

# Planning and Development

## RETAINING WALLS

### Overview

A retaining wall is a structure that retains or supports soil when the natural ground level has been altered.

Before any work in relation to a retaining wall is started, two questions must be answered:

- Is development approval required?
- Legal obligations to adjoining properties.

### Council's Role

The role of Council in relation to retaining walls is to consider applications where development approval is required and to ensure specifications in applications are to appropriate standards.

Council cannot resolve disputes about apportionment of costs when building or repairing a retaining wall or advise who is responsible to build or repair a retaining wall.

Councils will not request repairs to retaining walls except in genuinely urgent cases.

### Do I Require Development Approval for a Retaining Wall?

A retaining wall will require Development Approval:

- Where the ground level either side is more than one (1) metre at any point
- If two or more retaining walls (each less than one metre high) are used together in a tiered fashion, the overall difference in ground level must be less than one metre, otherwise approval will be needed.

### Fences located on Retaining Walls

Development approval is required to be obtained for any fence which exceeds 2.1 metres in height or in the case of a brick or masonry fence, a height exceeding 1 metre.

However, any proposed fence requires Development Approval if the property is located within a Historic Zone or Historic Policy Area or associated with a State heritage place or is located within the Flood Zone or a flood plain as delineated in the Development Plan.

If a fence is proposed to be located on top of a retaining wall, Development Approval is required to be obtained if the total height (measured from the lowest level of the retaining wall to the highest point of the fence) exceeds 2.1 metres, or in case of a brick or masonry fence, 1 metre.

### Specific Development Application Information Required:

- A detailed site and contour plan (drawn to scale) including a spot level 'Bench Mark', proposed and existing retaining walls.
- Structural details of the proposed retaining wall which must include the size, member span and spacing, footing sizes and flooring incorporated in the structure.

### Legal Obligations to Adjoining Properties

*A land owner who proposes to excavate or fill near a boundary which may be considered to affect the stability of neighbouring land may need to give twenty eight (28) days' notice to the neighbour setting out the nature and scope of the work as required pursuant to Section 60 of the Development Act 1993. People who are filling in for landscaping or gardening (less than 200 millimetres deep), do not have to give notice. If an excavation is proposed, the neighbour may be able to ask the proposer to pay for a report and specifications from a professional engineer [Reg.75 of the Development Regulations 2008]. The neighbour can then require that the proposer complete the work specified by the engineer. This may include building a properly designed retaining wall or even underpinning the neighbour's home [Section 60(1) (b) of the Development Act 1993]. A proposer who fails to serve a notice or who fails to carry out work specified after a notice faces a fine of up to \$10,000 [Section 60 (2) of the Development Act 1993]. However, a proposer may be able to obtain some payment from the neighbour towards the work. This may occur, for example, where the neighbour will obtain some additional benefit from the performance of work specified by the engineer.*

### Other information

Additional information is available at Legal Services Commission of South Australia at <https://lawhandbook.sa.gov.au/ch31s04.php>