

Information sheet

Development and Infrastructure

Boundary Fencing

This sheet identifies QPWS responsibilities and obligations under the Neighbourhood Disputes Resolution Act 2011 regarding the construction and maintenance of boundary fences.

Background

The *Neighbourhood Disputes Resolution Act 2011* (NDRA) commenced on 1 November 2011. The NDRA replaces the *Dividing Fences Act 1953* (DFA).

The NDRA provides rules about neighbour's rights and responsibilities for boundary fencing and provides effective remedies for neighbours to help resolve issues about dividing fences without a dispute arising. It also incorporates new provisions in relation to the proper care and maintenance of 'nuisance trees' which affect neighbouring properties.

The NDRA does not obligate State entities, including QPWS to contribute to boundary fencing. However, if fencing is required to achieve conservation and management outcomes, QPWS may contribute to the construction, maintenance and repair of boundary fences consistent with the *QPWS Good Neighbour Policy*.

State exemption under the *Neighbourhood Disputes Resolution Act 2011*

Under the NDRA, the State exemption from fencing construction and maintenance obligations, established under the DFA, continues to apply. This is achieved by excluding the State from responsibility as an 'owner' in respect of certain lands. These include:

- land prescribed under a regulation, including the Nature Conservation (Protected Areas) Regulation 1994, the Forestry Regulation 1998 and the Land Regulation 2009;
- unallocated State land; and
- stock routes within the meaning of the *Land Protection (Pest and Stock Route Management) Act 2002*.

The exemption does not however apply to freehold lands held by QPWS.

Lands subject to permits & grazing authorities

The obligations of the NDRA do apply to the holders of certain interests over QPWS managed lands. Fencing of QPWS managed land that is the subject of an authority under the *Nature Conservation Act 1992* (stock grazing permits), the *Forestry Act 1959* (occupation permits and stock grazing permits) or the *Land Act 1994* (leases and licences) is the responsibility of the authority holder. Holders of authorities over these lands are considered owners of the land for the purposes of the NDRA and therefore, remain bound by the provisions of the NDRA and are liable to contribute to boundary fences. Additionally, the requirement for fencing may be included in the conditions of an authority for practical and effective management purposes (e.g. internal or boundary fences).

Fencing agreements

Although QPWS is not required to contribute to boundary fencing in most instances, where a need exists QPWS will continue to work with neighbours to construct or improve boundary fencing on a case-by-case basis. Contribution to the construction or maintenance of a fence may be shared through meeting some of the cost or by providing materials or labour. Details of cost sharing arrangements will be addressed via the development of fencing agreements.

Further Information

Boundary fencing

QPWS, Strategy and Policy Services, through the Major Projects and Estate Management Program is developing a boundary fencing policy package. Until this is completed please refer to the *Good Neighbour Policy* and the *Operational Policy – Grazing on QPWS managed lands* for further information.

Nuisance trees

The NDRA also includes nuisance tree provisions that apply to disputes between residential neighbours. Land exempt from the nuisance tree provisions include all parcels greater than 4 hectares in size, land prescribed by a regulation and unallocated State land.

A copy of the NDRA and related information is available at: <http://www.justice.qld.gov.au/justice-services/justice-initiatives/neighbourhood-disputes-resolution-act-2011>

Approved By

Andrea Leverington

Signature

Assistant Director-General
Queensland Parks and Wildlife Service

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Date

Enquiries:
Strategy and Policy Services
Email: parkspolicy@npsr.qld.gov.au