



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.

Talk about it

If you need to build or repair a dividing fence, talk to your neighbour about what work needs to be done and the cost.

You will need to obtain a quote to discuss the cost. Although it is not necessary to get more than one quote, it may help if you get two or three quotes so that you can agree on a reasonable price. You also need to agree on the appropriate height and type of fence.

Reaching and recording agreement

If you come to an agreement you should put it in writing and you and your neighbour should sign it. If your neighbours are tenants you must negotiate and agree with the owner of the property.

The arrangement should specify all relevant details of the fencing work, including:

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

Both of you should keep a signed copy of the agreement.

Getting help with the agreement

The Community Justice Centre can help by providing free mediation to try and reach an agreement. This can result in a better, faster and cheaper outcome than if you decided to take the matter to court. Contact the Community Justice Centres on 1800 990 777 or www.cjc.nsw.gov.au.

If you cannot agree

You cannot recover fencing costs from your neighbour unless you have an agreement or order.

If you cannot agree informally, you will need to give your neighbour (the owner of the property) a form called a Notice to Carry out Fencing Work. The Notice outlines the work you want done and the cost. You can get the form from any Local Court or www.lawlink.nsw.gov.au/lc.

Complete the form, give a copy to your neighbour and keep a copy for yourself. You will also need to keep a record of the date you gave the form to your neighbour.

Your neighbour has one month to agree to your proposal (or make another agreement with you). If your neighbour does not agree, you can apply for an order through a Local Land Board or a Local Court.

Applying for an Order

Local Land Board - are community based tribunals that are conducted by a chair person and two community members with knowledge of of land management practices and are generally familiar with the local area to resolve fencing disputes.

You can get more information from the Department of Lands website at www.lands.nsw.gov.au/crown_land/dividing_fences or from any Local Court.

Local Court – Alternatively, you can apply for a order from the Local Court. You can get the form from any Local Court or www.lawlink.nsw.gov.au/lc.

If the Local Land Board or the Local Court makes an order and your neighbour does not comply, you may need to start civil proceedings to recover the costs. It is recommended that you consider getting legal advice before commencing civil proceedings.

Where to get Forms

All forms are available from your nearest Local Court or can be downloaded or printed from the Lawlink website at www.lawlink.nsw.gov.au/lawlink/spu/ll_ucpr.nsf/pages/ucpr_for_ms

Need help?

Local Courts can be found in cities and major towns. Find your nearest Local Court at www.lawlink.nsw.gov.au/lc

LawAccess NSW is a free legal information, assistance and referral service for people who live in NSW or who have a legal problem in NSW. Contact LawAccess NSW on 1300 888 529 (TTY: 1300 889 529), website www.lawaccess.nsw.gov.au

If you need an interpreter, telephone the NSW Government Translating and Interpreter Service on 131 450 - ask them to put you through to LawAccess NSW.