



BUILDING NOTE

NUMBER 22-2004

3 June 2004

DIVIDING FENCES

The purpose of this Building Note is to clarify the role of the Dividing Fences Section of the Department of Housing and Works (The Department). The Section has recently experienced a dramatic rise in callers being forwarded to the Department on matters unrelated to the administration of the *Dividing Fences Act 1961*.

In May 2003, the function and administration of the *Dividing Fences Act 1961* (the Act) was transferred from the Department of Local Government and Regional Development to the Department of Housing and Works. The Act provides a process for neighbours to agree on the fence that divides their properties and to share the cost of construction and maintenance. The Act also provides for the courts to deal with disputes that may arise over dividing fences. The Act does not extend to disputes relating to retaining walls and matters contained in a local government's local laws on fencing.

This Department provides general advice and information covered by the Act. This advice does not extend to information on retaining walls, fence height restrictions or any other matter governed by local government by-laws.

The Department and its officers do not have any role, or powers to advise on individual issues or resolve disputes. Any information supplied by the Department is provided in good faith as a public service. At all times the community is advised to seek independent professional advice on dividing fence matters and are directed to their local government authority in relation to matters covered by local laws.

The Department has published an information booklet, *Dividing Fences Rights and Responsibilities*. The booklet outlines the processes of the Act, provides answers to some frequently asked questions and is intended to assist in the understanding of the Act. The material contained in this publication is based upon Departmental interpretation of the legislation and does not constitute legal advice.

The booklet is available online at http://www.dhw.wa.gov.au/policy/policy_dividingfences.cfm and can be obtained directly from the Department. Local governments can also order these booklets in bulk from the Department as a resource for their ratepayers. The contact details for the Department are included in that booklet.

Local governments are encouraged to ensure all enquiries referred to the Dividing Fences Section are directly related to the *Dividing Fences Act 1961* and to resolve any retaining wall queries or fencing issues covered by their local laws.

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EXECUTIVE DIRECTOR OFFICE OF POLICY AND PLANNING

Building Notes are produced by the Department of Housing and Works (DHW) primarily to inform building surveyors and the building industry. The information contained in this Note is intended for general guidance only and must not be relied upon in any particular set of circumstances. To ascertain your precise rights and obligations, you should consult a building surveyor or other appropriate professional or refer to the applicable legislation. Copies of Building Notes may be obtained from the DHW at 108 Adelaide Terrace, East Perth or by accessing the Department's web-site at www.dhw.wa.gov.au.