



Dividing Fences

Local Planning Policy

VERSION 1

- 1.0 ADOPTION
- 2.0 PURPOSE
- 3.0 SCOPE
- 4.0 OBJECTIVE
- 5.0 POLICY STATEMENT
 - 5.1 Background
 - 5.2 Definitions
 - 5.3 Sufficient Fences
 - 5.4 Barbed Wire Fences
 - 5.5 Electrified Fence
 - 5.6 Razor Wire Fence
 - 5.7 Fencing in the Primary Street Setback
- 6.0 REFERENCE
- 7.0 RESPONSIBILITIES

town planning services

1.0 ADOPTION

Version	Council Adoption	Item Number	Comment
1	7 September 2010	SC185	Draft for advertising
1	7 September 2010	SC185	Advertising concluded 1 October 2010 Final – no objections received
1	1 July 2011	SC001	Draft for advertising
1	1 July 2011	SC001	Advertising concluded 1 August 2011 Final – no objections received

2.0 PURPOSE

Local Planning Policies are guidelines used to assist the local government in making decisions under the Scheme. The Scheme prevails should there be any conflict between this Policy and the Scheme.

It is not intended that a policy be applied rigidly, but each application be examined on its merits, with the objectives and intent of the policy the key for assessment. However, it should not be assumed that the local government, in exercising its planning discretion, be limited to the policy provisions and that mere compliance will result in an approval. This approach has produced many examples of inappropriate built form that has a long-term impact on the amenity and sustainability of the locality.



The City encourages applicants to produce innovative ways of achieving the stated objectives and acknowledges that these may sit outside the more traditional planning and architectural approaches. In these instances the local government is open to considering (and encourages) well-presented cases, during pre-application consultation, having due regard to the outcome of any public consultation undertaken and the orderly and proper planning of the locality.

3.0 SCOPE

A Local Planning Policy is not part of the Scheme and does not bind the local government in respect of any application for planning approval but the local government is to have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making its determination.

4.0 OBJECTIVE

To prescribe what is a 'sufficient fence' (for the purpose of the *Dividing Fences Act 1961*).

5.0 POLICY STATEMENT

5.1 Background

The *Dividing Fences Act 1961* (the Act) provides a process for neighbours to agree on the fence that divides their properties, and to share the cost of construction and maintenance. The Act also provides for the courts the ability to deal with disputes that may arise over dividing fences.

Local Governments are an advisory authority on dividing fences providing advice on minimum fencing requirements, boundary constructions works (such as retaining walls, parapet walls, masonry walls and the like) under Part XV of the *Local Government (Miscellaneous Provisions) Act 1960*.

5.2 Definitions

For the purposes of this Policy:

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

“**Commercial Lot**” means a lot where a commercial use:

- a. is or may be permitted under the town/local planning scheme; and
- b. is or will be the predominant use of the lot.

“**Dangerous**” (in relation to any fence) means:

- a. an electrified fence other than a fence in respect of that which has been given approval by the local government;
- b. a fence containing barbed wire other than a fence erected and maintained in accordance with this policy;
- c. a fence containing exposed broken glass, asbestos fibre, razor wire or any other potentially harmful projection or material;
- d. a fence (or part of a fence) which is likely to collapse or fall for any reason whatsoever.

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

“**Height**” (in relation to the fence) means the vertical distance between the top of the fence at any point and the ground level immediately below. If the ground levels are not the same on each side of the fence, the height is measured from the higher ground level.

“**Industrial Lot**” means a lot where an industrial use:

- a. is or may be permitted under the town/local planning scheme; and
- b. is or will be the predominant use of the lot.

“**Residential Lot**” means a lot where a residential use:

- a. is or may be permitted under the town/local planning scheme; and
- b. is or will be the predominant use of the lot.

“**Rural Lot**” means a lot where a rural use:

- a. is or may be permitted under the town/local planning scheme; and
- b. is or will be the predominant use of the lot.

“**Rural Residential Lot**” means a lot where a rural residential or rural smallholding use:

- a. is or may be permitted under the town/local planning scheme; and
- b. is or will be the predominant use of the lot.

“**Sufficient Fence**” means a fence prescribed by the local government or a fence of any standard agreed upon by adjoining owners provided that it does not fall below the standard prescribed by the local government.

“**Visually Permeable**” (in relation to a fence) means a fence:

- a. where the vertical surface has continuous vertical or horizontal gaps of at least 50mm width occupying not less than one third of its face in aggregate of the entire surface or where narrow than 50mm, occupying at least one half of the face in aggregate, as viewed directly from the street or neighbouring property; or
- b. a surface offering equal or lesser obstruction to view.

5.3 Sufficient Fences

5.3.1 A sufficient dividing fence for a Residential Lot:

- a. may be constructed of timber pickets, corrugated fibre reinforced pressed cement, metal sheeting, brick, stone or concrete.
- b. should be a maximum height of 1.8m or 2.1m where it is visually permeable above 1.8m.

5.3.2 A sufficient dividing fence for a Commercial or an Industrial Lot:

- a. may be constructed of galvanized or PVC coated rail-less link mesh, chain mesh, steel mesh, fibre reinforced cement sheet, metal sheeting, timber, brick, stone or concrete.
- b. should be a maximum height of 2m on top of which there may be 3 strands of barbed wire to a maximum height of 2.4m.

5.3.3 A sufficient dividing fence for a Rural Lot is a fence of post and wire construction to prevent stock from passing through and may be electrified.

5.3.4 A sufficient dividing fence for a Rural Residential Lot is a fence constructed in accordance with either 5.3.1 or 5.3.3.

5.3.5 Where a fence is erected on or near the boundary between:

- a. a residential lot and either a commercial, industrial, rural or rural residential lot a sufficient fence is a dividing fence constructed in accordance with the specifications for a residential lot;
- b. a commercial lot or an industrial lot and a rural or rural residential lot, a sufficient fence is a dividing fence constructed in accordance with the specifications for a commercial or an industrial lot.

5.4 Barbed Wire Fences

- 5.4.1 An owner or occupier of a residential lot shall not erect or affix, to any fence on such a lot, any barbed wire or any other material with spiked or jagged projections, unless the prior written approval of the local government has been obtained.
- 5.4.2 An owner or occupier of a commercial lot or an industrial lot shall not erect or affix, on any fence bounding that lot, any barbed wire or other materials with spiked or jagged projections unless the wire or materials are a minimum of 2m above ground level.
- 5.4.3 If the posts which carry the barbed wire or other material are angled towards the outside of the lot bounded by the fence, the face of the fence must be set back from the lot boundary a sufficient distance to ensure that the angled posts, barbed wire or other materials do not encroach over the boundary.

5.5 Electrified Fence

Other than on a rural or rural residential lot, an owner or occupier shall not erect an electrified fence without first obtaining the written approval of the local government.

5.6 Razor Wire Fence

- 5.6.1 An owner or occupier shall not erect a fence constructed wholly or partly of razor wire fence without first obtaining the approval of the local government.
- 5.6.2 A razor wire fence should not be located within 3m of the boundary of the lot and should be at least 2m above ground level.

5.7 Fencing in the Primary Street Setback

- 5.7.1 Dividing fences that are located in the primary street setback area should be a maximum solid height of 1.2m for a length of at least 1.5m (refer to Figure 1).
- 5.7.2 Where a dividing fence, that is located in the primary street setback area, is within 1.5m of a vehicle access point then the fence should be no higher than 0.75m in accordance with clause 6.2.6, A6 of the Residential Design Codes of WA (refer to Figure 2).

Where this cannot be achieved an application for planning approval is required and will be assessed against the performance criteria of the Residential Design Codes.

- 5.7.3 Where a dividing fence, that is located in the primary street setback area, adjoins a dividing fence that is not located in the primary street setback area (eg. a side fence adjoins a rear fence), then the fence may be constructed in accordance with clause 5.3.1 provided there is no vehicle access point within 1.5m (refer to Figure 3).

Figure 1

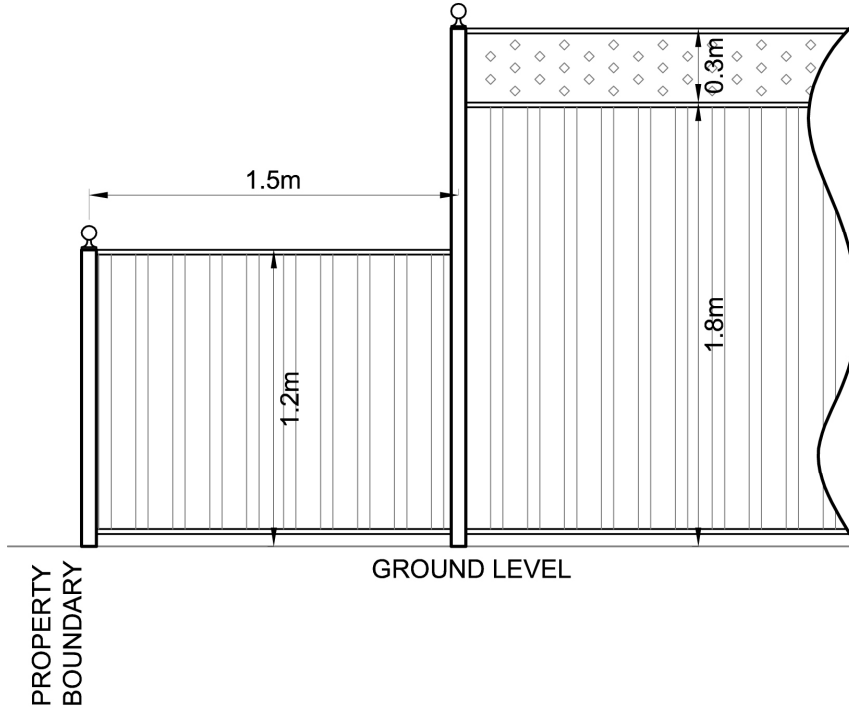


Figure 2

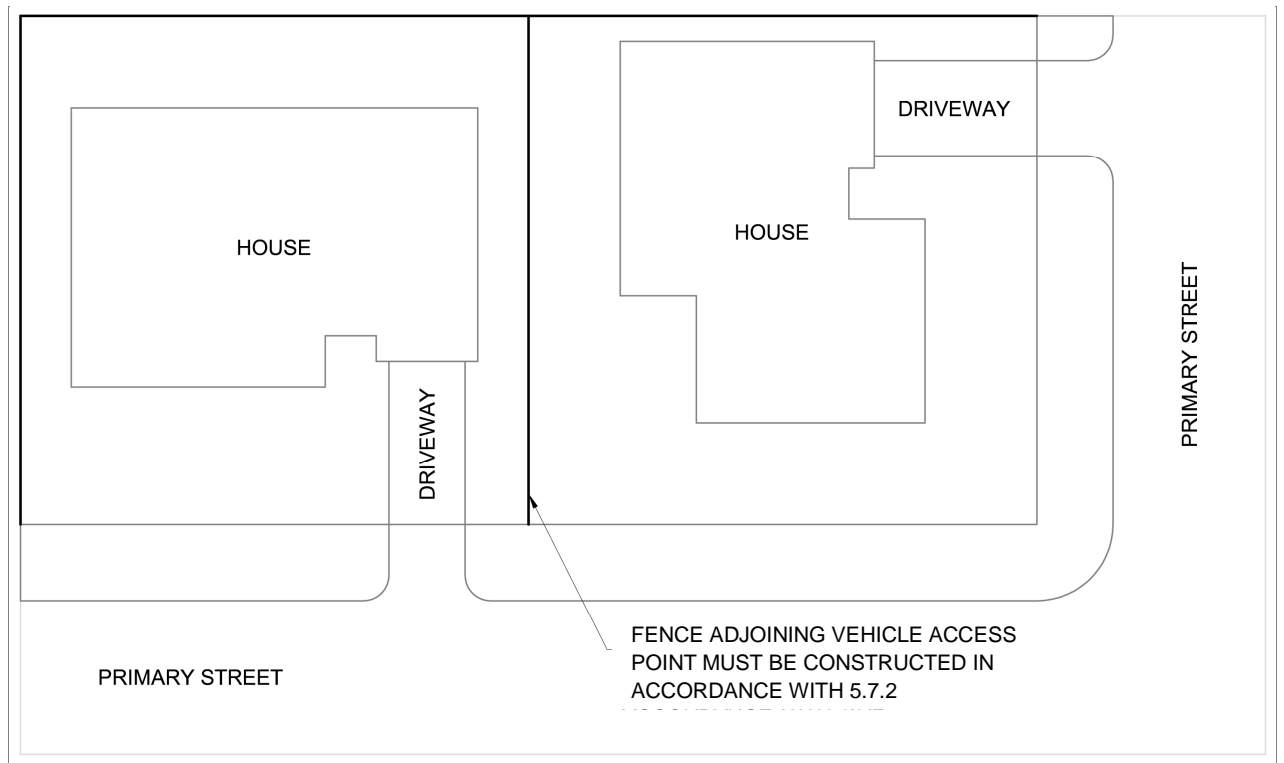
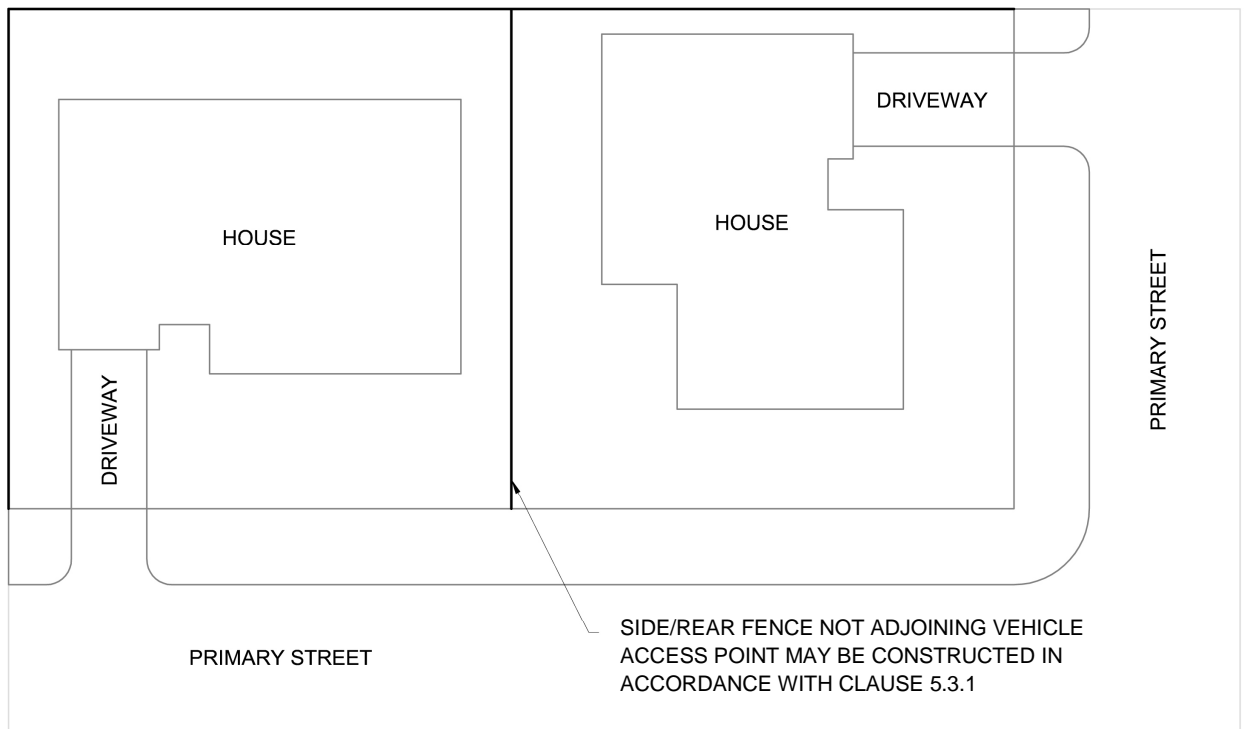


Figure 3



6.0 REFERENCE

The Dividing Fences Act 1961.

7.0 RESPONSIBILITIES

The *Dividing Fences Act 1961* is administered by the Department of Commerce, Building Commission. The Act provides for the courts to deal with disputes over dividing fences.

The Town Planning Services Team as per the Delegations Policy and Register and further authority is delegated to the Chief Executive Officer to approve applications for barbed wire, electrified and razor wire fences.