

DIVIDING (BOUNDARY) FENCES EXPLAINED

It's an area that confuses property owners – who is responsible for maintaining and repairing a boundary fence? The issue can be even more complicated where Strata Plans are concerned when you also have common property boundaries and individual lot boundaries.

Let's look at the legislation and see whether that helps provide any clarity.

All Australian states, other than Queensland, define a dividing fence as one that separates the lands of different owners regardless of whether the fence is on a common boundary line or not. That is, if the Strata Plan has erected a fence wholly within their boundaries the legislation still applies to both owners as if the fence were on the boundary.

- The legislation defines a fence, cost sharing, location and the standard of dividing fences as well as procedures for carrying out works and resolving disputes.
- It's designed to regulate neighbour's responsibilities and to settle the contentious aspects of sharing a fence.
- It provides a basic structure for construction, replacing, repairing or maintaining a dividing fence, but neighbours can still come to their own agreement.
- It doesn't apply to boundary fences bordering public authorities, such as Crown Land, public parks, reserves, roads, train lines and footpaths.

Each State has its own legislation for dividing (boundary) fences

- QLD – Neighbourhood Dispute Resolutions Act 2011
- NSW – Dividing Fences Act 1991
- SA – Fences Act 1975
- TAS – Boundary Fences Act 1908
- VIC – Fences Amendment Act 2014
- WA – Dividing Fences Act 1961
- ACT – Common Boundaries Act 1981

Strata Plan boundaries

For a Strata insurance claim, the legislation only applies to perimeter fences that define the land owned by the Strata Plan.

Fences between individual lots are covered by the insurer for 100% of their reinstatement cost unless there's an exclusion under the policy.

Managing claims for damage to a dividing (boundary) fence

The first step is to determine if the damaged fence is a dividing fence under the state legislation and whether it forms the border of the land owned by the Strata Plan.

1. Is the fence shared with another property?
2. Is the neighbouring property privately owned, ie not Crown, Council or Public Land)?
3. Was the damage caused deliberately by either Owner of the adjoining property?

All claims must be lodged with full details about the incident and who (if anyone) is responsible for the damage. If the damage was caused by a motor vehicle, you'll need to provide the registration number and the owner's motor vehicle insurance details.

You should also obtain two quotes to fully reinstate the damaged area of the fence. These should reflect rebuilding with the same materials as the damaged fence. If the Strata Plan wants to upgrade the fence, they will need to cover any additional costs together with the neighbour.

Taking individual responsibility

Where a person is responsible for the damage, the insurer will generally try to recover costs from that person and the Strata Plan must not interfere in this process.

If the individual chooses to pay for full reinstatement of the fence utilising a licensed contractor of the Insured's choosing, then you don't need to lodge a claim, as with all damage caused by others.



Allocating the cost of repairs

This is the area where state legislation differs the most.

In general, if an insurer accepts a claim, it will settle in the proportion allowed for in the relevant legislation, being generally 50% of the cost. The neighbour should also submit a claim to their insurer for the remaining 50%.

However, where the neighbouring property is Crown Land, public parks, reserves, roads, train lines or footpaths the insurer will settle 100% of the claimed costs.

And if the fence is in Queensland, the insurer will pay 100% of the claimed costs where the Strata Plan has erected the fence wholly and solely within their boundary as this prevents their neighbour from any responsibility regarding the fence. In such cases, the Strata Plan must provide a written statement from the neighbour confirming they have no insurable interest in the fence and won't be lodging a claim with their insurer.

Claims are usually settled in cash. But if the neighbours have come to a prior agreement to each pay the contractor 50% of the final invoice, the insurer may provide an authority to an approved contractor for their portion of the fence reinstatement only.

If you have any questions about dividing boundary fences, please get in touch with your local BCB office today.



A boundary fence is a perimeter fences that defines the land owned by a Strata Plan.

Legislation doesn't apply to fences between individual lots within a Strata Plan. These are covered 100% by strata insurance.



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