

Application checklist: Minor civil dispute – dividing fences

Using the checklist

Before applying to QCAT about your dividing fence dispute, use the checklists below to:

- check your application is within QCAT’s jurisdiction
- check you have completed and lodged your application correctly.

Before making a dividing fence application	Yes	No
<p>1. Have you checked if dividing fence laws apply to your dispute? Visit www.neighbourhooddisputes.qld.gov.au for more information on the <i>Neighbourhood Disputes Resolution Act 2011</i>.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>2. Is your dispute about recovering an agreed amount of money (up to \$25,000) for fencing work? For disputes about the recovery of a debt in relation to agreed or ordered contributions to fencing work, you must complete <i>Form 3 Application for Minor Civil Dispute – minor debt form</i> available from www.qcat.qld.gov.au</p>		
<p>3. Is your dispute about a dividing fence that is part of the pool barrier for your pool or your neighbour’s pool? Different laws apply to dividing fences that are part of pool barriers. For information regarding pool barriers, contact the Department of Infrastructure and Planning on 07 3227 8548 or visit http://www.dlqp.qld.gov.au/pool-safety/.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>4. Is the fence around a public park owned by council? Fences around parks owned by council are not under QCAT’s jurisdiction. Contact your local government authority (council) for more information. For specific information on whether your dispute is covered by dividing fence legislation, you may wish to seek legal advice.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>5. Have you tried to resolve the dispute with your neighbour? Dispute Resolution Centres offer free mediation services to assist in resolving neighbourhood disputes. For more information call 1800 017 288 or visit http://www.justice.qld.gov.au/justice-services/dispute-resolution</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>6. Have you sent your neighbour a <i>Notice to contribute for fencing work</i>? If you want your neighbour to contribute towards the costs of constructing, replacing or maintaining the dividing fence, your first step is to provide your neighbour with a <i>Form 2 Notice for contribution to fencing work</i> available from www.neighbourhooddisputes.qld.gov.au.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>7. What are the possible costs involved in making an application to QCAT? You will need to pay an application fee. You may have some costs in obtaining evidence such as an expert’s report, or in attending a hearing. These costs are generally not recoverable, even if your application is successful. You will only be asked to pay the costs incurred by your neighbour in special circumstances.</p>	<input type="checkbox"/>	<input type="checkbox"/>

This application checklist provides general information and should not be considered legal advice. If you are unsure about your legal rights you should seek legal advice. Any actions taken to resolve your dispute should be determined by your individual circumstances.

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Before making a dividing fence application	Yes	No
<p>8. Have you considered the possible outcomes of making an application to QCAT? Possible outcomes from an application include:</p> <ul style="list-style-type: none"> • the matter may go to a hearing where you may or may not be successful • orders made by the tribunal are enforceable. 	<input type="checkbox"/>	<input type="checkbox"/>

Lodging your application for minor civil dispute – dividing fences	Yes	No
<p>9. Are you using the correct application form? Complete the <i>Form 53 Application for minor civil dispute – dividing fences – Neighbourhood Disputes Resolution Act 2011 and Building Act 1975</i> form available from www.qcat.qld.gov.au.</p> <p>This form also applies if your application is about a dividing fence that is part of a pool barrier.</p> <p>For disputes about the recovery of a debt in relation to agreed or ordered contributions to fencing work, you must complete an <i>Form 3 Application for Minor Civil Dispute – minor debt form</i> available from www.qcat.qld.gov.au</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>10. Are you ready to proceed with the application? Have you:</p> <ul style="list-style-type: none"> • answered all applicable questions • provided all pages of the application form • paid the correct application fee • signed and dated the application • provided your own details including name, address and whether you are the owner or occupier • provided full details of the person you are making an application against (the respondent) including name, address and whether they are the owner or occupier • provided QCAT with the correct number of copies (see your application form for more information)? <p>If you have not completed your form correctly, your application may not be accepted.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>11. Have you attached all material relevant to your application i.e. photos, diagrams, affidavits, receipts etc? This will help your application be dealt with quickly.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>12. Do you know where to lodge your application to QCAT? By post: QCAT, GPO Box 1639, Brisbane QLD 4001 or your local Magistrates Court (excluding Brisbane) In person: Brisbane: QCAT, Level 9, 259 Queen Street, Brisbane In person: outside of Brisbane: Your nearest Magistrates Court</p>	<input type="checkbox"/>	<input type="checkbox"/>

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Legal advice

As part of an independent tribunal, QCAT registry staff are unable to provide legal advice. For information on free legal advice contact:

- Legal Aid Queensland via www.legalaid.qld.gov.au/ or 1300 65 11 88
- Caxton Legal Centre via www.caxton.org.au or 07 3214 6333
- your local community legal centre. To find a local centre, contact the Queensland Association of Independent Legal Services (QAILS) via www.qails.org.au or 07 3392 0092.

For referral to a suitable private solicitor contact the Queensland Law Society via www.qls.com.au or 07 3842 5842.

Contact information

QCAT

Brisbane

Address: Level 9, BOQ Centre, 259 Queen Street, Brisbane, 4000
Post: GPO Box 1639, Brisbane Qld 4001
Phone: 1300 753 228
Email: enquiries@qcat.qld.gov.au
Website: www.qcat.qld.gov.au

Outside of Brisbane

Your local Magistrates Court (excluding Brisbane Magistrates Court) can supply and accept all QCAT application forms. To find your nearest Magistrates Court, look under "Justice and Attorney-General" in the phone book or visit www.courts.qld.gov.au.

Department of Infrastructure and Planning (pool fences)

07 3227 8548 or visit <http://www.dlqp.qld.gov.au/pool-safety/>.

Dispute Resolution Centres

07 3239 6269 or 1800 017 288 (toll free outside of Brisbane) or www.justice.qld.gov.au

Local government authorities (councils)

To locate your local government authority, check your rates notice, look in the phone book or visit <http://www.dlqp.qld.gov.au/local-government-directory/>

Resources

Available from www.qcat.qld.gov.au:

- Frequently asked questions – dividing fence disputes
- QCAT fact sheet – Mediation of minor civil disputes – fencing matters
- *Form 53 Application for minor civil dispute – dividing fences – Neighbourhood Disputes Resolution Act 2011 and Building Act 1975*
- *Form 3 Application for Minor Civil Dispute – minor debt*

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