



DANGEROUS TREES ON NEIGHBOURING PROPERTIES

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

The following is a list of steps you may wish to take if you consider your neighbour's tree presents a danger to you or your property.

Some facts about trees on and close to property boundaries:-

1. When the trunk of the tree is on the boundary between two properties, the tree is considered to be jointly owned. Any proposed removal of the tree requires consent of both property owners.
2. 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 to the property boundary as long as the tree is not made dangerous or unstable in doing so. All pruning must be carried out in accordance with the Australian Standard for the Pruning of Amenity Trees.
3. A tree does not necessarily need to encroach on a neighbouring property to present a risk to that property.

In each of the above situations your approach should be similar. When you believe a tree presents a danger to 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 sue, 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 provide their report to your neighbour. This may cost money you can either not afford or are unwilling to pay. 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 organization that can often 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 the affected person to contribute to the cost of the work sometimes may achieve the desired outcome.

7. Tree matters are rarely black and white. The greater co-operation 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.

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