

## Fences between properties

The cost of constructing a dividing fence is usually shared by the property owners. In some cases, difficulties may arise. For example, one neighbour may not be able to afford to pay; a property owner can't be located; or one may want the cheapest, functional fence whereas while the other wants a more expensive, higher quality fence.

Before you and your neighbour enter into an agreement to build, repair or replace a fence, it is recommended that you communicate and negotiate about the type of fence you want and how much money each will contribute to its construction. This can avoid increased costs, delays and possible legal action. For free and practical advice on fencing issues, please visit

<https://www.disputes.vic.gov.au/information-and-advice/fencing>

However, if you find that you and your neighbour can't agree, or you are unsure about the best way to approach your neighbour, visit the Dispute Settlement of Victoria Website for some useful resources.

[www.disputes.vic.gov.au/reachingagreement](http://www.disputes.vic.gov.au/reachingagreement).

If you're still unable to find a solution, contact The Dispute Settlement Centre of Victoria on [1800 658 528](tel:1800658528).

The centre can arrange free mediation; provide information about fencing notices; and as a last resort provide information about obtaining a court order to force your neighbour to contribute to the payment of the fence.

Remember, the issue of fencing between neighbours is a civil matter, and needs to be addressed by you and your neighbour.

## Front fences

A building permit is required to build a front fence more than 1.5m high. A permit is also required if a fence is to be more than 1m high within 9m of a street intersection.

## Serving a Notice to Fence

A person who wishes to erect a new fence dividing private properties should serve a *notice to fence* on the adjoining occupier, specifying the boundary in question, the proposal to fence it and the kind of fence proposed.

The purpose of the notice to fence is to alert the other party of the proposal, prompt an agreement and establish a right to recover half of the cost of the fence. A similar process occurs with relation to repairing fences except that the distribution of costs is by agreement or, where a fence is damaged or destroyed by neglect, is to be borne by the person responsible for the damage. If there is a dispute about the construction of the fence, its cost or the proportion of costs to be met, the matter may be referred to the Magistrates court. The Dispute Settlement Centre of Victoria can also be invited to assist in order to avoid court. Council does not become involved in such disputes.

There is no pro-forma for a notice to fence under the Fences Act, however templates and examples can be found on this website: <https://www.disputes.vic.gov.au/information-and-advice/fencing/notice-to-fence>

## Finding the neighbour

If the occupier or owner to whom a notice to fence is proposed to be served cannot be found, Council's Customer Service may be able to supply the information upon request. This is free of charge but is subject to the following protocols:

Wherever possible the person proposing to serve the notice should make every effort to determine the name and address of the occupier or owner of the adjoining property themselves - eg through contact with the resident of the property or agent.

Although the [Office of the Victorian Information Commissioner](#) has accepted that fencing details will be a disclosure for a secondary purpose that the property owner would reasonably expect, Council will request the following from the requestor so as to take reasonable steps to protect the information by being inappropriately accessed:

- the applicant's name and address if they are not themselves the neighbour but instead an agent such as a fencing contractor
- proof that they are authorised to act on behalf of the neighbour of the property owner whose contact details are being requested
- appropriate details of the property affected by the proposed fence
- a written assurance that the contact details will be used solely to facilitate a specific fencing matter, will not be retained, copied or disseminated for unrelated purposes and will be kept secure.