



Dividing fences application

CONSUMER AND COMMERCIAL DIVISION | COMMERCIAL LIST

Complete this form to apply to NCAT's Consumer and Commercial Division for Tribunal orders under the *Dividing Fences Act 1991*.

File Number

Office use only

1. DISPUTE DETAILS

A. HAS A FENCING NOTICE BEEN SERVED?

If you have not attempted mediation you should get advice from NSW Fair Trading.

- Yes** If yes, please attach a copy of the Fencing Notice
- No** If no, attach letter explaining why a Fencing Notice was not served

B. DATE FENCING NOTICE WAS SERVED

Must be more than one month before application lodged.

C. PROPERTY ADDRESS

Provide full description of the land such as street address, lot or portion number or other particulars of property where fencing work is to be carried out.

Address:

Lot and Plan No (DP, SP or FP) as displayed on rate notice:

D. RELATED FILE NUMBERS

List any previous NCAT file numbers relating to the parties and the current dispute:

2. APPLICANT / OWNER

A. APPLICANT'S DETAILS

Provide details of person or company making the application. For multiple applicants attach details on a separate sheet.

Full name:

Postal address:

Contact details: Daytime telephone

Mobile

Email

- Do you want NCAT notices and correspondence emailed to you?**

By ticking this box you agree to receive the notice of hearing and other future correspondence by email. Please ensure the email address provided above is accurate and the email account is checked regularly.

3. RESPONDENT / ADJOINING OWNER

A. ADJOINING OWNER DETAILS

Provide full name and residential or business address of the owner of the adjoining property. If the respondent is a company or business, please attach a current business name extract or company extract from ASIC.

Full name:

Address:

Contact details: Daytime telephone

Mobile

Email

Are you making this application because you could not locate the adjoining owner?

Provide details on a separate sheet explaining the steps you have taken to attempt to locate them.

4. ORDER DETAILS

A. WHAT ORDERS DO YOU WANT?

NCAT can make the following orders under the *Dividing Fences Act 1991*. Tick the order/s you want.

- An order determining the boundary or line on which the fencing work is to be carried out
- An order determining the fencing work to be carried out (including the kind of dividing fence involved)
- An order determining the manner in which contributions for the fencing work are to be apportioned or re-apportioned between the parties or the amount that each adjoining owner is liable to pay for that work
- An order determining which portion of the dividing fence is to be constructed or repaired by either owner
- An order determining the time within which the fencing work is to be carried out
- An order for compensation for loss of occupation of any land
- An order that no dividing fence is required in part or whole
- Other Orders (please specify)

B. DESCRIBE THE FENCING WORK TO BE CARRIED OUT

Provide details about the existing dividing fence. Describe the fencing work you want done, for example the type of fence you want, the height and length of the fence, the position of the fencing work, and the materials to be used and the name of any proposed fencing contractor. If insufficient space please attach a separate sheet.

C. ESTIMATED COST OF FENCING WORK

What is the portion of the cost of the fence to be paid by each party? Attach copy of the quote

5. HEARING

A. UNAVAILABLE DATES

Indicate dates you are unable to attend hearing in the next 4 weeks:

B. SPECIAL NEEDS

Indicate whether you have any special needs such as a hearing loop or wheelchair access:

C. INTERPRETER

Do you need an interpreter for the hearing? Yes No

If yes, specify language and dialect:

6. APPLICATION CHECKLIST

I am the owner of the land

I have attached a copy of the Fencing Notice

Attach a copy of the Fencing Notice or letter explaining why a Fencing Notice was not served on the adjoining owner.

I have attached all material relevant to the application

Include all relevant information with your application such as photographs, diagrams, affidavits, receipts, current survey of boundary line (if available) etc.

I have completed all questions on the application form according to the instructions

I have attached a recent ASIC company or business name extract

If the respondent a company or business, attach a current business name extract or company extract from ASIC which shows the organisation's registered name and address. Extracts can be purchased online on the [ASIC website](#).

I have made a copy of this application for my own records

Before lodging your application with NCAT you must make a copy of your application for your own records.

I have attached the application fee

Refer to the fee schedule on the [NCAT website](#). Credit card payments can be made by submitting a [credit card authority form](#) with your application. Credit card surcharges apply. Cheque or money order payments are to be made out to 'NSW Civil and Administrative Tribunal' or 'NCAT'. Payment can be made in person at any NCAT Registry or NSW Service Centre. Concession fee applicants must provide a photocopy of their concession card.

If you are unable to pay the concession fee or are not eligible, NCAT may consider waiving the fee fully or partially. To request a fee waiver please complete the [fee waiver request form](#).

7. SIGNATURE

Applicant's signature or signature of representative.

Name

Position title *(if company)*

Signature

Date

Lodge your Application with the fee at your nearest NCAT Registry

For NCAT Consumer and Commercial Division Registry locations visit the [NCAT website](#). For all NCAT enquires telephone 1300 006 228 or visit www.ncat.nsw.gov.au.

GUIDE TO COMPLETING THE APPLICATION FORM

The following instructions are provided to assist applicants complete the NCAT Dividing fences application form. **Note:** Section headings and numbers match the questions on the application form.

1. DISPUTE DETAILS

A. HAS A FENCING NOTICE BEEN SERVED?

An owner wanting an adjoining owner to contribute to the cost of constructing, replacing, repairing or maintaining a dividing fence must first serve a Fencing Notice under section 11 *Dividing Fences Act 1991* on the adjoining owner.

Attach a copy of the Fencing Notice sent to the adjoining owner to the application form. Otherwise attach a letter explaining why a Fencing Notice was not served.

When a Fencing Notice need not be served

If urgent fencing work is needed on a dividing fence which has been destroyed or damaged (for example, due to a storm or accident), an owner can carry out urgent work without first issuing a Fencing Notice. Reasons for urgent fencing include safety, security, or to prevent stock loss. NCAT can review any dispute arising out of these circumstances.

If a Fencing Notice cannot be served because you do not know the whereabouts of the adjoining owner, attach a letter outlining the steps you took to attempt to locate the adjoining owner.

B. DATE FENCING NOTICE WAS SERVED

An application to NCAT for orders can only be made if a Fencing Notice was served by you or your neighbour at least one month earlier. Insert date the Fencing Notice was served on the adjoining owner either personally or by post.

C. PROPERTY ADDRESS

Provide a full description of the land where the fencing work is to be carried out. Include the street address, lot/portion numbers, parish, county or other relevant details.

D. RELATED FILE NUMBERS

If you have already been to NCAT, or if this is a cross claim to an application already pending before NCAT, enter the previous file numbers if you know them. These should be file numbers of other matters with the same parties.

2. APPLICANT / OWNER

A. APPLICANT'S DETAILS

The applicant is the person, business or company that is the owner of the subject property and lodging an application to NCAT. Provide your full name and postal address for notices.

Note: If only one person's name appears on the title deed (for example, the property is one person's name) they must be named as applicant. Spouses and partners cannot apply on their behalf.

Do you want NCAT notices and correspondence emailed to you?

By ticking this box you agree to receive all future case-related correspondence by email, including the notice of hearing. If you are the applicant's representative, please provide your email address to ensure you receive the notices of hearing, and the not the email address of the person you are representing.

To change your email address after the application is lodged, log into [eServices](#) via the NCAT website.

3. RESPONDENT / ADJOINING OWNER

A. ADJOINING OWNER DETAILS

Provide the full name and address of the person who owns the property neighbouring yours.

If you are not sure who the adjoining owner is, for example if the neighbouring property is rented, ask the tenant or managing agent of the property for the owner's contact details. Otherwise you may need to do a title search or make an access application to your local council.

Attach a company or business name extract

If the respondent a company or business, please attach a current business name extract or company extract from the Australian Securities and Investment Commission (ASIC) which shows their registered name and address. Extracts can be purchased online on the [ASIC website](#).

4. ORDER DETAILS

A. WHAT ORDERS DO YOU WANT?

Tick the type of orders you are seeking. "You may request more than one order.

B. DESCRIBE THE FENCING WORK TO BE CARRIED OUT

Provide all relevant details of the fencing work you want done, for example, the location and type of fence including details of the fence height, type of material colour and position. Include details of the existing fence, arrangements of the removal of any existing fence, who you would like to do the work on the fence and any additional work that will be done.

C. ESTIMATED COST OF FENCING WORK

Provide an estimated cost of the fencing work and how the cost should be split between you and your neighbour. If it is proposed that the cost of the fencing is to be borne otherwise than in equal proportions, the proposed proportions must be specified.

5. HEARING

A. UNAVAILABLE DATES

List any dates you are unable to attend a hearing in the next 4 weeks. Work, training and study commitments are generally not accepted. Note: Your unavailability may affect the timely listing of the matter.

B. SPECIAL NEEDS

If you have a special need please specify on the application form. Otherwise contact NCAT and ask to speak to a Deputy Registrar to discuss your individual requirements.

INTERPRETER REQUIRED

NCAT can organise an interpreter upon request for parties to proceedings. If you need an interpreter for the hearing, tick the box and specify the language and dialect required.

6. APPLICATION CHECKLIST

I am the owner of the land

Only the registered owner/s of the property (e.g. owner name on the Certificate of Title / Mortgage can make an application to NCAT).

I have attached a copy of the Fencing Notice

You must attach a copy of the Fencing Notice served by you or your neighbour. Otherwise, attach a letter explaining why a Fencing Notice was not served.

I have attached all material relevant to the application

Attach all documents and materials in support of your applicant (e.g. quotes for the fencing work). If the dispute is about the boundary line, attach a copy of the boundary notice and a recent survey report by a registered surveyor. Attach photographs if the dispute is about the condition of the fence. Attach reports if the dispute is about a retaining wall which may form part of the fence.

I have completed all questions on the application form according to the instructions

Ensure you have completed all relevant questions. Otherwise your application may be delayed or dismissed.

I have attached a recent ASIC company or business name extract

If the respondent is a company or business, please attach a company extract or business name extract from ASIC which shows their registered name and address. Extracts can be purchased online on the [ASIC website](#).

I have made a copy of this application for my own records

Before lodging your application with NCAT you must make a copy of your application for your own records.

I have attached the application fee

You must pay the application fee when lodging your application. The fee schedule is available on the [NCAT website](#).

Credit card payment can be made by submitting a [credit card authority form](#) with your application. Credit card surcharges apply. Cheque or money order payments are to be made out to 'NSW Civil and Administrative Tribunal' or 'NCAT'. Payments can be made in person at any NCAT Registry or Service NSW Centre.

If you are unable to pay the concession fee or are not eligible, NCAT may consider waiving the fee fully or partially. To request a fee waiver please complete the [fee waiver request form](#).

7. SIGNATURE

You must print your name and sign and date the application form. If the application form is submitted without being signed, this will cause unnecessary delays.