

TREES AND PLANTS

Helpful Guidelines for Residents

The law that deals with the responsibility for a proper care and maintenance of trees and plants affecting neighbours in Queensland is the Neighbourhood Disputes Resolution Act 2011. The law applies to trees in most areas of Queensland, but there may be some exceptions. Get legal advice if you are unsure.

What is a nuisance?

A private nuisance is where someone gets in the way of your use or enjoyment of your land, or any rights you have linked to the land. Private nuisance can include overhanging tree branches, water run-off from the neighbouring property, fumes and smells, air and noise pollution. Sometimes local council laws or state laws allow the police or government inspector to investigate nuisance complaints. You should get legal advice if you have any concerns.

Who is responsible for trees and plants causing a nuisance or overhanging onto a neighbour's property?

The Neighbourhood Disputes Resolution Act 2011 says that it is the tree owner's responsibility to care for and maintain trees and plants, and to ensure that they do not cause serious injury to any person, cause damage to property, or interfere in a serious way with a person's use or enjoyment of their own land.

If you have overhanging tree branches or roots that go into a neighbour's yard, the law says that this is a legal nuisance. If you are the owner of the land where the tree or plant is growing, you may be responsible for paying for any damages caused by the tree or its roots. If you are a tenant you are not usually responsible unless you have planted the tree. You should get legal advice if your tree or plant has caused damage to someone else's property.

How should I deal with any complaints about trees or plants?

If you have problems with overhanging tree branches or roots:

- Talk to your neighbour directly and try and resolve the complaint first. If you don't know who the owner of the property is, you may be able to get this information from your local council or, for a fee, from the Queensland government (property, titles and valuations).
- Get help from a mediator. The Queensland government's Dispute Resolution Centre may help you with mediation.

Can I cut down overhanging branches and tree roots?

The law allows you to cut off overhanging branches and dig up roots on your property, but you must take care to not cause unnecessary damage to the neighbour's plants. You are not allowed to enter your neighbour's property to do this unless you get permission from the occupier of the property (tenant or owner who is living at the property), or the owner if the property is unoccupied.

You cannot poison the neighbour's tree or any roots that are on your property. You should only try to cut back the tree branches or cut out the tree roots to the lowest line. This is to make sure you don't destroy the tree.

You may (but do not have to) return the branches and fruit to the owner of the tree.