



OVERHANGING BRANCHES FROM NEIGHBOURING PROPERTIES

Difficulties can often arise over branches from a tree on a neighbour's property. A number of factors come into play in these situations, and can lead to ongoing conflict between the neighbours.

Some facts about trees on and close to property boundaries.

- When the trunk of the tree is on the boundary between two properties, the tree is considered to be jointly owned. Any proposed removal or pruning of the tree requires the consent of both property owners.
- When a tree is growing on one property, but its branches overhang the neighbouring property, it is owned by the owner of the property from where it grows. The neighbour has a common law right to prune the tree without Council approval if less than 10% is to be removed to the property boundary as long as the tree is not made dangerous or unstable in doing so. Council approval will be required to prune a tree if more than 10% of a tree needs to be pruned and all pruning must be carried out in accordance with the Australian Standard for the Pruning of Amenity Trees AS4373 - 1996.
- When applying to Council to prune overhanging branches from a neighbour's tree the neighbour's signature should be present on the Tree Preservation Order form. If consent from the neighbour is not obtained this must be noted on the Tree Preservation Order form. Council can still carry out an inspection of the tree but the inspection can only be made from the applicant's property. If Council considers pruning an appropriate action then all pruning must be carried out from the applicant's property and all pruning must be carried out in accordance with the

Australian Standard for the Pruning of Amenity Trees AS4373 - 1996.

- If pruning to the property boundary is in contravention of the Australian Standard for the Pruning of Amenity Trees AS4373 - 1996 Council can not approve the application.

In each of the above situations your approach should be similar. When you believe a tree presents a danger to you or your property the following steps are recommended.

1. Speak to your neighbour about your concerns in a friendly, non-confrontational manner. Often people are just not aware of the problem and will be happy to do something if approached in a reasonable manner. Keep a diary note of your conversation, noting the people involved in the discussion as well as the time, date, place and what was said.
2. If no action has been taken after a reasonable period or your neighbour refuses to do anything, write to your neighbour outlining your concerns. Keep a copy of the letter. It is important to have your concerns in writing so that if damage occurs, and you decide to take legal action, you can prove that your neighbour was aware of your concerns.
3. You may consider getting a tree surgeon or arborist to assess the tree on your behalf and expense, and provide their report to your neighbour. Alternatively you can request your neighbour to have the tree assessed by a qualified person, but they are not obliged to do so.
4. The Community Justice Centre (CJC) is a state government funded organisation that can often help resolve disputes between neighbours over trees, and it is advisable to contact the CJC before the dispute escalates into a major problem.

5. You may also consider having your solicitor write on your behalf, but this may be provocative.
6. Often meeting the cost of tree work may be difficult for the tree owner. Whilst the owner of the tree is responsible for maintaining the safety of the tree, the issue of cost is obviously a factor, and an offer by an affected person to contribute to the cost of the work sometimes may help achieve the desired outcome.
7. Tree matters are rarely black and white. The greater the cooperation between parties and the willingness for parties to listen to and respect other viewpoints, the more likely an outcome that is acceptable to all parties.