

For office use only	
Case number	
Date	
Registry	
Fee	
Date paid	
Receipt number	

Application for minor civil dispute – dividing fences

*Neighbourhood Disputes (Dividing Fences and Trees) Act 2011 (Qld) and
 Building Act 1975 (Qld)*

Application fees apply – visit qcat.qld.gov.au/resources/fees-and-allowances for details

Part A APPLICANT'S DETAILS <i>(full contact details must be supplied)</i> <i>(for multiple applicants attach details on a separate sheet)</i>		
The applicant is the party who is making this application. If the applicant is not an individual than you must use the proper full company name, business name or the full name of the State agency or department. You must include all proper applicants.		
Name	ACN/ABN <i>(if applicable)</i>	
Postal Address		
<hr/>		
Suburb	State/Territory	Postcode
Contact details <i>(MUST be provided)</i>		
<i>Mobile</i>	<i>Alternative number</i>	<i>Email</i>
Do you identify as Aboriginal or Torres Strait Islander?		
No	Yes, Torres Strait Islander	
Yes, Aboriginal	Yes, both Aboriginal and Torres Strait Islander	
If you want someone to represent you in any proceedings before the Tribunal you must complete Form 56 - Application for leave to be represented . You are not required to seek leave if you are a child or a person with impaired capacity. Visit the QCAT website for more information about legal advice and representation .		

Part A

APPLICANT'S DETAILS (continued) (full contact details must be supplied)
(for multiple applicants attach details on a separate sheet)

Name

ACN/ABN (if applicable)

Postal Address

Suburb

State/Territory

Postcode

Contact details (MUST be provided)

Mobile

Alternative number

Email

Do you identify as Aboriginal or Torres Strait Islander?

No

Yes, Torres Strait Islander

Yes, Aboriginal

Yes, both Aboriginal and Torres Strait Islander

Part B

RESPONDENT'S DETAILS (full contact details must be supplied)
(for multiple respondents attach details on a separate sheet)

The respondent is the party against whom the original application was made. If the respondent is not an individual then you must use the proper full company name, business name or the full name of the State agency or department. You must include all proper respondents.

Name

ACN/ABN (if applicable)

Postal Address

Suburb

State/Territory

Postcode

Contact details (MUST be provided)

Mobile

Alternative number

Email

Note: Applications for fencing work can only be made against other owners of land. Tenants are not owners and the provisions of the *Residential Tenancies and Rooming Accommodation Act 2008* (Qld) may apply to their circumstances.

Part B

RESPONDENT'S DETAILS *(continued)* *(full contact details must be supplied)* *(for multiple respondents attach details on a separate sheet)*

Name

ACN/ABN *(if applicable)*

Postal Address

Suburb

State/Territory

Postcode

Contact details *(MUST be provided)*

Mobile

Alternative number

Email

Part C

DISPUTE DETAILS

1. The matter concerns a dispute primarily over:

a dividing fence

a retaining wall

If the dispute is primarily or significantly about a retaining wall, the Tribunal may not have jurisdiction to resolve the matter and may dismiss the application. A retaining wall is not a fence – see s 11(2)(a) *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011* (Qld). Retaining walls usually involve a degree of engineering and complexity, potential development approval and damage to support of land which is not suitable or intended for determination under the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011* (Qld). QCAT has power to make orders relating to existing retaining walls such as to order minor repairs where that is a necessary subsidiary issue to the primary matter of construction of a dividing fence.

2. Have you given the respondent a notice about the fencing work for the dividing fence?

There are three types of notices that may be used depending on your dispute. If the relevant form has not been served, your application may be dismissed and your dispute may not be able to be determined until that form has been served:

- A [Notice to Contribute for Non-Urgent Fencing Work](#) - used to request a neighbour contributes for non-urgent fencing work.
- A [Notice to Contribute for Urgent Fencing Work](#) - used to request a neighbour contributes for urgent fencing work.
- A [Notice of Proposed Fencing Work for a Swimming Pool Barrier](#) - used if the fencing work is for a dividing fence involving a pool.

Yes (you MUST attach a copy of the notice)

When was it given to the respondent?

 / /
Date Month Year

No (you MUST attach a letter explaining why a notice was not served)

3. What does this application concern?

A new dividing fence

A new dividing fence to replace an existing fence

Other *(please provide details below)*:

4. What are the street addresses of the properties where the fence is located or is to be constructed?

Applicant's address:

Suburb

State/Territory

Postcode

Respondent's address:

Suburb

State/Territory

Postcode

5. Describe the proposed fencing work. Attach a plan depicting the adjoining properties and where the proposed fencing work will be done.

6. What is the cost of the fencing work? (if applicable)

The estimated cost of the fencing work is: \$

I want the respondent to contribute: \$

Have you obtained a quote for the fencing work?

Yes, please attach a copy

No*

*If No, please note a [Notice to Contribute for Fencing Work](#) requires at least one quote for the cost of the fence to be served. Failure to do that may render the Notice to Contribute for Fencing Work invalid and this application may be dismissed.

7. What kind of fence is most commonly used in the neighbourhood? Please describe below and attach photos to support your description.

Part D A DIVIDING FENCE THAT IS ALSO A POOL BARRIER

1. Does any part of the fence form part of a pool barrier, or will it in the future?

No, please go to Part E

Yes, please provide details below:

2. Does the pool barrier comply with the [pool safety standard](#), or will it comply?

No, please go to Part E

Yes, please provide details below:

Part E DIVIDING FENCES AND TREE DISPUTES

**1. Does a tree have to be cut down or will a tree be affected by the fencing work?
Please provide details below and attach photos if possible.**

Part F

ORDER DETAILS FOR DIVIDING FENCES OR A POOL BARRIER

If there is insufficient space, please attach additional pages.

I want the Tribunal to make the following order/s: *(please tick)*

an order about the line on which fencing work is to be done.

an order for fencing work to be done including the kind of dividing fence to be built.

an order about the amount that each party must contribute or pay for the fencing work.

another order (you **MUST** specify below):

Part G

ASSISTANCE AT THE TRIBUNAL HEARING

Will you require an interpreter at the hearing?

Yes - please specify language or Auslan:

No

Do you have any of the following needs?

wheelchair/mobility access

speech impairment

hearing impairment/loss

vision impairment/loss

other

If you have ticked any of these boxes, please provide details below.

CHECKLIST

- I have completed all of the questions on this application.
- I have attached a copy of the relevant notice.
- I have attached a plan showing the adjoining properties and where the proposed fencing work will be done.
- I have attached one or more quotes for the fencing work (*if applicable*).
- I have attached photos of fences most commonly found in the neighbourhood.
- I have attached photos of the tree/s that will be affected by the fencing work (*if applicable*).
- I have provided the correct number of copies of the application form and attachments (*that is, a copy for each party, plus one for the Tribunal*).
- I have paid the prescribed fee.
- I am ready to proceed with this application.

WARNING

Section 216 of the *Queensland Civil and Administrative Tribunal Act 2009* (Qld) makes it an offence for a person to knowingly give the registry documents containing false or misleading information. Maximum penalty for such an offence – 100 penalty units.

Sign and date here (*if more than one applicant is named, then all must sign*)

The information in this application is true to the best of my knowledge.

Applicant/s sign here

Date

Print your name/s here

Lodgement Details

Deliver to:

Queensland Civil and Administrative Tribunal
Floor 11, 259 Queen Street
Brisbane Qld 4000
OR
your local Magistrates Court.
To find your local courthouse visit:
courts.qld.gov.au/contacts/courthouses

Mail to:

Queensland Civil and Administrative Tribunal
GPO Box 1639
Brisbane Qld 4001
OR
your local Magistrates Court.
To find your local courthouse visit:
courts.qld.gov.au/contacts/courthouses

INSTRUCTIONS FOR COMPLETING FORM 53

Application for minor civil dispute – dividing fences

A dividing fence dispute may arise if owners of adjoining properties disagree about fence construction or maintenance.

A dividing fence dispute is a disagreement between neighbours about:

- a fence, or a proposed fence, on the common boundary of adjoining lands; or
- a dividing fence that forms, or will form in the future, part of a pool barrier.

It does not include a dispute about a retaining wall or a wall that is part of a house or garage.

If your dispute is about a dividing fence that is not part of a pool barrier, the amount in dispute is limited to \$25,000.

If your dispute is about a dividing fence that is part of a pool barrier, the amount in dispute is unlimited.

If your matter relates to recovering a debt for fencing work based on an agreed amount (up to \$25,000), your dispute is a minor debt. For more information on the minor debt application process visit the QCAT website qcat.qld.gov.au.

Owners of adjoining properties may be equally responsible for the construction and repair of the dividing fence. Your first step is to provide your neighbour with either Notice to contribute for fencing work or Notice to contribute for fencing work for a pool barrier either in person or by post.

If you can't agree on the proposed fencing work or costs within one (1) month after the notice is provided, either party may apply to QCAT for a decision.

You must apply to QCAT within two (2) months of the notice being provided.

For more information on:

- Dividing fences contact the Department of Justice and Attorney-General on 13 QGOV (13 74 68) or visit <https://www.qld.gov.au/law/housing-and-neighbours/disputes-about-fences-trees-and-buildings>
- Dividing fences as pool barriers contact the Department of Housing and Public Works on call 13 QGOV (13 74 68) or visit <https://www.qld.gov.au/housing/buying-owning-home/pool-safety/pool-laws-and-standards>
- Fences around a public park owned by a Council, contact your local government authority.

Identify and naming parties

The applicant and respondent must be named correctly. If the party is not an individual then you must use the precise/exact company name, a business name (whether it is registered or not, including real estate agencies), or the name of a State agency or department. To ensure that you are taking action against the right organisation you **MUST** include the correct ABN/ACN for the company or business name. If you do not correctly name a party you may not be able to enforce any order made against them if you succeed in your claim.

Visit the QCAT website for information on [identifying and naming the parties](#) or contact the Australian Securities and Investment Commission (ASIC) for business name and company information. A search fee may be charged.

More than one applicant or respondent can be named in an application. If there is more than one, then everyone **MUST** be named. If there is not enough space to include additional parties, you can attach the contact details (name and address details) on a separate sheet of paper to the application.

Fees

You must pay the prescribed application fee when lodging your application. Visit the [QCAT website](#) for application fees.

Cash payments can be made in person at the QCAT Brisbane registry or your local Magistrates Court.

Cheque or money order payments are to be made out to 'Department of Justice and Attorney-General'.

Credit card payments can be made by submitting a [Credit card payment authorisation form](#) with your application and can only be accepted by post or in person.

You may apply to QCAT for a waiver of the fee on the grounds of financial hardship. To apply, you **MUST** complete and lodge [Form 49 - Application for fee waiver or appeal fee reduction by reason of financial hardship](#). If you are eligible for a waiver you will not be required to pay the fee.

Lodging your application form

Before you lodge your application with QCAT you must make **two (2)** photocopies of the application and all attached supporting documents and lodge these together with your original application. An extra copy is required for each additional respondent. If you file your documents in person or by post, you must include a stamped self-addressed A4 envelope.

Giving copies to the respondent

You have 7 days from the day you lodge your application to give (serve) a copy of the application to each of the respondent/s. You can check the lodgement date by looking at the date stamp on your application form.

If your application is to prevent the respondent from doing unauthorised fencing work in the future, you need to give them a copy at least one (1) day before the application is heard.

If your application is about unauthorised fencing work that the respondent has already done, you need to give them a copy at least three (3) days before the application is heard.

You can serve the application personally, by post or use the services of a [Magistrates Court bailiff, commercial agent or process server](#). Visit the [QCAT website](#) for information on serving application and documents.

Once the respondent has been served, you must complete [Form 9 Affidavit of service](#). An affidavit is a statement sworn under oath/affirmation in the presence of a commissioner of declarations, justice of the peace or a lawyer. The affidavit is required to prove the application has been given to the respondent.

Legal advice and representation

QCAT staff cannot provide legal advice. All parties involved in a matter before QCAT must usually represent themselves unless leave to be represented has been given. Information about where to seek legal advice is available at [Where to seek legal advice](#).

Withdrawing an application

An application can be withdrawn if you no longer wish to proceed to have the dispute decided by the Tribunal. An application can be withdrawn at any time prior to the final hearing and determination of the application by lodging a [Form 58 – Application for leave to withdraw an application or referral / Notice of withdrawal of application or referral](#) online. Visit the QCAT website for more information on how to [withdraw an application](#).

Protecting your privacy

We collect your contact details to ensure QCAT proceedings comply with the *Queensland Civil and Administrative Tribunal Act 2009* (Qld). We may contact you to help evaluate QCAT operations. You do not have to participate in feedback or surveys. If you do participate, no identifying information will be published. We will not disclose your contact details or any other personal information to a third party unless required by law.

Contact us

For information about the application process or going to the Tribunal visit the [QCAT website](#).