast, rural zoned land may only have post and rail or post and wire construction.

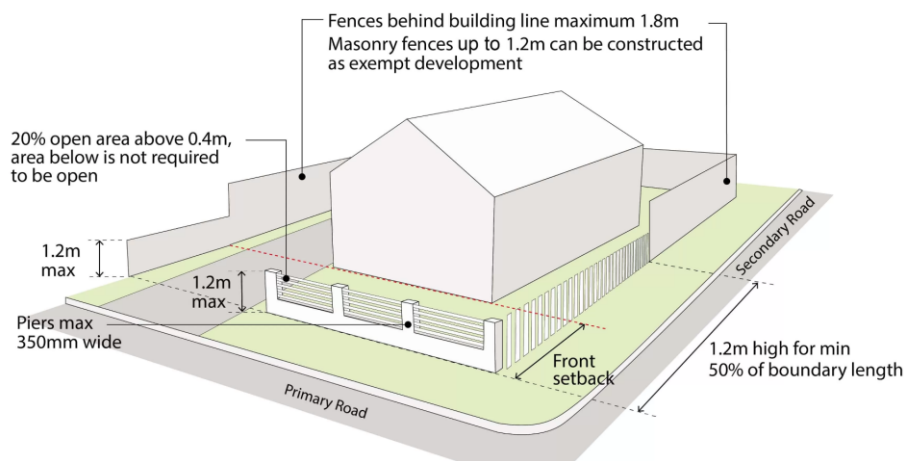


Figure 2: Fencing permitted in residential zones  
source: <https://www.planningportal.nsw.gov.au>

Dividing fences associated with a site that contain a listed heritage or draft heritage item and/or is within a heritage or draft heritage conservation area will require development consent.

### When is Council approval required for a dividing fence?

Any boundary fencing that does not fully meet the exempt development controls requires approval. There are also instances where the SEPP Codes cannot be applied, such as for land that is mapped as a heritage conservation area.

When this occurs, it is likely that specific development controls apply to the heritage conservation area either in Council's

Development Control Plan, a developer's design guideline, or established on the title of the land under an 88B restriction as to user.

### Who is responsible for the dividing fence?

Each owner is equally responsible for contributing to the provision of a satisfactory dividing fence. However, this is not the case where a dividing fence forms part of swimming pool fencing or the adjoining land is owned by Council or another government authority.

As a general rule, each owner contributes an equal proportion to the cost of providing a boundary fence of a satisfactory standard. Should one owner desire a fence exceeding the satisfactory standard, then that owner is liable to pay all the additional cost associated with construction a higher standard of fence over and above half the cost of a fence of satisfactory standard.

For example, an existing timber paling fence needs to be replaced. Neighbour A wants a new paling fence and neighbour B wants to upgrade to a brick fence. Subject to agreement being reached between the neighbours to construct a brick fence, neighbour A is only liable to pay 50% of the cost of a paling fence with the remainder of the costs associated with the brick fence being payable by neighbour B.

### What if my adjoining landowner is Council or another government authority?

Councils and other government authorities are not required to contribute to the cost of dividing fences. This means that if your land shares a boundary with Council or another government authority, you will be solely responsible for the full cost of erecting a dividing fence.

Should you require further information regarding dividing fence with property that adjoins Wollondilly Shire Council owned land please contact Council's Property Services on 4677 1100.

### Disputes involving dividing fences

If there is a dispute between neighbours over the type of fence or costs involved, you may seek mediation through a Community Justice Centre, or seek a hearing **before** a Local Court or the Local Lands Board. Council does not get involved or adjudicate with regards to disputes about dividing fences.

More information about dividing fence disputes can be found on the [NSW Legal Aid website](#).



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# FACT SHEET

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## Do you need to contact your neighbour?

If you need to obtain your neighbours name and postal address to get in touch with them to discuss your dividing fence, please fill out the [Adjoining Property Owner Details Request](#) on Council's website.

For more  
information contact  
Wollondilly Shire Council  
on **(02) 4677 1100**  
or visit Council's website  
[wollondilly.nsw.gov.au](http://wollondilly.nsw.gov.au)