

URGENT FENCING NOTICE

Date of this notice:

Name of person(s) giving urgent fencing notice:

Address of person(s) giving urgent fencing notice (for response):

Telephone number of person(s) giving urgent fencing notice:

Email address of person(s) giving urgent fencing notice (if any):

1. I carried out urgent fencing works and/or other associated works between your property, which is located at:**

[Include description of land e.g. street address, lot number and/or identifying particulars]

and my adjoining property, which is located at:

[Include description of land e.g. street address, lot number and/or other identifying particulars]

** other associated works are called 'subsidiary works' in the *Fences Act 1968* (Vic)

2. Fencing works and other associated works needed to be carried out urgently because:**

one option only

- the dividing fence between our properties was damaged
- the dividing fence between our properties was destroyed

AND

it was impracticable to give you a fencing notice.

3. The reason that fencing works and/or other associated works needed to be carried out urgently was:**

[Give reasons e.g. animals escaping, unfenced swimming pool etc]

4. The following fencing works and/or other associated works were carried out:**

[you may more than one option]

- repair or maintenance of the whole or part* of the existing dividing fence

[Specify nature of the repair or maintenance that was undertaken e.g. replacement of palings, painting, etc]

- demolition of the whole or part* of the existing dividing fence
- removal of the whole or part* of the existing dividing fence
- construction of the whole or part* of a new dividing fence
- replacement of the whole or part* of the existing dividing fence (including demolition and removal of the whole or part* of the existing dividing fence and construction of the whole or part* of a new dividing fence)
- planting, replanting, repair or maintenance* of a hedge or similar vegetative barrier that is the whole or part* of a dividing fence
- cleaning, deepening, enlargement, repair or alteration* of a ditch or embankment* that is the whole or part* of a dividing fence

* strike out whichever does not apply

** other associated works are called 'subsidiary works' in the *Fences Act 1968* (Vic)

other associated works**

[Specify other associated works e.g. design of dividing fence, preparation or clearing of land, surveying and marking of common boundary or other proposed line of fence, using temporary barriers etc]

5. The fencing works and any other associated works at 4 were carried out on:**

and complete one option only]

the boundary line, described as follows:

[Describe e.g. the line of a waterway, around an obstruction]

another line, described below, because it was impracticable to carry out the fencing works and any other associated works** on the common boundary because a waterway or obstruction (whether natural or manmade) is on or forms the common boundary

[Describe e.g. the line of a waterway, around an obstruction or along a line marked on the ground. Give reasons]

6. If a new dividing fence was constructed or the existing dividing fence was replaced—the height(s) of the new or replacement dividing fence is:

[Specify height(s) of new/replacement dividing fence e.g. same as existing dividing fence or specify other height(s)]

** other associated works are called 'subsidiary works' in the *Fences Act 1968* (Vic)

RESPONSE TO URGENT FENCING NOTICE

- I/we the owner/s who received the urgent fencing notice acknowledge receipt of the urgent fencing notice dated _____

AND

- I/we the owner/s who received the urgent fencing notice **agree** with the proposal in the urgent fencing notice about urgent fencing works and other associated works** and contributions

OR

- I/we the owner/s who received the urgent fencing notice **do not agree** with the proposal contained in the urgent fencing notice about urgent fencing works and other associated works** and contributions

If you do not agree with the matters in the urgent fencing notice, you may wish to give reasons e.g. you do not agree with the proposed contribution proportions or consider that the works were not urgent or that further works should be carried out:

Owner who received urgent fencing notice

Name: _____

Signature: _____ Date: _____

Owner who received urgent fencing notice

Name: _____

Signature: _____ Date: _____

** other associated works are called 'subsidiary works' in the *Fences Act 1968* (Vic)

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IMPORTANT INFORMATION ABOUT THIS URGENT FENCING NOTICE

1. This is a notice under section 24(1) of the Fences Act 1968. Not all required fencing works are considered urgent fencing works. The note at the foot of section 23(1) of the Fences Act 1968 provides that the types of circumstances in which fencing works and any subsidiary works* may need to be carried out urgently include where the dividing fence has been damaged or destroyed by a falling tree or branch or by fire or flood.

* 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

2. The owner who gives an urgent fencing notice requires the adjoining owner to contribute to the fencing works and any subsidiary works for a sufficient dividing fence that were carried out urgently in accordance with the Fences Act 1968.
3. If, within 30 days from the day this urgent fencing notice is given, the adjoining owner responds to the notice but does not agree to one or more of the matters specified in the notice, either owner may commence proceedings in the Magistrates' Court. Orders sought may include 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 urgent fencing notice is given, the adjoining owner has not responded to the notice, the owner who gave the urgent fencing notice may commence proceedings in the Magistrates' Court for orders about the urgent fencing works and subsidiary works or contributions.
5. Urgent fencing works that may be carried out under the Fences Act 1968 are subject to the operation of the Residential Tenancies Act 1997 in relation to urgent repairs, or the Retail Leases Act 2003 in relation to urgent repairs, or a lease agreement that makes provision for urgent repairs.
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. 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.
7. 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).