



## FENCES POLICY

Version 1 | December 2017

### PURPOSE OF THE POLICY

- To ensure schools understand that they may be legally required to contribute to costs of fencing works requested by third-parties;
- To ensure that, even if exempt, schools should still consider paying up to 50 per cent of fencing works that impact on the safety and security of the school site; and
- To ensure schools appropriately manage any sharing of fencing costs.

This policy aligns with the following school asset lifecycle stage



### RELEVANT LEGISLATION AND REGULATION

- [Fences Act 1968](#)
- [Local Government Act 1989](#)

### POLICY STATEMENT

As a general rule, school properties are considered community assets that should be welcoming environments for the community. The Department does not provide or encourage tall security fencing unless it is warranted due to local circumstances.

Schools may have a need to share perimeter fencing with neighbouring properties and local roads. Therefore, principals need to be aware of the responsibilities and costs associated with constructing and repairing these fences.

#### The school's legal obligations regarding fencing depends on the ownership of its site

At times, a school may be requested by a neighbouring property owner to contribute to the costs of constructing or repairing fencing on their shared boundary. A school may also be asked by the local council to contribute to costs related to fencing works between the school site and public street frontages.

For schools situated on freehold land that is owned by the Minister for Education the following laws apply and, therefore, such

schools are obliged to contribute to fencing costs:

- The [Fences Act 1968](#) stipulates that fencing costs are shared between the neighbours.
- The [Local Government Act 1989](#) grants councils the power to apply a special charge to property owners for public works that include fencing.

These laws do not apply to schools situated on Crown land, which are not legally required to contribute to fencing costs requested by third parties.

The Victorian School Building Authority (VSBA) recognises that principals may not know whether their school site is situated on Crown land or freehold land. Schools can contact the VSBA for information and advice on their land type and their fencing obligations.

In some cases, schools may need to apply for a planning permit for fencing works. Schools and their neighbours should engage their local council to confirm such requirements, and also refer to the [Planning Exemptions Policy](#) and the [Heritage Policy](#).

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[https://edugate.eduweb.vic.gov.au/sites/i/pages/production.aspx#/app/content/1953/support\\_and\\_service\\_\(schools\)](https://edugate.eduweb.vic.gov.au/sites/i/pages/production.aspx#/app/content/1953/support_and_service_(schools))



### **Schools should consider contributing, even when they are not legally obliged to do so**

Schools are a central part of their local communities, and principals have a responsibility to take reasonable care to ensure their school sites do not infringe on bordering properties.

Regardless of whether they are on Crown land or freehold land, principals also need to ensure that the condition of fencing does not expose school users to safety or security risks.

Therefore, wherever possible, schools are encouraged to contribute up to 50 per cent of fencing construction and repairs costs if such works will benefit both the school and the local community.

### **When should schools on Crown land contribute to fencing costs?**

If an unexpected event occurs that causes damages to the school's fencing, and it creates immediate or potential risks to people's safety, the school must immediately contact Cushman and Wakefield on 1300 133 468 to make the site safe.

### Ensuring safety along neighbouring boundaries

If the construction or repair of a fence adjoining neighbouring properties is required to provide a safe and secure site for the student population, the school should consider contributing up to 50 per cent of the cost of works.

Alternatively, if the school identifies an issue and wants to initiate a request for works, it can write a letter to the neighbour to:

- inform them of the school's intentions and explain the reasons (i.e. for safety);
- the type of fence needed (which should comply with the [Building Quality Standards Handbook](#) (BQSH));
- advise the total cost (preferably providing at least three quotes);
- request a contribution to the cost; and
- provide information as to when the school will require access to undertake the works.

### Ensuring safety along street frontages

If repairs are required to a fence that is adjacent to a road, the school should immediately initiate the works to maintain student and staff safety. Schools should note that local governments are not required to contribute to these costs.

If a request for works is initiated by the local council, the school is not legally obliged to pay. However, if the works provide safety benefits to school users, the school should consider contributing up to 50 per cent of the costs.

### All other circumstances

As noted, schools on Crown land are not legally obliged to contribute to the costs of fencing works requested by neighbours or local councils. Therefore, these schools should only consider contributing if there is a direct, measurable benefit to the school.

### **Managing payment of fencing costs**

#### Source of funding

Schools receive maintenance funding through the Student Resource Package (SRP), and this should be used to address any fencing costs borne by schools.

#### Sharing costs with neighbours

The cost of fencing works must be reasonable, and the school should seek (or get the neighbour to seek) three quotes before agreeing to the works and the level of contribution.

If one party wants a cheaper fence and the other party wants a more expensive fence, they should split the cost of the cheaper option, and the party preferring the more expensive option pay the difference.

It is recommended that schools enter into a short and legally binding contract on the agreed costs. The Department's Legal Division can provide assistance on drafting contracts (please, first, contact the VSBA).

## **RATIONALE**

Principals, as school site managers, need to be sensitive to the rights of those who own property adjoining school boundaries. In accordance with the *Fences Act 1968* and *Local Government Act 1989*, schools on



freehold land need to contribute to the costs of fencing.

Government schools situated on Crown Land are not obliged to contribute to fencing or municipal works. However, schools are a vital part of their local social network, and schools should consider contributing fairly to the cost of works that benefit both the school and its local community.

Schools need to utilise their Student Resource Package (SRP) funding for these works and, therefore, principals should prioritise contributions to projects that enhance the safety and security of the school site.

## ADDITIONAL INFORMATION

### Fencing provision for new schools

When a new school is constructed, the BQSH specifies the provision of perimeter fencing and fencing along street frontages. As a general rule, the Department does not provide taller security fencing unless it is warranted due to local circumstances.

The cost of constructing fencing for new schools is covered by the capital project budget. However, once delivered, schools are responsible for maintaining and repairing these fences, in conjunction with neighbouring properties or local council as outlined in this policy.

Any new fencing or repairs to existing fencing must comply with the BQSH.

## RELATED DOCUMENTS

- [Fencing Law in Victoria](#) – information provided by the Department of Justice and Regulation

## CONTACTS

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## KEY WORDS

Fence, fencing, Fences Act, good neighbour, property boundary, perimeter, street frontage, cost sharing