

SCS-048 Fencing on Boundaries between Public and Private Land Policy

TRIM Reference: D19/96973 Due for Review: 28 July 2022
Responsible Officer: Manager Recreation and Open Space Planning

Purpose

The purpose of this policy is to clearly define different types of boundary applications, clearly set out Council's financial obligations for the associated costs of fencing for each application and to provide a consistent approach to the style of fencing that is required.

Policy Principles

This policy assists Surf Coast Shire Council with the establishment and maintenance of clear and safe boundaries between private property and public land, in order to enhance the public open space and protect it from future encroachment.

Definitions

Private land	Any land not owned by government.
Public land	Any land owned by Council. Any land owned by the Crown that is managed by Council.
Community Facilities	Any community building or establishment that is owned and/or managed by Council such as carparks, libraries, halls and visitor information centres.

Scope

This policy applies to:

- Fencing on boundaries between private land and public land of the following types:
 - Council owned and/or managed public open space including public parks, recreation reserves and linear reserves
 - Council owned and/or managed community facilities including carparks and community buildings, such as libraries and halls.
- Fencing along boundaries on both existing developments and new developments between privately owned land and public land, specifically:
 - Council-owned freehold land
 - Crown Land where Council is appointed Committee of Management.
- Fencing on boundaries between Council owned and/or managed land and public land managed by different authorities such as Great Ocean Road Coastal Committee (GORCC) or Parks Victoria.

Policy

In accordance with the *Fences Amendment Act 2014*, Council is not required to contribute to the cost of the construction of fences on boundaries between private land and public land including public parks, recreation reserves and linear reserves.

Where boundary fencing abuts Council owned carparks and community facilities (community buildings – ie halls, libraries etc), Council will contribute half the cost of erecting a new fence or repairs/replacement

of an existing fence. Fencing that abuts a road, laneway, right-of-way, public parks and reserves remains the full responsibility of the property owner.

1. Boundaries between private land and public land

Private property	Type of public land	Policy
Privately owned land including house lots.	<p>Existing developments: Open space including public parks, recreation reserves and linear reserves.</p>	<p>It is the sole responsibility of the property owner to cover the costs of the construction of these fences.</p> <p>In accordance with the <i>Fences Amendment Act 2014</i>, Council is not required to contribute to the cost of the construction of fences on these lot boundaries.</p> <p>These fences must be constructed in accordance with the fencing styles listed below.</p>
	<p>New developments: Open space including public parks, recreation reserves and linear reserves.</p>	<p>As part of the planning scheme requirements, new developments that contain lots abutting public parks, reserves and pedestrian linkages, are required to have boundary fences constructed prior to issue of Statement of Compliance. After issue, these fences become the responsibility of the property owner.</p> <p>Fences must be constructed in accordance with the applicable planning permit requirements and/or the fencing styles outlined below. Council is not required to contribute to the cost of the construction of fences on these lot boundaries.</p>
	<p>Existing and new developments: Community facilities including Council owned carparks and community buildings such as libraries and halls.</p>	<p>Council will contribute to the cost of erecting a new fence or repairs/replacement of an existing fence.</p> <p>Council will contribute to the cost for demolition of any existing fence requiring replacement and any minor planning matters and survey work required for boundary locating.</p> <p>Fences must be constructed in accordance with the fencing styles listed below.</p>

2. Fencing Styles

2.1. Approved Treatments

There are four styles of boundary fencing that Council will accept between private property and public land. These differ depending on the application and the type of public land. Please note that fences must also be in accordance with the appropriate planning scheme requirements.

Fencing style	Description	Application
Permeable	<p>1.2 - 1.8m high semi permeable fence (i.e. gaps between palings or pickets of no less than 20mm).</p> <p>Boundaries must have at least two-thirds of the boundary consisting of fully permeable to semi permeable fencing. No more than one-third of the boundary can consist of solid fencing.</p> <p>Fencing must continue for the full length of the property boundary.</p>	Open space reserves and pedestrian link reserves where visual surveillance is required for safety reasons (Clause 56.06-2).
Standard Paling	<p>1.2 - 1.8m high standard paling fence.</p> <p>Fencing must continue for the full length of the property boundary.</p>	Community facilities and buildings where visual surveillance is not required for safety reasons.
Post and Wire	<p>1.2m high standard post and wire fence.</p> <p>Rabbit proof netting where applicable/ required.</p> <p>Fencing must continue for the full length of the property boundary.</p>	Rural areas of open space, selected areas of open space within townships and in nature reserves where applicable / desirable.
Marker/ Bollard	Boundary markers/ bollards with the Surf Coast Shire logo.	Rural areas of open space and on nature reserves where applicable / desirable.

2.2. Gates

One pedestrian sized gate is permitted on open space reserves, where access from the private property is requested by the land owner and if in the opinion of Council there are no health or safety risks to the public. Requests must be made in writing to Surf Coast Shire and the decision is at the discretion of Council officers. Any pedestrian sized gate is to be no more than 1 metre wide when measured between the gates posts. Vehicle access gates are not permitted.

3. Notification of Proposed Fencing Works

According to the *Fences Amendment Act 2014*, land owners must generally give notice to an adjoining owner before undertaking fencing works, even when financial contribution is not being sought. Owners of private land must notify Council of their intention to construct boundary fencing to ensure fencing is on the correct alignment and is constructed in accordance with the fencing styles listed above.

Council must also be notified in the event that fencing works require the removal of native vegetation and in this occasion, appropriate planning scheme requirements must be met.

4. Permits

A permit is required for the construction of a fence and the removal of native vegetation if the boundary is on land with an Environmental Significance Overlay. If necessary, permits must be sought in accordance with the Surf Coast Planning Scheme.

5. Alignment

It is the responsibility of land owner to accurately determine the title boundary of the land, and agree to these boundaries with contractors if engaged, prior to constructing the fence.

6. Encroachment

Implementing and enforcing this policy aims to avoid future encroachment onto Council owned land, thus reducing the need for Council intervention and the implementation of MPP – 004 Public Land Encroachment.

For issues relating to encroachment on to public land refer to MPP – 004 Public Land Encroachment.

Related Procedure

Nil

References

Fences Amendment Act 2014 - TRIM D19/101927
Fences Act 1968 – TRIM D19/101928
Fencing Style Guidelines – TRIM D19/140684
MPP-004 Public Land Encroachment – TRIM D18/72062
Surf Coast Planning Scheme

Document History

Version	Document History	Approved by – Date
1	<i>New document</i>	<i>Council - 28 July 2020</i>