

IMPORTANT INFORMATION ABOUT THIS FENCING NOTICE

1. This is a fencing notice under section 13 of the **Fences Act 1968**.
2. Agreement to the fencing works and any subsidiary works* proposed in this fencing notice gives rise to a fencing notice agreement, which can be enforced under the **Fences Act 1968**.
3. If, within 30 days from the day this fencing notice is given, the adjoining owner[†] has responded to this notice but does not agree to one or more of the matters specified in this notice, the notifying owner[†] cannot proceed with fencing works or any subsidiary works (whether proposed in this notice or otherwise) without the adjoining owner's agreement. The notifying owner and adjoining owner may continue to negotiate or, after the 30 days, either owner may commence proceedings in the Magistrates' Court for orders about: the line on which fencing works and any subsidiary works are to be carried out; the line that is the common boundary; whether or not a dividing fence is required and whether or not fencing works and any subsidiary works should be carried out; the nature of any fencing works and subsidiary works to be carried out; the nature of the fence that constitutes a sufficient dividing fence; the way in which contributions for the fencing works and any subsidiary works should be apportioned; and other matters.
4. If, within 30 days from the day this fencing notice is given, the adjoining owner has not responded to this notice, the notifying owner may proceed with the fencing works and any subsidiary works set out in this notice. The notifying owner may then commence proceedings in the Magistrates' Court to recover contributions from the adjoining owner.
5. Either owner may seek assistance from the Dispute Settlement Centre of Victoria to resolve any disputes about the proposed fencing works and any subsidiary works.
6. Section 32 of the **Fences Act 1968** provides for the placement of rails and framing for a dividing fence that has rails and framing. Owners may agree about the side of the dividing fence on which the rails and framing are to be placed. However, if an agreement between owners or an order of the Magistrates' Court does not specify the side on which rails and framing are to be placed, the **Fences Act 1968** provides for the side on which rails and framing must be placed. For a dividing fence between residential or commercial land and land over which the public has general access or over which there is a right of way, the rails and framing must be placed on the side of the dividing fence facing into the residential or commercial land. For a dividing fence between residential and commercial land, the rails and framing must be placed on the side of the dividing fence facing into the residential land. In all other cases, the rails and framing must be placed on the same side as the previous dividing fence (if a dividing fence is being replaced by a similar dividing fence) or on the side least subject to weathering (if a dividing fence is being replaced by a different type of dividing fence or if there was no previous dividing fence).
7. The **Fences Act 1968** deals with a range of other matters, including disputes about the location of the common boundary and the circumstances in which a long-term tenant of land may be liable to contribute to fencing works and any subsidiary works. Further information about the **Fences Act 1968** is available from the Dispute Settlement Centre of Victoria website.

* subsidiary works are other necessary works to allow the fencing works to take place, including design of a dividing fence, preparation or clearing of land, surveying and marking of common boundary or other proposed line of fence, obtaining approval and using temporary barriers

† the owner who gives the fencing notice is the notifying owner (or owners) and the owner who receives the fencing notice is the adjoining owner (or owners)