



muswellbrook shire council

DRAFT Contributions to Boundary Fencing Policy

MSC071E

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Community Strategic Plan Goal	6. Collaborative and responsive community leadership that meets the expectations and anticipates the needs of the community		
Community Strategic Plan Strategy	6.2 Ensure Council is well managed, appropriately resourced, effective, efficient, accountable and responsive to its communities and stakeholders		

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1. Policy Objective

The policy provides guidance on the manner in which Council may make a contribution to a dividing fence application.

2. Risks being addressed

The policy mitigates the risk of misappropriation of Council resources that may be imposed on Council that is not required under section 25 of the Dividing Fences Act 1991.

3. Scope

This policy applies to boundary fences for public land classified as Operational Land or Community land.

4. Definitions

Term	Definition
Access way	means a laneway or path for pedestrian access to join 2 or more Council roads. (<i>Council Definition</i>)
Adjoining owners	means the owners of land on either side of a common boundary, and as defined in the <i>Dividing Fences Act 1991</i> .
Approved Type of Fence	means the proposed fence complies with the setbacks, structural design and materials stated in Council's Development Control Plan (DCP) (<i>exempt and complying development</i>) or has previous development consent and does not exceed the standard for a sufficient dividing fence.
Council Officer	the council officer that is responsible for the asset or adjoining area.
Community land	means land that is classified as community land under Division 1, Part 2, Chapter 6 of the <i>Local Government Act 1993</i> .
Council	Muswellbrook Shire Council
Dividing fence	means a fence separating the land of adjoining owners, whether on the common boundary of adjoining lands or on a line other than the common boundary under the <i>Dividing Fences Act 1991</i> .
Fencing work	means the design, construction, replacement, repair, or maintenance of the whole or part of a dividing fence.
Investment Properties	means properties held for investment reported separately in Council's financial statements from other property, plant, and equipment.
Operational land	means land that is classified as operational land under Division 1 of Part 2 of Chapter 6 of the <i>Local Government Act 1993</i> .

Park	in relation to land, means an area of open space used for recreation, not being bush land.
Public land	under the <i>Local Government Act 1993</i> means any land (including a public reserve) vested in or under the control of the council.
Public reserve	includes a public park under the <i>Local Government Act 1993</i> .

5. Policy Statement

1. In relation to Council controlled land under Section 25 of the Dividing Fences Act 1991, there is no liability on Council to contribute toward fencing work. However, subsection 2 of the Act allows Council to contribute toward dividing fences. Each individual circumstance will be considered on a case by case basis..
2. In respect to dividing fences adjacent to community land (including parks and passive area reserves), Council may consider a contribution towards an approved type of fence.
3. Council may contribute up to the amount of \$800 towards dividing fences adjacent to community land.
4. A dividing fence request must be made to the General Manager in writing.
5. Council staff must approve the type of fence proposed by the applicant prior to construction of the proposed fence.
6. The composition of the fence should align with the principles of passive supervision of public land. Contributions will only be paid following an inspection of the fencing work and acceptance by council staff that the fencing work has been erected in a satisfactory manner.
7. Council will not make contributions to dividing fencing adjacent to operational land unless there is a significant public risk or benefit and is reported to Council for a decision.
8. Council may also contribute up to 50% of the cost of dividing fencing adjacent to Council Investment Properties.
9. Council will not fund retrospective claims.

6. Roles, Responsibilities and Delegations

Role	Responsibility
Director Infrastructure and Property	Determine and approve requests for funding.
General Manager	Determines disputed applications and decides to report to Council.
Council Officer	Assesses the request and make recommendation to the Director. Inspects the fence to confirm it has been erected in a satisfactory manner.

7. Dispute Resolution

An applicant who is dissatisfied with a decision under this Policy may request the Council to review its decision and the Council, at its discretion, may do so.

8. Related Documents

Legislation and Guidelines

- *Dividing Fences Act 1991*
- *Local Government Act*

Policies and Procedures

- N/A

Other Supporting Documents

- N/A

9. Version History

Version No.	Date changed	Modified by	Amendments/Previous adoption details
1	14/04/1997		Adopted by Council on 14/04/1997, minute no 187.
2	11/09/2000		Adopted by Council on 11/09/2000, minute no 1062.
3	13/02/2006		Adopted by Council on 13/02/2006, minute no 12.
4	14/10/2013		Adopted by Council on 14/10/2013, minute no 116.
5	18/02/2025	Director Infrastructure and Property	Revised version. Policy code amended from P60/1.