

# Dividing Fences

## Local Planning Policy

**VERSION 2**

December 2015

town planning services

Version	Adoption	Comment
1	7 September 2010 Council Item SC185	Final – No objections received during advertising.
1	1 July 2011 Council Item SC001	Final – Readopted under the new City of Greater Geraldton.
2	15 December 2015 Council Item DRS242	Readopted under the new LPS No. 1.

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## 1.0 CITATION

This is a local planning policy prepared under the *Planning and Development (Local Planning Schemes) Regulations 2015* and the City of Greater Geraldton Local Planning Scheme No. 1 ('the Scheme'). It may be cited as the *Dividing Fences local planning policy*.

The local government may prepare a local planning policy in respect of any matter related to the planning and development of the Scheme area. In making a determination under the Scheme the local government must have regard to each relevant local planning policy to the extent that the policy is consistent with the Scheme.

## 2.0 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*.

## 3.0 OBJECTIVES

- a) To prescribe what is a 'sufficient fence' for the purposes of the Act.

## 4.0 POLICY MEASURES

### 4.1 Sufficient Fences

#### 4.1.1 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.

#### 4.1.2 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.

#### 4.1.3 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.

#### 4.1.4 A sufficient dividing fence for a Rural Residential Lot is a fence constructed in accordance with either clause 4.1.1 or 4.1.3.

- 4.1.5 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.

#### 4.2 Barbed Wire Fences

- 4.2.1 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.
- 4.2.2 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.
- 4.2.3 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.

#### 4.3 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.

#### 4.4 Razor Wire Fence

- 4.4.1 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.
- 4.4.2 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.

#### 4.5 Fencing in the Primary Street Setback

- 4.5.1 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).
- 4.5.2 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 5.2.5, C5 of the R-Codes (refer to Figure 2).

Where this cannot be achieved an application for development approval is required and will be assessed against the performance criteria of the R-Codes.

4.5.3 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 (e.g. a side fence adjoins a rear fence), then the fence may be constructed in accordance with clause 4.1.1 provided there is no vehicle access point within 1.5m (refer to Figure 3).

Figure 1

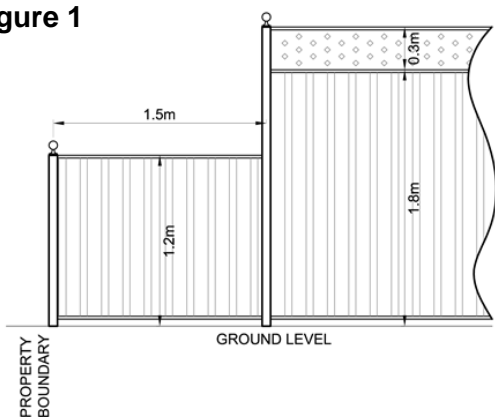


Figure 2

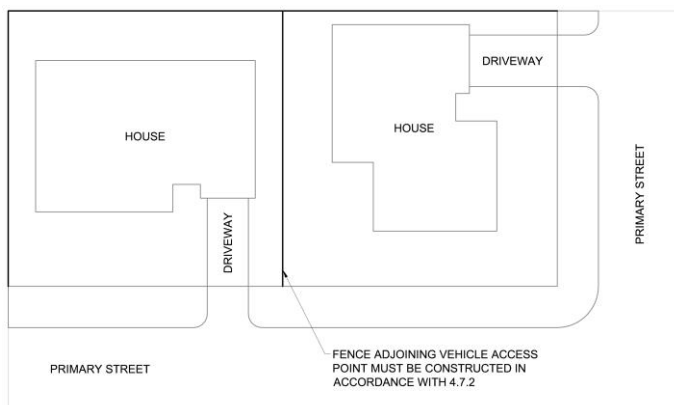
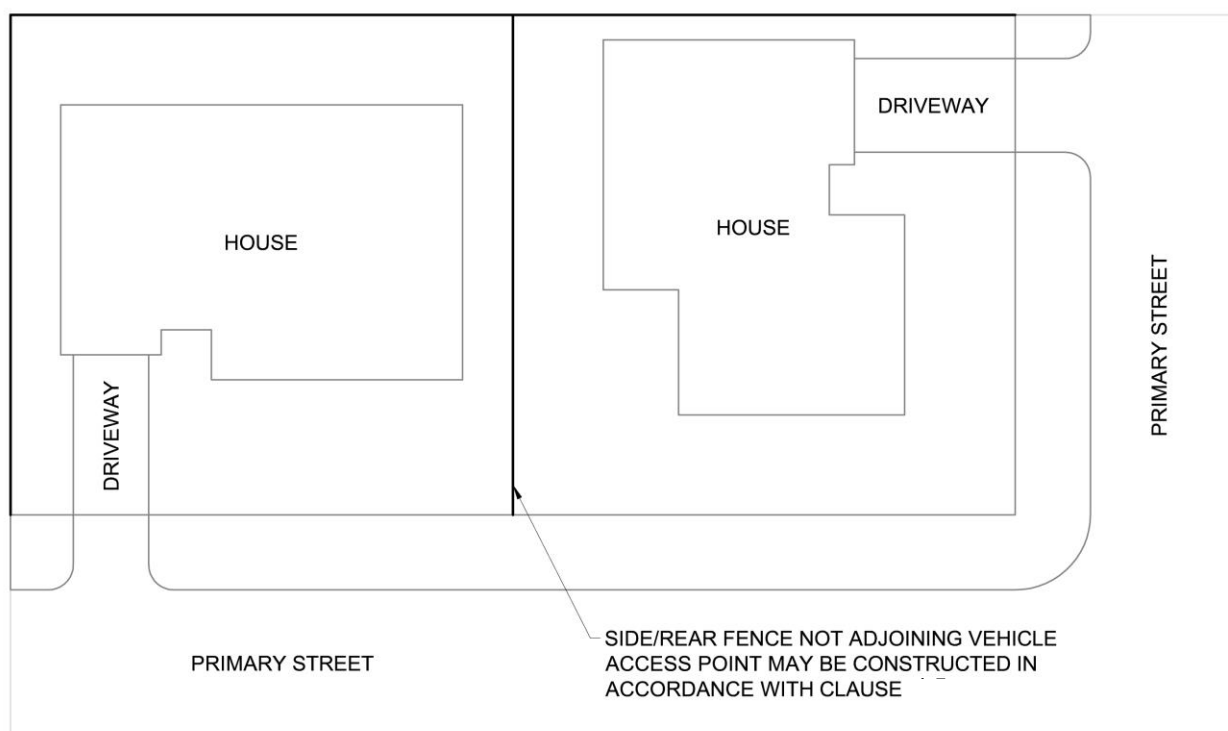


Figure 3



## 5.0 DEFINITIONS

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

**Commercial Lot** means a lot where a commercial use is or may be permitted under the local planning scheme; and 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 is or may be permitted under the local planning scheme; and is or will be the predominant use of the lot.

**Residential Lot** means a lot where a residential use is or may be permitted under the local planning scheme; and is or will be the predominant use of the lot.

**Rural Lot** means a lot where a rural use is or may be permitted under the local planning scheme; and is or will be the predominant use of the lot.

**Rural Residential Lot** means a lot where a rural residential use is or may be permitted under the local planning scheme; and 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** has the meaning given in the R-Codes.