

Neighbourhood Disputes

2012

Introduction to the *Neighbourhood Disputes Resolution Act 2011*

Department of Justice
and Attorney-General



Queensland Government

Dividing fences

Overview:

- A dividing fence between two pieces of land is required if one of the adjoining owners requests one.
- Generally, adjoining owners must contribute equally to the building and maintaining of a sufficient dividing fence.

Dividing fences

- A land owner or occupier may not attach anything to a dividing fence that unreasonably and materially alters/damages the fence.
- Neighbours should try to resolve issues informally.
- Right to apply to Queensland Civil and Administrative Tribunal (QCAT).

Dividing fences

Swimming pool fences:

- The Act does not apply to a swimming pool fence or part of fence that is a barrier of a regulated pool.
- Specific obligations under the *Building Act 1975*.

Dividing fences

What is a fence?

- A fence is a structure, ditch or embankment, or a hedge or similar vegetative barrier enclosing or bounding land (section 11).

What is a dividing fence?

- A dividing fence is (generally) a fence on the common boundary of adjoining lands (section 12).

Dividing fences

For adjoining residential land, a dividing fence is considered sufficient when:

- it is between 0.5 metres and 1.8 metres high
- it consists substantially of prescribed material
- the land owners agree the fence is sufficient
- QCAT decides the fence is sufficient.

(section 13)

Dividing fences

- A dividing fence is owned equally by the adjoining neighbours to the extent it is located on the common boundary (section 19).
- Adjoining owners are each liable to contribute equally to carrying out the fencing work for a sufficient dividing fence (section 21).



Dividing fences

Notice to contribute to fencing work (section 31):

- description of the land
- construction/repair/replacement etc
- boundary line
- cost (attach one quote).



Dividing fences

- If you cannot locate the adjoining owner and need to do fencing work, you can apply to QCAT for an order authorising the carrying out of the fencing work including the way the contributions are to be apportioned (section 37).
- If your neighbour has attached something, such as a shade cloth, to a dividing fence which unreasonably and materially alters or damages the fence you can apply to QCAT for an order requiring the removal of the attachment (section 27).

Dividing fences

What to do if a dispute arises with your neighbour over a dividing fence:

- talk to your neighbour
- seek legal advice
- mediation
- QCAT.

Trees

- A tree under the Act includes any woody perennial plant or any plant resembling a tree in form and size such as a bamboo, banana plant, or cactus or a vine. It also includes a bare trunk, a stump, and a dead tree.
- The Act only applies to land if it is affected by a tree.

Trees

The trees chapter does not apply to:

- rural land
- land that is more than four hectares
- land that is owned by a local government that is used as a public park
- land prescribed by regulation
- unallocated State Land.

(see section 42)

Trees

The trees chapter does not apply to trees planted or maintained:

- for commercial purposes
- under an order of a court or tribunal or
- as a condition of a development approval.

(section 42)



Trees

- A neighbour is the registered owner and/or occupier of the land affected by a tree (section 49).
- A 'tree-keeper', for land recorded in the freehold land register under the *Land Title Act 1994*, will be the registered owner of the land on which the tree is situated (section 48).



Trees

A 'tree-keeper' is responsible for:

- cutting and removing overhanging branches
- ensuring a tree does not cause serious injury, serious damage or substantial, ongoing and unreasonable interference with a person's use and enjoyment of the person's land (section 52).



Trees

What options exist if there is a problem with an adjoining owner's tree?

- mediation
- common law
- notice system
- QCAT



Contact details

For general information about the Act:

- (07) 3239 3520
- NeighbourhoodDisputesResolution@justice.qld.gov.au
- www.neighbourhooddisputes.qld.gov.au.