



Neighbourhood Disputes About Plants Act 2017

The *Neighbourhood Disputes About Plants Act 2017* (**the Act**) aims to provide a clear, practical mechanism for resolving disputes between neighbours about plants that overhang or overshadow their property, or otherwise cause a nuisance.

What plants are covered by the Act?

"Plants" covered by the Act include:

- trees
- hedges or groups of plants
- the fruits, seeds, leaves or flowers of a plant
- a bare trunk
- any stump or root of a plant

The Act applies to both living and dead plants.

However, the Act **does not** apply to plants on a farm or nursery, or to live boundary fences, such as hedges separating properties. The Act also does not apply to plants on some council properties or Crown land (such as public reserves and parks), rail corridors, road reserves or forestry land.

When will the Act apply?

Situations covered by the Act include:

- Plants overhanging neighbouring land
- Plants causing (or likely to cause within the next 12 months) serious injury or property damage
- Plants causing substantial, ongoing and unreasonable interference with the use and enjoyment of your property

"Substantial, ongoing and unreasonable interference" includes:

- Severely obstructing sunlight from reaching a window, skylight or solar panel
- Severely obstructing a view, provided the plant in question is over 2.5 metres high and the view was not obstructed when you took possession of your property.

Managing plants on your property

Landowners are responsible for managing plants on their property so that they don't create a nuisance to neighbours. This includes removing overhanging branches, pruning plants to reduce leaf litter and keeping trees trimmed to a reasonable height.

Talk to your neighbours

Wherever possible, neighbours are encouraged to resolve concerns about plants informally – talk (or write) to your neighbour about the impact their trees are having on you and what you think is a reasonable action to reduce that impact. Listen to what they have to say about your proposal and see whether any reasonable compromise can be reached.

If the dispute ends up in the Tribunal, you will need to show that you made reasonable attempts to resolve things informally before resorting to legal action.

What if the matter can't be resolved informally?

Dealing with overhanging branches

If a branch is less than 2.5m above the ground and extends at least 50cm into your land, you (or your tenants) may give your neighbour a "[Branch Removal Notice](#)". The notice should:

- Give a reasonable date by which you would like the branches to be removed (you will need to give your neighbour at least 30 days)
- Include a quote from a professional setting out the cost of removing the branch
- Give your neighbour (or their contractors) permission to enter your land to remove the branches – you can give permission for a particular date, or request that you be given sufficient notice of when they intend to come onto your property

If your neighbour doesn't remove the branches by the date set out in the notice (or another date that you've agreed on), you can engage a professional to remove the branches and recover the costs from your neighbour (limited to the costs set out in the Branch Removal Notice).

If your neighbour wants to dispute the amount owed, they can apply to the Magistrates Court for a determination of a "fair and reasonable" price for the work.

Dealing with 'unreasonable interference'

If plants are obstructing sunlight to your property, severely and unreasonably blocking your view, or creating an ongoing nuisance, you can give your neighbour a "*Notice about land affected by plant*" ([Affected Land Notice](#)).

An Affected Land Notice should set out how your land is affected by the neighbours' plants and a proposed solution (for example, sharing the cost of removing a tree), and request that your neighbour respond to your proposal within 14 days.

Unlike a Branch Removal Notice, if your neighbour does not take any action in response to an Affected Land Notice, **you cannot take the action yourself**. You will need to apply for an order from the Tribunal to resolve the matter.

Orders

If all reasonable steps have been taken and a dispute about plants has not been resolved, you can apply to the Resource Management and Planning Appeal Tribunal (***the Tribunal***) for orders (see below).

Going to the Tribunal

Making an application for orders

To commence Tribunal proceedings, you will need to complete an [Application form](#) and pay the filing fee (currently **\$322.40**). The form must include the following information:

- A certificate of title for your property, and the property on which the tree is located
- A copy of any Notices previously sent to the owner of the property on which the tree is located
- If you are not the owner of your property, evidence that you have asked the owner to take action but they have refused, or not responded to your request within 42 days
- Details of efforts taken to resolve the dispute
- A list of any other people who may need to be notified (for example, the relevant planning authority, the Heritage Council), including their address
- If you are seeking urgent interim orders, evidence (in the form of an affidavit or statutory declaration) that the tree poses an immediate threat to your property

You must provide at least 3 copies of the application form to the Tribunal – with extra copies for any additional parties involved. **You** must provide copies of the application to all parties.

Preliminary conference

The Tribunal will make an initial consideration of your application and, if satisfied that there is a relevant dispute, will accept the application and set a date for a preliminary conference. A notice about the preliminary conference will be published in the newspaper.

At the preliminary conference, the Tribunal will invite you and your neighbour (and any other parties) to briefly discuss your position, and the orders that could be sought.

If the Tribunal is not satisfied that you and your neighbour have made reasonable attempts to resolve the issue, the Tribunal may direct you to attend a mediation conference (organised and facilitated by the Tribunal).

At the conclusion of the preliminary conference, the Tribunal will notify all parties of relevant dates for mediation and a final hearing (in case mediation is unsuccessful), and any further information that should be provided by any of the parties.

Mediation conference

If the parties are directed to participate in mediation, you should attend the mediation in good faith and try to resolve the dispute. To prepare for the mediation:

- compile any information that you have to support your view that the tree is causing an unreasonable risk or nuisance (for example, an arborist report discussing the health of the tree, photos of the view, any insurance assessment or property valuation that has referred to the tree)
- consider your neighbour's position (that is, think about why your neighbour may not want to remove the tree)
- think about a range of possible solutions, and which ones you would accept
- if you think that you'll need a support person to attend the mediation with you (whether a lawyer, friend or family member), ask the other parties for permission for that person to attend

Ideally, a resolution will be agreed to at the mediation. However, either party may request some time to consider the options discussed at the mediation before agreeing. The Tribunal may give the parties a reasonable amount of time to consider their position before confirming whether a resolution has been agreed to.

Full hearing

If mediation is unsuccessful, the matter will proceed to a full hearing. At the hearing, the Tribunal will consider all the evidence presented by the parties. The Tribunal may also go and inspect the property before making a decision.

The Tribunal may either dismiss your application or make orders requiring your neighbour to take appropriate action to deal with the risk or nuisance – this could include removing the tree, pruning and regularly maintaining the tree, and repairing any damage to your property.

Orders

Orders made by the Tribunal **must** be complied with by the landowner. If your neighbour sells the property before carrying out the required work, they must give any potential purchaser a copy of the order so the purchaser is aware that they will be required to undertake the work.

Landowners may also apply to vary or revoke an order. You will be notified if any application is made.

The Tribunal will maintain a database of orders and applications made under the Act, so you can search to see whether any property is subject to an order. Searches will cost **\$23.25**.

More information

More detailed information about the Tribunal process is available [on the Tribunal's website](#).