

FAQ – Dividing Fences

The purpose of this information sheet is to provide general guidance on the *Dividing Fences Act 1961* (The Act) in relation to the construction and maintenance of dividing fences.

Who looks after 'Dividing Fence' matters and disputes?

All Dividing Fences matters are civil matters managed by the Department of Energy, Mines, Industry Relation and Safety, and not the City of Nedlands. For further information, please contact the Department on 1300 489 099 or visit [Dividing fence matters – overview | Department of Energy, Mines, Industry Regulation and Safety \(commerce.wa.gov.au\)](#)

What is a 'Dividing Fence' defined as under the Act?

A Dividing Fence is a 'sufficient fence' that separates the land of different owners, whether on the common boundary of adjoining lands or in a line other than the common boundary.

A 'sufficient fence' is described as:

- a fence prescribed by a local law of the relevant local government; or
- a fence agreed upon by adjoining owners provided that it complies with the relevant local law.

Where no local law exists or no agreement is made, a 'sufficient fence' is:

- a substantial fence that is ordinarily capable of resisting the trespass of cattle and sheep; or
- a fence determined by a court.

Does the City have any local laws on what a 'sufficient fence' is?

The City does not have any local laws on what a 'sufficient fence' is. As such, any removal, construction or modification to a Dividing Fence should be discussed and agreed to with the affected adjoining landowner prior to any works commencing on site. This includes, but not limited to, agreeing to the height, the finish and the timeframe of installation and costs.

The Department of Energy, Mines, Industry Relation and Safety has further information on the processes to follow on their website, depending on the individual scenario. [Dividing fence matters – overview | Department of Energy, Mines, Industry Regulation and Safety \(commerce.wa.gov.au\)](#)

What can I do if I have a problem with a neighbour on the type or location of a Dividing Fence?

Contact the Department of Energy, Mines, Industry Relation and Safety if you would like general advice on which process to follow. In most cases, unresolved disputes between neighbours will be dealt with by the Magistrates Court. Therefore, when issues with a dividing fence occur, it is best to first approach the owner of the adjoining land to discuss the issue to try and resolve the matters together.

FAQ – Dividing Fences

I have tried to resolve the issue with my neighbour without success, where to next?

The Magistrates Court deals with applications by the owners of adjoining lands for the construction and repair of a dividing fence. Form 53 is used to make an application to the court in these circumstances in default of an agreement, or where an owner of adjoining land cannot be found. For further information visit: [Magistrates Court of Western Australia - Dividing Fences](#)

Does the City contribute to the replacement of fencing where it adjoins public land?

Where the adjoining land is owned by the Commonwealth, State or local government and is used for public purposes, the Crown is not required to contribute to the costs of erecting or maintaining the fence under this Act.

Disclaimer This information sheet is provided as generalised information. While we aim to keep the content of this document current and accurate, we accept no responsibility or warranties for actions based on the information provided. The City encourages you to seek professional advice before acting on any information contained in this document. Please contact the City if you wish to comment on the forms provided and information contained within. Any reported errors will be amended.