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| Title | Contribution to Boundary Fences |
| Council Resolution | Item 11 (20 March 2017) as per Council Minutes |
| Responsible Directorate | Corporate Governance |
| Due for Review | Four (4) years from Council Resolution Date |
| Strategic Plan Reference | <u>Leading our Community</u> 4.1 <i>Govern in an open and responsible manner in the best interests of the community.</i> 4.2 <i>Manage our resources to achieve community outcomes</i> |
| ECM | Council Policy |

PURPOSE

This policy provides guidance on how Council will fulfil its obligations to contribute to the cost of the construction, replacement or repair of boundary fences in accordance with the *Boundary Fences Act 1908 (the Act)*.

SCOPE

This policy applies to land owned by Council, other than land to which the Act does not apply.

STATUTORY REQUIREMENTS

Section 8 of the Act provides that the owners of adjoining lands are liable to contribute to the construction of a 'sufficient fence' between those lands, subject to the limitations set out in that Act. Owners of land also have obligations under the Act to contribute to the cost of the replacement or repair of a boundary fence.

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| Acts | <i>Boundary Fences Act 1908</i> <i>Crown Lands Act 1975</i> |
| Regulations | <i>Boundary Fences Regulations 2008</i> |
| Australian/International Standards | Not applicable |

DEFINITIONS

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| Owner | In this Policy, the term "owner" has the meaning given in the Act, and "owned" has the corresponding meaning. |
| Standard Fence | For the purposes of this Policy, a Standard Fence is a 1.5 metre high, lapped paling fence, with treated pine palings and posts made of steel, set in concrete. A Standard Fence must also be ' <i>a sufficient fence</i> ' for the purposes of the Act. |

POLICY STATEMENT

1. In accordance with its obligations under the Act Council, as an owner of land, will contribute to the cost of the construction, replacement or repair of a fence in relation to any land which adjoins land for which Council is the owner, other than any land to which the Act does not apply.
2. Where Council is required under the Act to contribute to the cost of constructing or replacing a boundary fence, Council's contribution will be based on 50% of the cost of a Standard Fence. Where Council is required to contribute to the repair a fence, Council's contribution will be based on repairs to bring the fence to the same or a similar standard to which the fence is constructed.

3. The procedure to obtain Council's contribution to a boundary fence (including repairs to a fence) is as follows:
 - (a) The applicant is to submit two (2) written quotes for the cost of the proposed fence (or proposed repairs) to Council. Where a proposed fence is of a higher standard than a Standard Fence, the quotes must also include the quote for the cost of a Standard Fence.
 - (b) Council officers will undertake an inspection of the relevant property prior to approving the proposed fence or repairs. No work is to be undertaken on the proposed fence or repairs until Council's written approval has been given.
 - (c) Council's written approval will include the amount that Council will agree to contribute to the proposed fence or repairs.
 - (d) Following the completion of works, the applicant is to provide a copy of any relevant invoice/s to Council for payment of the Council's share of the agreed cost of the fence or repairs.
4. Council will consider contributing an amount greater than the amount based on the cost of a Standard Fence where such a fence is necessary due to safety or security concerns, or as a result of the conditions or requirements of the site.
5. Any dispute in relation to the proposed fence (including the amount that Council agrees to contribute) is to be resolved using the procedures set out in the Act.
6. For the avoidance of doubt, Council will not contribute to the cost of a boundary fence (or repairs) where the Act does not apply to the relevant land (see further information below). This includes land adjoining a 'road' as defined in the Act.
7. Council may, by resolution, depart from the requirements of this Policy in exceptional circumstances.

Land Adjoining Council Reserves

For the avoidance of any doubt, Council will continue to contribute to the cost of a boundary fence on land that borders council reserves and other property for which Council is the Owner.

The Act does not apply to a 'public reserve'. This means there is no obligation on the owner of a 'public reserve' to contribute to the cost of a boundary fence. However, a 'public reserve' for the purposes of the Act is Crown land which is managed by the State Government, not Council. There are only a small number of 'public reserves' in the Glenorchy municipality to which the Act does not apply.

In most cases, land which adjoins a park or reserve owned or managed by Council will not be a 'public reserve', meaning that Council is required under the Act to contribute to the cost of a boundary fence. For that reason, this Policy does not impact Council's long-held position that it will contribute to the cost of boundary fences on land which adjoins parks, reserves, sporting facilities or other land owned by Council.

The above information is provided for the purposes of clarity, and does not form part of the Policy Statement.

BACKGROUND

Council, as an owner of land, is required to contribute to the cost of boundary fences in the circumstances set out in the Act.

This Policy is necessary to clarify how Council will comply with its obligations under the Act, including the circumstances under which Council is required to contribute to a boundary fence.