

FENCE DISPUTE APPLICATION

under the *Common Boundaries Act 1981*

File Number: XD
(ACAT use only)

Please note: Before coming to the ACAT, parties must have attempted to resolve their dispute. In some cases, a *Notice to Discuss Fencing* must be served on their neighbour by the person seeking the outcome before lodging an application with the ACAT. This notice is available for download from www.acat.gov.au and can be changed to suit your circumstances. **Please include a copy of this notice with your application as indicated.**

TYPE OF APPLICATION (Please indicate one):

- New Fence Determination:** You are seeking an agreement to share the costs of constructing a new fence with your neighbour (see *Common Boundaries Act 1981*, section 4). **COMPLETE PARTS A, B AND G**
- Repair Determination:** You are seeking an agreement to share the costs of the repair or replacement of an existing fence (see *Common Boundaries Act 1981*, section 5). **COMPLETE PARTS A, C AND G**
- Repair Cost Determination:** You are seeking reimbursement for a share of fixing a fence that required fixing urgently (see *Common Boundaries Act 1981*, section 6). **COMPLETE PARTS A, D AND G**
- Unleased Land Determination:** You are seeking an agreement to share the costs of constructing a new fence where adjoining land was unleased but has become a parcel of land (see *Common Boundaries Act 1981*, section 7). **COMPLETE PARTS A, E AND G**
- Application to Vary a Previous ACAT Determination:** You are seeking to vary previous orders of the ACAT under the *Common Boundaries Act 1981* (see *Common Boundaries Act 1981*, section 14). **COMPLETE PARTS A, F AND G AND ATTACH A COPY OF THE PREVIOUS DETERMINATION**

Applicant and Respondent details: All applicants to complete

(for multiple applicants, attach details on a separate page)

APPLICANT DETAILS

Name:

Postal Address:

Preferred phone:

Alternate phone:

Email:

**If a company:
ACN/ARBN
and address of
registered office**

APPLICANT REPRESENTATIVE DETAILS (IF ANY)

(any representative who is not a lawyer should file an *Authority to Act for a Corporation* or *Power of Attorney* providing authorisation to represent the respondent)

Name:

Address:

Preferred phone:

Alternate phone:

Email:

RESPONDENT DETAILS

(You must provide current details to ensure service)

Name:

Postal Address:

Preferred phone:

Alternate phone:

Email:

**If a company:
ACN/ABN and
Address of
registered office**

PART A – All applicants to complete

1. The applicant occupies land at:

[address, block and section, division] *(Known in this application as the applicant's land)*

2. The respondent occupies land at:

[address, block and section, division] *(Known in this application as the respondent's land)*

Set out the matters that the applicant and respondent have not been able to agree on OR details of the variation you are seeking to previous ACAT orders (attach page if insufficient space):

PART B – New Fence Determination

Complete this section if you are seeking an agreement to share the costs of constructing a new fence with your neighbour (see *Common Boundaries Act 1981*, section 4).

1. There is no fence separating the applicant's land and the respondent's land.

2. The proposed fence (*please indicate which is applicable*):

- Follows the boundary
- Does not follow the boundary but a line as follows (*please attach map or drawing*)

3. The proposed fence consists of: [*describe the proposed fence: type, construction, length, height etc*]

and will cost \$ _____ (*Attach quotation*).

4. On _____ (Date)

the applicant gave the respondent a notice in writing to discuss the fence (*attach copy of notice*). One month has passed and the respondent has not yet responded to the notice, or no agreement was reached.

PLEASE GO TO SECTION G AND SIGN AND DATE THE APPLICATION FORM AS INDICATED

PART C – Repair Determination

Complete this section if you are seeking an agreement to share the costs of the repair or replacement of an existing fence (see *Common Boundaries Act 1981*, section 5).

1. The applicant proposes that the fence be (*please indicate one*):

- Repaired
- Replaced

2. Particulars of the proposed repair/replacement of the fence are as follows (*attach page if insufficient space*):

3. The total cost of the proposed repair/replacement is \$ _____ (*attach quotation*)

4. On _____ (Date)

the applicant gave the respondent a notice in writing to discuss the fence (*attach copy of notice*). One month has passed and the respondent has not yet responded to the notice, or no agreement was reached.

PART D – Repair Cost Determination

Complete this section if you are seeking reimbursement for a share of fixing a fence that required fixing urgently (see *Common Boundaries Act 1981*, section 6).

1. On _____ (Date)

the fence between the applicant's and respondent's land was (*please indicate one*):

- Destroyed
- Damaged

2. It was necessary to repair/replace the fence without delay (*tick all that apply*):

- To protect people living in premises on the applicant's land.
- To protect people living in premises on the respondent's land.
- To prevent the escape of animals from the applicant's land.
- To prevent the escape of animals from the respondent's land.
- For another reason (please give details) (*attach page if insufficient space*):

3. The applicant repaired/replaced the fence on _____ (Date)
at a cost of \$ _____ (*attach receipts*)

4. On _____ (Date)
the applicant gave the respondent a notice in writing to discuss the fence (*attach copy of notice*). Fourteen days have passed and the respondent has not yet responded to the notice, or agreed to pay the requested amount.

PLEASE GO TO SECTION G AND SIGN AND DATE THE APPLICATION FORM AS INDICATED

PART E – Unleased Land Determination

Complete this section if you are seeking an agreement to share the costs of constructing a new fence where adjoining land was unleased but has become a parcel of land (see *Common Boundaries Act 1981*, section 7 and division 2.1).

1. The respondent's land became a parcel of land (as defined in the *Common Boundaries Act 1981*, division 2.1) on _____ (Date)

2. The applicant commenced the erection of the fence between the applicant's land and the respondent's land on _____ (Date)

This date is (*please indicate one*):

- Less than 6 months after the respondent's land became a parcel of land.
- More than 6 months after the respondent's land became a parcel of land.

5. The fence erected is (*please indicate one*):

- A basic fence*: The cost of erecting the fence is \$ _____
- Not a basic fence*: The cost of erecting the fence is \$ _____

6. The cost of erecting a basic fence is \$ _____

7. The applicant proposes that the respondent contribute \$ _____ to the cost of the fence.

8. The applicant and respondent have not been able to agree for the reasons set out in **Part A**.

PLEASE GO TO SECTION G AND SIGN AND DATE THE APPLICATION FORM AS INDICATED

PART F – Application to Vary a Previous ACAT Determination

Complete this section if you are seeking to vary previous orders of the ACAT under the *Common Boundaries Act 1981* (see *Common Boundaries Act 1981*, section 14).

1. The applicant applies for a variation of the determination made by the ACAT on _____ (Date)

Please attach a copy of the previous ACAT determination.

The order relates to the (*please indicate one*):

- Construction
- Repair
- Replacement

of a fence between the applicant's land and the respondent's land.

Details of Variation Sought

(*set out the details of the variation sought; attach page if insufficient space*):

PLEASE GO TO SECTION G AND SIGN AND DATE THE APPLICATION FORM AS INDICATED

PART G - All applicants to complete:

The applicant certifies that the respondent's address details provided in this application are the most current available to the applicant and believes service of documents to this address will most likely result in the respondent receiving them.

**Signature of applicant/
applicant's representative:**

**Name of applicant/
applicant's representative:**

(Any representative who is not a lawyer must be properly authorised by an *Authority to Act for a Corporation or Power of Attorney*)

Date:

Checklist for Respondents

- Fence Dispute Application* form (available at www.acat.act.gov.au) has been correctly filled out including:
 - Type of application is indicated and the corresponding parts of the form are completed
 - Applicant name and full contact details, including postal and email address are completed
 - Respondent name and full contact details are completed
 - Form is signed and dated by applicant.
- If applicable, *Power of Attorney* to represent an individual, or *Authority to Act for a Corporation* to represent a corporation or incorporated association, has been completed (available at www.acat.act.gov.au) and to be filed with the response.
- If a counter claim is being lodged:
 - The nature of the dispute is clearly identified
 - Copies of relevant documents that you will rely on for your counter claim are attached. Examples may include:
 - » Notice to discuss fence
 - » Receipts, invoices and/or quotes
- Correct lodgement fee is ready to be provided with claim. The ACAT accepts cash, bank cheque and credit card payments over the counter, and bank cheque or credit card payments via post. Information on fees payable is available at www.acat.act.gov.au.

Complete *Request About Payment of Fees* form if you believe that the payment of fees will cause hardship and you wish to apply for a waiver or deferral of fees. Information on fee waivers is available at www.acat.act.gov.au

* Definition of Basic Fence

(see section 2 of the *Common Boundaries Act 1981*)

Basic fence means:

- for a fence to be erected between parcels of land in the city area—a basic urban fence; or
- in any other case—a basic rural fence.

Basic rural fence means a wire fence that is 1.2m in height above finished ground level and has—

- for intermediate posts—steel line posts spaced at 4m intervals; and
- for strainer posts—hardwood posts spaced at 40m intervals with hardwood bracing at corners; and
- 3mm galvanised steel wire at the top, bottom and mid-line of the fence; and
- 1060mm wide and 40mm mesh size galvanized wire netting.

Basic urban fence means a timber paling fence, that is 1.5m in height above finished ground level and has—

- reinforced spade-end precast concrete posts spaced at 2.4m; and
- a 75mm x 50mm hardwood rail at the top and bottom of the fence that is fixed to the posts; and
- 100mm x 12mm hardwood palings nailed to the rails.