

Half-Cost Dividing Fencing Operational Procedure

FOR LAHC-OWNED PROPERTIES MANAGED BY COMMUNITY HOUSING PROVIDER



1. Purpose

1.1 Asset Management Framework (AMF)

This procedure relates to section 3.2 of the AMF, which should be read prior to initiating these procedures.

Community Housing Providers (CHPs) are required to keep all fences on NSW Land and Housing Corporation (LAHC) owned properties, under their management, at or above the Maintained Standard as defined in the Asset Management Framework (AMF). Where repairs are no longer viable and/or economical, CHPs must facilitate the installation of new fences.

Where any LAHC owned, CHP managed property is adjoined by a privately owned property and the dividing fence between the properties requires repair or replacement, the CHP must use best endeavours to enter into a half-cost fencing repair/replacement agreement with the owner(s) of the adjoining property.

1.2 Contractual Agreement

In accordance with the Long Term Lease, being a lease of fifteen (15) years or more commencing on or after 1 January 2018, or any lease forming part of the Social Housing Management Transfer Program (the Long Term Lease), the Maintenance Engagement Deed (MED), as applicable, and the relevant Short Term Lease being a lease of three (3) years or less (Short Term Lease), CHPs are required to maintain, repair and, if necessary, replace any fixtures and fittings installed by the Lessor or the Lessee for the whole term of the lease (and any holding over period).

2. Procedure

2.1 Fencing and Neighbours

The boundaries of all social housing properties owned by LAHC are to be secured by an appropriate dividing fence. CHPs must negotiate with adjoining private owners on installation or repair of dividing fences on the common boundary line to ensure the security and privacy of CHP tenants, to be a responsible neighbour and to meet the maintenance requirements described in paragraph 1.1 above.

2.2 Repair and replacement

If an adjoining private owner wishes to repair/replace a dividing fence, the CHP should obtain the following information from the adjoining private owner:

- the address of the owner and proof of property ownership in the form of a rate notice
- evidence that the existing fence is not of an adequate standard (for example, to maintain sufficient privacy or security, or the fence is falling over¹)
- the boundary location to be fenced, with length and height of proposed fence
- the type of fencing material proposed
- the cost of the proposed fencing work, through at least two but preferably three competitive quotes.

¹ Generally photographic evidence will be sufficient. Fencing on retaining walls which have potential structural issues should be referred to LAHC.

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2.3 Fencing height

LAHC's preferred fence height is either 1500mm or 1800mm, depending on existing fencing. CHPs may agree to match existing fence heights, unless otherwise agreed with LAHC. For new or replacement fencing 1800mm is preferred.

2.4 Fencing materials

Fencing materials which may be agreed to by CHPs for use in a dividing fence can include timber, metal, masonry (brick), mixed or composite. CHPs may consider issues of maintaining consistency with the local area, the adjoining private owner's preferences, termite risk and risk of damage in determining the fencing materials to be used for repair or replacement of a dividing fence.

CHPs should note that fences constructed of masonry and/or above a certain height and/or within the building line may require the development consent of the local Council. Where Council consent is required (e.g. Development Application), the CHP must first submit the completed documentation to LAHC and request owner's consent to the lodgment of the application. The CHP will be responsible for any costs associated with obtaining such Council consent.

2.5 Fencing work and cost

CHPs must ensure that all fencing work that is initiated by the CHP or a private adjoining owner is undertaken by a qualified fencing contractor.

Where an adjoining private owner damages the existing dividing fence (whether accidentally or otherwise and such that repair or replacement is required), the CHP must seek the repair or replacement of the dividing fence by the private owner at the private owner's cost.

If CHPs are unable to reach agreement with an adjoining private owner on costs or other relevant matters the CHPs may seek advice from LAHC.

2.6 Urgent fencing repair or replacement

Where a dividing fence is in need of urgent repair or replacement, and the adjoining private owner does not respond or refuses to enter into an agreement to repair or replace the dividing fence, the CHP may seek advice from LAHC and follow LAHC's directions regarding repair and replacement of the fence. LAHC may direct the CHP to repair or replace the dividing fence at their cost, with the new fencing being located immediately within the boundary of the LAHC property.

3. Legislative requirements

Dividing fences with adjoining private properties are to be managed in accordance with the relevant legislation, including but not limited to:

- *Residential Tenancies Act 2010*
- *Dividing Fences Act 1991*²
- *Environmental Planning and Assessment Act 1979*
- *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*
- Local Environmental Plan of the local Council.

² Although the *Dividing Fences Act 1991* does not apply to LAHC, it is LAHC's policy to contribute up to 50% of the cost of erecting/maintaining dividing fencing and to generally follow the relevant parts of the Act relating to sharing the cost of dividing fencing.

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4. Enquiries

CHPs are welcome to direct any queries regarding dividing fences to LAHC at: LAHC-CHPEnquiries@fac.s.nsw.gov.au In general terms the CHP should manage dividing fences without the specific involvement of LAHC. If LAHC involvement is required LAHC Assets Division will liaise directly with the CHP.

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