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1. Statement

Council will comply with its obligations under the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*.

2. Purpose and Principles

The objective of this policy is to provide guidelines for Council when owners of land seek a contribution from Council towards the cost of construction, replacement or repair of a dividing fence on a shared common boundary.

3. Strategic Plan Links

This policy aligns with the following iFuture 2021-2026 Corporate Plan theme:

- Safe, Inclusive and Creative

4. Regulatory Authority

- *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*
- *Chapter 8, Part 2A, Building Act 1975*
- *Land Act 1994*
- *Animal Management (Cats and Dogs) Act 2008 (Qld)*

5. Human Rights Commitment

Ipswich City Council (Council) has considered the human rights protected under the *Human Rights Act 2019 (Qld)* (the Act) when adopting and/or amending this policy. When applying this policy, Council will act and make decisions in a way that is compatible with human rights and give proper consideration to a human right relevant to the decision in accordance with the Act.

6. Scope

Council will contribute an amount equivalent to half the cost of constructing, repairing or replacing a “sufficient dividing fence” that shares a common boundary with Council freehold land. This is subject to an assessment pursuant to the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*.

Council does not contribute towards a dividing fence on a common boundary where the Council land:

- is used as a public park¹;
- is a road;
- is reserve land held on trust by Council;
- is land which has been granted in deed on trust in accordance with the *Land Act 1994* (Qld) and is held in trust by Council;
- is a stock route (within the meaning of the *Land Protection (Pest and Stock Route Management) Act 2002*);
- is a State plantation forest;
- is rural land of more than half a hectare used for grazing stock on a commercial basis, or for cultivating crops on a commercial basis;
- is subject to a covenant or agreement that excludes Council from contributing²;

Council will also not contribute if fencing work is carried out prior to notification being received by Council, or if Council deems the existing fence to be a Sufficient Dividing Fence (as defined in this Policy) and in reasonable condition.

If the common boundary is not agreed upon between Council and the applicant, Council or the applicant may give a written notice to the other of their intention to have the common boundary defined by a cadastral surveyor engaged by the writer of the notice. If such a written notice is given, the process outlined in section 40 of the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011* (Qld) may be followed.

If the applicant wants to construct a fence to a standard greater than the 'Sufficient dividing Fence', the additional costs will be borne by the applicant.

When deciding whether a dividing fence is a 'Sufficient dividing Fence', or when assessing a request for a contribution to fencing work, Council will give consideration to a number of factors, including the visual amenity of the material selected for the fencing work, and the relevant planning scheme and zoning for the area where the fencing work is proposed to be undertaken.

If the applicant has a regulated pool on their land, and all or part of the dividing fence will be used as a pool barrier:

- To the extent that the work is attributable to the applicant complying with the pool safety standard, the cost of carrying out the work is to be borne solely by the applicant; and
- To the extent that the work is not attributable to the applicant complying with the pool safety standard, the cost of carrying out the work is to be split equally between the applicant and Council.³
- However, if the dividing fence is greater than 1.8 metres in height, or if the dividing fence is a Special Purpose Fence, the owner will be solely responsible for the entire cost⁴.

Unless otherwise determined or agreed, if the boundary is burdened by trees or other natural aspects, then it is the applicants' requirement to remove or maintain.

¹ Section 14(2)(a) *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*.

² Section 10 *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011* (Qld)

³ Section 245XH *Building Act 1975* (Qld).

⁴ Section 245XH(3) *Building Act 1975* (Qld).

Once Council has granted approval to contribute towards half the costs of the dividing fence, the approval will be granted subject to the following:

1. An inspection will be carried out by Council's City Maintenance Branch to verify that the fence has been constructed according to Council requirements; and
2. All building materials relating to the construction of the fence have been removed from Council land.

7. Roles and Responsibilities

The policy applies to all applications received by Council seeking a contribution to construct, repair or replace a dividing fence between Council owned Freehold land and private land.

All applications will be assessed by Council's Property Services Section and inspections will be carried out by Council's City Maintenance Branch.

8. Key Stakeholders

- City Maintenance Branch – Asset and Infrastructure Services Department

9. Monitoring and Evaluation

- Undertake proper due diligence to ensure the assessment complies with relevant legislation.
- Ensure all commitments relating to the approved Council contribution are achieved in the required timeframes

10. Definitions

Term	Definition
Adjoining Land	Means land on either side of a common boundary
Adjoining Owners	Means the owners of the land on either side of a common boundary.
Dividing Fence	<p>Means a fence on the common boundary of adjoining land. A fence separating the land of adjoining owners constructed on a line other than the common boundary is also a dividing fence if -</p> <ul style="list-style-type: none"> • it is impracticable to construct a fence entirely on the common boundary of the adjoining lands because of natural physical features; or • the adjoining land includes one or more parcels of pastoral land separated by a watercourse, lake, or other natural or artificial feature insufficient to stop the passage of stock at all times.
Fence	<p>Means a structure, ditch or embankment, or a hedge or similar vegetative barrier, enclosing or bounding land, whether or not continuous or extending along the entire boundary separating the land of adjoining owners, and includes:</p> <ol style="list-style-type: none"> a) a gate, cattle grid or apparatus necessary for the operation of the fence; and b) a natural or artificial watercourse separating the land of adjoining owners; and c) a foundation or support built solely for the support and maintenance of the fence. <p>However, a retaining wall or a wall that is part of a house, garage or other building is not considered a dividing fence, even if it is located on the common boundary.</p>
Fencing Work	<p>For a dividing fence means</p> <ol style="list-style-type: none"> a) the design, construction, modification, replacement, removal, repair or maintenance of the whole or part of the dividing fence; and b) the surveying or preparation of land, including the trimming, lopping or removal of vegetation, along or on either side of the common boundary of adjoining lands for a purpose mentioned in paragraph (a); and includes— c) the planting, replanting and maintenance of a hedge or similar vegetative barrier as the dividing fence; and d) the cleaning, deepening, enlargement or alteration of a ditch, embankment or watercourse that serves as the dividing fence; and e) obtaining an approval required for fencing work.

Prescribed Material	<p>For a dividing fence, means any of the following materials unless the material does not comply with a requirement under a relevant local law—</p> <ul style="list-style-type: none"> a) wood, including timber palings and lattice panels; b) chain wire; c) metal panels or rods; d) bricks; e) rendered cement; f) concrete blocks; g) hedge or other vegetative barrier; h) other material of which a dividing fence is ordinarily constructed.
Special Purpose Fence	<p>Means a dividing fence constructed according to a specific design, or using specific materials or dimensions, for the purpose of being an acoustic barrier or complying with any of the following –</p> <ul style="list-style-type: none"> a) a development approval; b) a condition of a licence granted by a statutory authority; c) an order of a court or tribunal; or d) an obligation under an Act. <p>An example of an obligation under an Act is an enclosure for a regulated dog under the <i>Animal Management (Cats and Dogs) Act 2008</i> (Qld).</p>
Sufficient Dividing Fence	<p>A dividing fence is a ‘sufficient dividing fence’ if for adjoining land consisting of two (2) parcels of residential land, the dividing fence is between a minimum of 0.5m and a maximum of 1.8m in height and consists substantially of prescribed materials.</p> <p>For adjoining land consisting of two (2) parcels of pastoral land, the dividing fence is sufficient to restrain livestock of the type grazing on each of the parcels of land.</p>

11. Policy Owner

The General Manager (Corporate Services) is the policy owner and the Property Services Manager – Property Services Section (Corporate Services) is responsible for authoring and reviewing this policy.