

Problems with Fences

The Dividing Fences Act 1991 provides neighbours with a way of resolving fencing disputes. A dividing fence is anything bounding the land of adjoining owners. It does not include retaining walls of buildings.

What to do if you need to build or repair a boundary fence and want your neighbour to contribute to the cost:

1. Negotiate

If you wish to build or repair a dividing fence you should approach your neighbour to discuss what work needs to be done. Although it is not necessary to get more than one quote, it may help if two or three quotes are obtained so that both you and your neighbour can agree on a reasonable price. It will also be necessary for you and your neighbour to agree on the appropriate height, and type of fence.

2. Reaching and Recording Your Agreement

If you come to an agreement you should put it in writing and you and your neighbour should sign the agreement. If your neighbours are tenants you must negotiate and come to an agreement with the owner of the property. The agreement should specify all relevant details of the fencing work including:-

- The type of fence
- Height
- Colour
- Cost
- Position of fence
- Provision for removal of existing fence

Each of the owners should retain a signed copy of the agreement.

3. Assistance in Reaching Your Agreement

Assistance in reaching an agreement is available at no cost through your local Community Justice Centre where mediation of the areas of disagreement can take place. Mediation is a voluntary process and both parties must agree to this course. Select this link for the contact details of [Community Justice Centres](http://www.lawlink.nsw.gov.au/lawlink/Community_Justice_Centres/ll_cjc.nsf/pages/CJC_index).

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4. What are your options if you can't agree?

Generally you may not recover fencing costs from your neighbour unless you have an agreement or order. If the owner of the next door property does not think that fencing work is needed or does not agree to your proposal, you can apply either to the Local Land Board or the Local Court for an order.

Prior to applying for an order you need to serve the adjoining owner with a "Notice to Fence. This notice formally outlines your proposal and requests the owner to agree to pay a contribution. You may obtain a blank form of **Notice to Fence** by selecting [this link](http://www.lawlink.nsw.gov.au/lawlink/local_courts/ll_localcourts.nsf/pages/lc_forms).

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Complete the form and give it to the adjoining owner either in person or by registered post. You should keep a copy for yourself and make a note of when you handed or posted the form to them.

If the owners of the adjoining property do not agree to your proposal within one month of the "Notice to Fence" being served you may seek an order from the Local Land Board or Local Court.

5. Applying to the Local Land Board for an Order

Local Land Boards are community based tribunals which consist of a Chairperson and two local community members with knowledge of land management practices and are familiar with the local area.

A Local Land Board sits as a dispute resolution tribunal and conducts hearings in relation to a variety of matters including dividing fences.

Applications to the Local Land Board in the metropolitan area may be lodged at the Metropolitan Land Board at 2-10 Wentworth Avenue, Parramatta. There are numerous Land Boards throughout the country areas of New South Wales. Select [this link](#) for further information on Local Land Boards.

<http://www.lands.nsw.gov.au/AboutUs/crownlands.htm>

Benefits of applications being lodged at the Local Land Board rather than at the Local Court include:-

- The willingness of the Board to conduct on site inspections
- The Board's hearings are conducted more flexibly and less formally (not bound by rules of evidence)
- There is no application fee imposed by the Local Land Board
- The application may be filed by post

Further information relating to the powers and procedures of Local Land Boards please contact the Registrar of the Local Land Board in your region.

6. Applying to the Local Court for an Order

It costs \$59.00 to lodge an application for a court order in the Local Court. You can apply for the court, as part of its fencing order, to direct the other party to pay this amount to you.

The case will be listed before the Court in approximately 4 to 6 weeks so that a summons can be served on the other party.

7. Enforcement of a Fencing Order or Agreement

If the Court makes an order against the adjoining owner and this is not complied with, you will need to take additional court action to enforce the agreement or order. You can initiate action through the Civil Claims jurisdiction of the Local Court to recover the money. Select [this link](#) for information on how to initiate a legal action by filing a **Statement of Claim**.

http://www.lawlink.nsw.gov.au/lawlink/local_courts/ll_localcourts.nsf/pages/lc_forms