

# Dividing Fences

## What is a dividing fence?

A dividing fence is a fence that divides two properties. It usually lies on the common boundary of adjoining pieces of land, though it can lie primarily or completely in one property. A dividing fence is legally the joint property of both property owners, which means anything that one owner does to it affects the other and may require cost-sharing.

## Ownership

Dividing fences are governed by the *Dividing Fences Act 1961* (WA) and local government by-laws. These fences are the responsibility of the property owners, so if you rent, you will need to talk to your landlord about any problems relating to your fence.

The City of Armadale is exempt from managing the *Dividing Fences Act 1961*. Only the Magistrates Court of Western Australia can decide who is responsible for damage or installation costs.

If your fence is adjacent to a road, reserve or public land, the cost of repairs or replacement of the fence is borne solely by you as the property owner.

## What if my fence is damaged?

If your dividing fence is damaged or needs replacing, you should discuss options with your neighbour and agree to a mutually beneficial outcome. Generally, you and your neighbour are responsible to share the cost of repairs or replacement.

It is always beneficial to work out a suitable solution together rather than go down a legal avenue. Most case law shows us that Magistrates nearly always request neighbouring property owners to pay an equal share of the costs associated with dividing fences.

If the fence is damaged by a falling tree branch or a fire as a result of one owner's actions, the owner who caused the incident must pay for the fence's repairs.

## What if I want a new fence?

If the existing fence is sufficient and your neighbour is satisfied with the current fence, you may finance the whole cost of putting up a new fence. A fence is generally found to be sufficient if it is able to hold livestock.

The City of Armadale determines the types of fencing that can be installed on the boundary depending on the zoning of your property in our Fencing Local Law:

<https://www.armadale.wa.gov.au/local-laws#toc-2>

## How do I best communicate with my neighbour?

If you are having difficulties contacting or coming to an agreement with your neighbour, the Department of Mines, Industry Regulation and Safety has lots of information and templates on their webpage, see link below:

<https://www.commerce.wa.gov.au/building-and-energy/dividing-fence-matters-overview>

Legal Aid Western Australia also has useful information about dividing fences and other boundary issues on their website:

<https://www.legalaid.wa.gov.au/find-legal-answers/homes-and-neighbours/dealing-neighbours/dividing-fences-and-other-boundary-issues>