

Fact Sheet

Repairing or Replacing Existing Retaining Walls

Whose responsibility is it to repair or replace an existing retaining wall?

The responsibility for repairing or replacing an existing retaining wall generally rests with the owner whose property the wall is constructed on. If there is any doubt about the ownership of a retaining wall, it is essential that you engage a registered cadastral surveyor to accurately determine the property boundary and location of the retaining wall on a survey plan.

What if the wall is constructed along a common boundary and provides benefit to multiple owners?

If a survey plan identifies that all or part of the retaining wall is located on the common boundary, it must then be determined who the retaining wall is benefiting. Sometimes retaining walls benefit only one owner and other times they benefit a number of owners.

The sharing of costs for repairing and/or maintaining a retaining wall along, or close to the common boundary, is a civil matter that must be negotiated between neighbours. **Council is not able to provide any advice or take action on these matters.**

Do I need approval to repair or replace a retaining wall?

The need for an application to carry out building work for repairs or replacement of a retaining wall depends on the extent and type of repairs required. The *Building Regulation 2021* allows for up to 20% of the structural components of the wall to be repairs as “accepted development” and therefore does not require an application. Where the repairs exceed this threshold, a building certifier’s approval would be required.

Refer to the fact sheet for building a new retaining wall for further information on accepted development, building and other approvals that may be required, or speak directly with your building certifier.

What happens if there is a fence on top of a retaining wall needing repair or replacing?

This becomes a more complex issue and will depend on individual circumstances, such as:

- whether the fence relies on the retaining wall for structural support
- who is lawfully responsible for the construction and maintenance of the retaining wall
- who’s land the retaining wall is constructed on and who gains benefit from the wall
- whether the fence is located on the common property boundary, or
- whether the fence is also in need of repair or replacement at the same time as the retaining wall.

Where a fence does not form part of the structural component of the retaining wall, the fence becomes a civil matter that must be negotiated and resolved between neighbours. Council may take compliance action where a fence is creating an imminent hazard to people or property.

When does Council become involved?

Retaining wall disputes between neighbours can be legally complex, costly and time consuming. It is always best to speak with your neighbour to resolve retaining wall issues as this may help prevent legal disputes.

Council will generally only become involved in issues associated with existing retaining walls where:

- there is an imminent danger of the retaining wall collapsing and causing injury to people or damage to property
- where a wall was built without the required approvals, or
- where the wall is encroaching onto council land.

How can I avoid structural problems with a retaining wall in the future?

Any new retaining wall should be built to last the expected life of the building or property the wall serves. As an example, retaining walls constructed of reinforced core-filled concrete block, boulders, masonry or concrete will typically last longer than a H4 treated hardwood or pine sleeper wall.

Always build your retaining wall with suitable materials and consider the implications and costs of replacing the wall in the future.

Is drainage required?

Drainage is an integral part of retaining walls. The *Building Act 1975 (s76)* requires that where drainage is part of the approval of the work, it must be carried out in a way that protects land, buildings and structures in the neighbourhood.

If the work is accepted development (ie. permit is not required), the work must comply with manufacturer specifications or refer to NMP1.7 of the Queensland Development Code (QDC) for recommended acceptable solutions/performance criteria. A person may commence civil action against another person who constructs non-compliant accepted development which impacts them. Council is not a party to this action.

Overland flow is surface water resulting from rainfall, which can cause flooding of houses and property. Ipswich is prone to bursts of intense rainfall which causes significant amounts of surface water. This surface water will naturally concentrate and flow downhill.

Even if a retaining wall includes sub surface drainage, it may be unable to cope, the resulting surface water (overland flow) takes its natural course downhill, often across private property including over and even through the constructed retaining wall.

You are required to accept natural overland flow from adjoining properties. Naturally, surface water flows to the lowest point. An upstream property cannot be liable for surface water flowing from their land to the lower land. It is the responsibility of a downstream property owner to manage and protect the lawfully constructed building structures on their property. This can be achieved by installing private drainage.

Resolving disputes

This information is a guide only and is not intended as a substitute for consulting the relevant legislation or for obtaining professional advice.

Further information can be obtained from:

Queensland Development Code (QDC):

<http://www.hpw.qld.gov.au/construction/BuildingPlumbing/Building/BuildingLawsCodes/QueenslandDevelopmentCode/Pages/QueenslandDevelopmentCodeCurrentParts.aspx>

National Construction Code (Building Code of Australia):

<https://www.abcb.gov.au/ncc-online/NCC>

Queensland Civil and Administrative Tribunal (dividing fence disputes):

<https://www.qcat.qld.gov.au/resources/faqs/faq-dividing-fence-disputes>

Alternatively, contact your local builder, building certifier or civil/structural engineer.

More Information

For more information contact Council on (07) 3810 6666 or visit ipswich.qld.gov.au.

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