




Policy Title:	Fencing Policy and Procedure 2019	
Date of Adoption:	10 December 2019	
Adoption Method:	<input type="checkbox"/> Council <input checked="" type="checkbox"/> Executive <input type="checkbox"/> Other (please specify)	
CEO Signature:		Date: 13/12/19
Responsible Manager and Department:	Manager Finance	
Nominated Review Period:	<input type="checkbox"/> Annually <input checked="" type="checkbox"/> Other: Every four years	
Last Review Date:	At the date of adoption this is a new policy and procedure	
Next Review Date:	November 2023	
Purpose / Objective:	<p>The purpose of the policy and procedure is to define the:</p> <ul style="list-style-type: none"> <li>• Situations in which Council will or will not contribute to the cost of constructing, repairing or replacing fencing between Council owned land or Council managed land and adjoining land;</li> <li>• Situations in which an access gate for vehicle or pedestrian purposes may be permitted to be incorporated in a fence, and</li> <li>• Processing of applications to construct, repair or replace a fence bounding Council land.</li> </ul>	
Background / Reasons for Policy:	<p>Council is obliged to comply with the legislation under the Fences Act 1968 and Fences Amendment Act 2014. The Acts confer obligations upon the owners of adjoining land to contribute to the construction of a dividing fence between them. This policy outlines the situations where Council is responsible for contributing to fencing costs.</p>	
Definitions:	<p><b>Accoutrement</b> – means additional trimmings and accessories including gates.</p> <p><b>Council managed land</b> – means land for which Council is the Committee of Management.</p> <p><b>Council owned land</b> – means land for which Council is the registered proprietor.</p> <p><b>Fence and/or dividing fence</b> – means a fence that:          (a) is located on the common boundary of adjoining land; or          (b) is not located on the common boundary of adjoining land, but the purpose of which is to separate adjoining land.</p>	

	<p><b>Half cost fencing contribution</b> – applies where Council is responsible for half the fencing cost and means the cost of constructing, repairing or replacing a standard fence or rural fence between Council owned or managed land and privately owned land in accordance with the Act(s).</p> <p><b>Land</b> – means the same as in the Sale of Land Act 1962.</p> <p><b>Owner</b> – For the purposes of the Fences Act 1968 and Fences Amendment Act 2014, an owner means the registered proprietor of the land. However, the Fences Amendment Act 2014 states that an owner does not include a council in respect of land owned by or under the management of a council for the purposes of a public park or public reserve (including road reserves). Consequently Council does not have to contribute to fencing costs in these situations.</p> <p><b>Responsible Department</b> – means the Department that is responsible for the maintenance of the asset (the Council owned or managed land and building) as shown in the Asset Responsibility Matrix – Appendix B of the Asset Management Strategy 2014.</p> <p><b>Property and Valuations Unit</b> – is a unit within the Finance Department.</p> <p><b>Rural fence</b> – means a fence in a rural area, which is consistent with normal post and wire rural fencing.</p> <p><b>Standard fence</b> – means a 1.6 metre to 1.8 metre high timber paling fence.</p>
<p><b>References:</b></p>	<p>Asset Responsibility Matrix – Appendix B of the Asset Management Strategy 2014.  Fencing Law in Victoria – Department of Justice and Community Safety Victoria  Fences Amendment Act 2014</p>
<p><b>Related Policies:</b></p>	<p>Procurement Policy</p>
<p><b>Related Legislation:</b></p>	<p>Crown Land (Reserves) Act 1978  Fences Act 1968  Fences Amendment Act 2014  Land Act 1958  Local Government Act 1989  Road Management Act 2004  Sale of Land Act 1962</p>

## 1 SCOPE

This Policy applies to fencing between privately owned land and land owned by or under the management of Council.

## 2. LEGISLATION

Fencing law in Victoria is legislated under the Fencing Act 1968 and the Fencing Amendment Act 2014. The Fencing Act provides that where a council owns or manages land for the purposes of a public park or public reserve then they are **not** considered to be an owner under the Fences Act and so do **not** have to contribute to fencing works for a dividing fence between that land and privately owned land.

## 3 POLICY

### 3.1 Fencing

Council will contribute to half the cost of fencing for the following:

- Where the council owned or managed land is not a public reserve or park and has council buildings or improvements on the property such as a hall, library, recreation centre, kindergarten, tennis court etc.

Council will **not** contribute to half cost of a standard fence or rural fence in the following circumstances:

- Land owned by or under the management of Council for the purposes of a public park or public reserve. This includes road reserves, footpaths, laneways, walkways and right of ways (including road reserve).
- Land owned by the Crown (including where Council is the land manager) or owned and managed by the State Government or authorities such as Coliban Water, VicTrack etc.
- For the construction, repair or replacement of a fence if the work is carried out prior to the property and valuations unit assessing the condition of the fence.
- For the replacement of an existing fence if it is assessed by the property and valuations unit that it is possible and more cost effective and/or environmentally responsible to repair the existing fence.
- For any pedestrian gate or vehicle access gate which forms part of a fence.

### 3.2 Access Gates

At the written request from the owner of the adjoining land, the Property and Valuations Unit may give approval for a vehicle access gate to be installed in a fence on the following conditions:

- The vehicle access gate must only be used occasionally and only if conditions are safe to do so;
- The vehicle access gate shall not allow access to a plantation and/or vegetation offset reserve as this may damage the vegetation.

At the written request from the owner of the adjoining land, the Property and Valuations Unit may give approval for a pedestrian access gate to be installed in a fence subject to the following conditions:

- The pedestrian gate shall be a maximum 1200mm wide to prevent vehicle access.
- The pedestrian gate shall swing into the adjoining owner's land.
- The pedestrian gate shall not allow access to a plantation and/or vegetation offset reserve as this may damage the vegetation.

### **3.3 Procurement requirements for the purposes of half cost fencing contribution**

As part of the application for half cost fencing, the applicant shall provide two written quotes. The property and valuations unit will ensure compliance with the Procurement Policy whilst assessing and determining which quote shall be accepted.

## **4. PROCEDURE**

1. An application from an adjoining land owner to the Council for a half cost fencing contribution for a standard fence shall be submitted to the property officer. A copy of the Application Form – Request for Half Cost Fencing – is attached.
2. The adjoining landowner shall notify the property and valuations unit of any fencing covenants on the adjoining landowner's title.
3. Refer to section 5 for the procedure to be followed in the event of any application for a fence other than a standard fence or a rural fence.
4. Within 10 business days of receiving a fully completed application the property and valuations unit shall –
  - a. Verify ownership, zoning and use of the Council land.
  - b. Ensure the Council land is not a public park or public reserve.
  - c. Advise the responsible department that an application has been received.
  - d. Make enquiries into the scope and accuracy of the quotes, if required.
  - e. Assess the condition of the existing fence.
  - f. Check that the contractors are experienced and have the necessary equipment.
  - g. Refer the fencing proposal to planning and building if the fence is beyond the standard fencing requirement to assess whether a planning or building permit is required.
  - h. Decide the application and advise the adjoining landowner and the responsible department of the decision.
5. Within five business days of receiving the advice under clause 4(h) the responsible department shall contact the approved contractor and issue a purchase order for Council's half cost fencing contribution.
6. Before commencing any work the contractor shall provide the responsible department with a copy of their Public Liability Insurance Policy – Certificate of Currency (of not less than \$20 million).
7. Upon completion of the work, the contractor shall submit an invoice to the responsible department for the amount as specified in the purchase order.

8. The responsible department shall inspect the work within 10 business days and if satisfied with the work, shall approve the invoice for payment.

## **5. STYLE AND COST OF FENCING**

If in the opinion of the Property and Valuations unit, the use of the Council land is such that a standard fence is not suitable, the Property and Valuations unit shall discuss an alternative style of fence with the adjoining landowner and with the agreement of the adjoining landowner, the Property and Valuations unit may decide to construct an alternative fence. In this case, if there is any additional cost over and above the cost of a standard fence, it shall be met by Council.

If the adjoining landowner requires any accoutrements over and above a standard fence or rural fence the adjoining landowner shall pay any additional cost over and above the cost of a standard fence or rural fence.

Fencing that is not standard (for example over two metres in height or brick fencing) may require a building permit and associated inspections and approval by a Building Surveyor. As part of the procedures an application for a non-standard fence shall be referred to the Planning and Building Department for assessment.

## **6. RESPONSIBILITIES**

The Manager of the relevant department that is responsible for the “Maintenance” of the asset (the Council owned or managed land and building) as shown in the Asset Responsibility Matrix, Appendix B, Asset Management Strategy 2014. The cost of the fence should be covered within the responsible Departments operating budget. Any significant budget overruns because of unexpected costs can be referred to the Mid-year budget review for funding. .

## **7. RESOLUTION OF DISAGREEMENTS**

In the event that the adjoining landowner disagrees with a decision of the Property and Valuations Unit or the Responsible Department, the adjoining landowner should contact the relevant Director who is responsible for the maintenance of the asset or facility as shown in the Asset Responsibility Matrix, Appendix B, Asset Management Strategy 2014.

Upon being contacted by the adjoining landowner, the Director shall make arrangements for the disagreement to be mediated and resolved.

**APPENDIX**

**Form – Request for Half Cost Fencing**

<b>Name:</b>			
<b>Address:</b>			
<b>Phone:</b>		<b>Mobile:</b>	
<b>Email:</b>			
<b>This half share fencing request is for (please circle):</b>	<b>Repair</b>	<b>Replace</b>	<b>New</b>
<b>The fence is located at (address):</b>			
<b>Adjoining Council land is (address):</b>			
<b>Length of Fence:</b>		<b>Height of Fence:</b>	
<b>Section of Fence: (Left, Right or Rear):</b>			
<b>Type of Fence (Materials)</b>			
<b>Please attach two quotations you have obtained.</b>			
<b>My preferred fencing contractor is:</b>			
<b>The Total cost of the fence including GST is:</b>			
<b>Council's half share cost including GST is:</b>			
<b>Please complete the bottom part of this notice:</b>			
<p>I hereby agree to pay my share of \$..... to the fencing contractor for the installation, repair or replacement of our adjoining fence as proposed.</p>			
<b>Signed:</b>		<b>Date:</b>	