

trees



Just about everybody can appreciate a good tree!

However, a tree positioned in the wrong spot can be a disaster!

For example:

	Cracking walls and foundations
	Cracking and lifting roadways and paving
	Blocking pipes
	Blocking sun
	Causing a leaf litter mess
	Obscuring views

Trees

The neighbourhood tree issues are regulated by the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*



Who is responsible?

The Tree-Keeper is clearly defined by the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*

41 Overview

- (1) A tree-keeper is responsible for the proper care and maintenance of the tree-keeper's tree.

Note—

The tree-keeper's specific responsibilities are set out in section 52.

Further

52 Responsibilities of a tree-keeper

- (1) A tree-keeper is responsible for cutting and removing any branches of the tree that overhang a neighbour's land.
- (2) A tree-keeper is responsible for ensuring that the tree does not cause—
- (a) serious injury to a person; or

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Neighbourhood Disputes (Dividing Fences and Trees) Act 2011
Chapter 3 Trees

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- (b) serious damage to a person's land or any property on a person's land; or
 - (c) substantial, ongoing and unreasonable interference with a person's use and enjoyment of the person's land.
- (3) This section does not create a civil cause of action based on a breach of a tree-keeper's responsibilities.

Note—

This section is intended to help a tree-keeper and neighbours resolve any issues about a tree without a dispute arising. However, this section does not create a separate cause of action. This chapter provides ways of dealing with some issues that fall within a tree-keeper's responsibilities under this section.

Who is the ‘Tree-Keeper’?

If you own the land, you are the ‘Tree-Keeper’

48 Who is a tree-keeper

(1) The following person is the *tree-keeper* for a tree—

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- (a) if the land on which the tree is situated is a lot recorded in the freehold land register under the *Land Title Act 1994*—the registered owner of the lot under that Act;

Some common misconceptions!

The tree was planted by the previous owner	Does not matter as soon as you own the land you become the responsible person as the “Tree-Keeper”
The tree was planted a long time ago and my neighbour should not have built so close to the boundary	Does not matter how long ago the tree was planted or how close the neighbours built towards your boundary – you are the “Tree-Keeper”
I like my tree and I like the privacy it gives me	Does not matter if the tree interferes with your neighbour, you have legal responsibilities to comply with the law
I can’t afford to cut down my tree	Being a property owner comes with responsibilities like paying rates and complying with legislation like the <i>Neighbourhood Disputes (Dividing Fences and Trees) Act 2011</i> . Sadly, some owners are forced to sell their property to comply with the law.

The law does not apply to me! My circumstances are special!

Wrong! The law applies to every property owner regardless of their ‘special circumstances’.

What happens if I simply refuse? Will I go to jail?

It is highly unlikely anybody would be forced to go to jail but you may be forced to appear in QCAT in front of the local Magistrate at the local Court House.



Queensland Civil and Administrative Tribunal

Heritage Protected Trees

Where a property is heritage listed it is possible that the vegetation may be protected for historical purposes. This aspect is largely governed by the Department of Environmental and Heritage Protection.

Just because you and others consider your tree to be a ‘magnificent specimen’ does not mean it is ‘protected’. As the ‘Tree-Keeper’ you still have responsibilities.

Yes ... there is an Australian Standard for Trees



AS 4970:2025 develops the concept of a Tree Protection Zone which can be summarised as follows:

HOW CLOSE CAN TREES BE TO A PROPERTY BOUNDARY WALL?

A simple guide to help prevent damage, reduce costs and avoid neighbour disputes

1 TOO CLOSE – HIGH RISK	2 ACCEPTABLE – CAUTION	3 GENERALLY LOWER RISK
Less than 2 metres High risk of damage and ongoing impact Neighbour's Property Body Corporate Property What can happen: ✗ Roots can invade and damage retaining walls, paving, pipes and structures ✗ Heaving or cracking of walls and surfaces ✗ Blocked drains and services ✗ Overhanging branches, leaf litter and nuisance ✗ Increased maintenance and repair costs ✗ Higher likelihood of neighbour disputes	2 to 5 metres Acceptable with careful species selection and management Neighbour's Property Body Corporate Property What can happen: • Roots may reach or cross the boundary • Possible future impact on walls, fences, paving or services • Choose smaller, non-invasive species • Regular pruning and root management • Monitor for early signs of impact	More than 5 metres Best practice – lower likelihood of impact and future problems Neighbour's Property Body Corporate Property What can happen: ✓ Root spread less likely to impact structures ✓ Less interference with common property ✓ Lower maintenance and repair costs ✓ Better long-term outcomes for all IMPORTANT WARNING Some large species (e.g. gum trees, fig trees and other invasive-root or large canopy species) can have very extensive root systems and canopy spread. These may require setbacks greater than 10 metres from boundary walls.

THE GENERAL GUIDE

Plant large trees more than 5 metres from boundary walls.
Plant small/medium trees at least 2 metres from boundary walls.

IMPORTANT NOTES

Site conditions, tree species and soil type can affect root spread and impact.
When in doubt, seek advice from a qualified arborist.

DISCLAIMER

This guide is general information only and does not replace professional advice or local regulations.

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WARNING!

Allowing a tree to affect your neighbour is wrong!

There is **NO** justification for allowing a tree to affect a neighbour.

You may be totally unhappy with how close the neighbour has built to the boundary line. However, provided the neighbour has built in accordance with the Council rules then that is the end of the matter.

You remain the 'tree keeper' responsible to maintain your trees to not impact neighbouring properties.

There is no 'moral' high ground! Not liking the Council rules gives you no protection under the law. The 'tree keeper' must not let their trees impact their neighbours.



Why is it to boundary line and not the building next door?

You are trying to protect more than just the neighbouring building you are trying to protect all the plumbing services etc that maybe contained the neighbour's yard.

Solutions

Talk and discuss options

- Trimming trees versus full tree removal
- Installing a root barrier system to protect my neighbour
- Cost sharing

Reaching a compromise solution is great! However, that does not always work, and you are still the 'Tree-Keeper' and you still have obligations.

Final Word

- Measure the tree protection zone.
- Does the tree protection zone encroach onto the neighbour's land? Even if it is just their courtyard.
- Consider carefully if the tree should just be removed.