

**Notice to Construct a Fence Under  
The *Dividing Fences Act 1991, Section 21.***

Attention; \_\_\_\_\_  
(Council will insert Property Owners Name)

Council has received a request from an adjoining property owner for your details so they can contact you to arrange a dividing fence between your properties. Due to various privacy legislation, Council can not pass your information on to the adjoining property owner.

The details below have been filled out by the person seeking to build the fence. Council would request that you contact this person to discuss suitable arrangements for the construction of a dividing fence.

Under New South Wales Law you must contact and begin arrangements for the construction of a fence within one (1) month from receiving this letter. After this period, legal action can be taken by either person.

I, \_\_\_\_\_ (The Property Owner/Property Builder) would like you to contact me regarding the matter of building a fence. My contact details are as follows;

Property Address: \_\_\_\_\_

Preferred Contact Number: \_\_\_\_\_

Email Address: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Properties affected (street address):

Property A; \_\_\_\_\_

Property B; \_\_\_\_\_

Property C; \_\_\_\_\_

The fencing work proposed to be carried out includes the **length, height, type of material, proposed boundary line of the fence** (drawing or highlighted plan can be attached), **estimated costs and proposed cost sharing arrangements:**

---

---

---

---

---

---

---

---

---

---

# **Notice to Construct a Fence Under The *Dividing Fences Act 1991*, Section 21.**

## **Important Information Regarding Dividing Fences**

**Dividing fences are a matter between adjoining landowners and not within Council's jurisdiction.**

The Dividing Fences Act 1991, commenced on 1 February 1992. The Act is about how the cost of a dividing fence is shared between adjoining land owners, where an owner wants to erect a dividing fence or wants work done on an existing dividing fence. It sets out only the minimum requirements, and owners may always agree to arrangements above those requirements.

The Crown Lands Division is the State Government department charged with the administration of the Dividing Fences Act 1991. However, their responsibility is limited to administration matters. It does not include the provision of advice relating to fencing disputes nor does it include providing specific legal advice relating to the provisions of the Act. This advice should be sought from other sources including Legal Aid services, chamber magistrates at the local court, LawAccess NSW, Community Justice Centres or private lawyers.

### **A Dividing Fence**

A dividing fence is a fence that separates the lands of adjoining owners. The fence may be a structure of any material, a ditch, an embankment or a vegetative barrier (e.g. hedge). It does not include a retaining wall or a wall of a building. The cost of a dividing fence includes the cost of all related fencing work, such as preparation of the land, and the design, construction, replacement, repair and maintenance of the fence.

### **Sharing the cost of a dividing fence**

Adjoining landowners are liable to share equally the cost of fencing work that will result in a sufficient dividing fence. A sufficient dividing fence is a fence sufficient to separate the properties, for example a paling fence in a residential area, or a wire and steel star post fence in a rural area. If a court or land board needs to decide what is a sufficient dividing fence between adjoining owners, it will consider matters such as any existing dividing fence, the uses of the lands, privacy or other concerns of the owners, the usual kind of fence in the locality, or any relevant local council policy.

If one owner wants a fence of a higher standard than a sufficient dividing fence, the owner wanting the higher standard is liable to pay the difference in the cost between that fence and a sufficient dividing fence. If an existing dividing fence is damaged or destroyed by one owner or someone on the owner's land, that owner is liable to pay up to the whole cost of restoring the dividing fence.

### **Serving a Fencing Notice**

An owner wanting an adjoining owner to contribute to the cost of a dividing fence must first serve a Fencing Notice (this letter) on that adjoining owner (personally or by post). Owners are liable to contribute to the cost once agreement is reached.

A Community Justice Centre may be able to help if adjoining owners have difficulty reaching agreement. If agreement is not reached within one month of the Notice being served, either owner may apply to a Local Court or Local Land Board to have the matter decided.

**If you have concerns or questions  
regarding this matter please do not  
hesitate in contacting Council on  
6549 3700.**

