



Fencing Responsibilities when Adjoining Cemetery Land

Introduction

The Fences Act 1968 sets out the requirements for construction, maintenance and repair of dividing fences by landholders. The Act applies to "occupiers" of adjoining land. The term "occupier" refers to those actually occupying properties as a licensee or lessee and those entitled to occupy them as owners.

When Your Neighbour is a Public Cemetery

A Victorian Public Cemetery is owned by the Crown, with a Cemetery Trust appointed by the Governor in Council to manage and administer the Cemetery. The Crown is exempt from the requirements of the Fences Act which states neighbours must share costs of construction or maintenance of fences that form a common boundary between their properties. This means that property owners with land bordering a cemetery or Crown land have to meet the full cost of constructing and repairing fences.

However, the reverse also applies. If the Cemetery Trust/ Crown wish to erect a fence, it cannot use the provisions of the Fences Act to recover costs from its neighbour(s).

Frequently Asked Questions

If my private land shares a boundary with a Public Cemetery will the Crown/ Cemetery Trust contribute to the cost of fencing?

No, where the Cemetery Trust is the direct manager of the adjoining Crown land it will not contribute to the cost of fencing. Cemetery Trust's as managers of Crown land are excluded from the provisions of the Fences Act 1968 that requires property owners to share the cost of erection and maintenance of a common boundary fence.

What type of fence do I have to put up on my shared boundary with Crown land?

Any fencing constructed must be of sufficient standard for the intended use of the private land, for example, a stock proof fence would be required to retain any livestock within the private property boundary.