

# Application checklist: Tree dispute resolution

## Using the checklist

Before making an application to QCAT to resolve your tree dispute, please use the checklists below to:

- check your application falls within QCAT’s jurisdiction
- check you have completed and lodged your application correctly.

Before making an application	Yes	No
<p><b>1. Do you own the property that is being affected by the tree?</b> If no, and your dispute is about minor overhanging branches, contact your landlord or real estate agent and advise them of the issue. If your dispute is about another tree issue, you can make an application to QCAT if you can show that the owner has refused to make an application.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>2. Does your dispute involve overhanging branches?</b> If yes, and those branches extend to a point that is at least 50cm from the common boundary, and are 2.5m or less above the ground, you can’t make an application to QCAT.</p> <p>You do have several other options:</p> <ul style="list-style-type: none"> <li>• talk to your neighbour and agree how to deal with the branches</li> <li>• visit <a href="http://www.neighbourhooddisputes.qld.gov.au">www.neighbourhooddisputes.qld.gov.au</a> for information on your rights and responsibilities, and how to use a <i>Notice for overhanging branches</i>.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>3. Have you tried to resolve the dispute with your neighbour?</b> Dispute Resolution Centres offer free mediation services to assist in resolving neighbourhood disputes. For more information call 1800 017 288 or visit <a href="http://www.justice.qld.gov.au/justice-services/dispute-resolution">http://www.justice.qld.gov.au/justice-services/dispute-resolution</a></p> <p>Remember that the tribunal has to be satisfied that you have made reasonable efforts to reach agreement with your neighbour before it can make an order.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>4. Is the tree/s which is causing an issue located in a park owned by the local government or council?</b> If yes, you can’t make an application to QCAT because these trees are not within QCAT’s jurisdiction.</p> <p>Contact your local council for more information. For specific information on whether your dispute is covered by tree dispute legislation administered by QCAT, you may wish to seek legal advice.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>5. Is the tree/s:</b></p> <ul style="list-style-type: none"> <li>• growing on a parcel of land greater than four hectares or a rural property</li> <li>• planted or maintained for commercial purposes</li> <li>• planted or maintained as a condition of a development approval?</li> <li>• planted or maintained under an order of a court or tribunal.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>

*This application checklist provides general information and should not be considered legal advice. If you are unsure about your legal rights you should seek legal advice. Any actions taken to resolve your dispute should be determined by your individual circumstances.*

<b>Before making an application</b>	<b>Yes</b>	<b>No</b>
If yes, you can't make an application to QCAT because these trees are not within QCAT's jurisdiction. For specific information on whether your dispute is covered by tree dispute legislation administered by QCAT, you may wish to seek legal advice.		
<b>6. Do you know about the possible costs involved in making an application ?</b> Costs include an initial application fee, costs you may incur to attend proceedings, and any costs you may need to incur to comply with a decision of the tribunal.	<input type="checkbox"/>	<input type="checkbox"/>
<b>7. Have you considered the possible outcomes of making an application?</b> Possible outcomes from making an application include: <ul style="list-style-type: none"> <li>• time taken to attend any mediation or hearing about the application</li> <li>• you may or may not be successful</li> <li>• you may damage your relationship with your neighbour</li> <li>• orders made by the tribunal are enforceable.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>

<b>Lodging your tree dispute application checklist</b>	<b>Yes</b>	<b>No</b>
<b>8. Are you using the right form?</b> For disputes about the recovery of a debt in relation to overhanging branches, complete and lodge a <i>Form 3 Application for Minor Civil Dispute – minor debt</i> form available from <a href="http://www.qcat.qld.gov.au">www.qcat.qld.gov.au</a> .  For other tree disputes, complete and lodge a <i>Form 51 Application for tree dispute – Neighbourhood Resolution Act 2011</i> form available via <a href="http://www.qcat.qld.gov.au">www.qcat.qld.gov.au</a> .	<input type="checkbox"/>	<input type="checkbox"/>
<b>9. Are you ready to proceed with the application? Have you:</b> <ul style="list-style-type: none"> <li>• answered all applicable questions on the application form</li> <li>• provided all pages of the application form</li> <li>• signed and dated the application</li> <li>• provided your own details including your name, address and whether you are the owner or occupier</li> <li>• provided details of the respondent tree-keeper including name and address</li> <li>• provided QCAT with the correct number of copies?</li> </ul> <p>If you have not completed your form correctly, your application may be rejected.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<b>10. Are you ready to pay the correct application fee?</b> Fee information is available from <a href="http://www.qcat.qld.gov.au">www.qcat.qld.gov.au</a>	<input type="checkbox"/>	<input type="checkbox"/>
<b>11. Have you attached all material relevant to your application i.e. photos, diagrams, affidavits, receipts etc?</b> This will help your application be dealt with quickly.	<input type="checkbox"/>	<input type="checkbox"/>

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<b>Lodging your tree dispute application checklist</b>	<b>Yes</b>	<b>No</b>
<b>12. Do you know where to lodge your application?</b> By post: QCAT, GPO Box 1639, Brisbane QLD 4001 In person: Brisbane: QCAT, Level 9, 259 Queen Street, Brisbane In person: outside of Brisbane: your nearest Magistrates Court	<input type="checkbox"/>	<input type="checkbox"/>

## Legal advice

As part of an independent tribunal, QCAT registry staff are unable to provide legal advice. For information on free legal advice contact:

- Legal Aid Queensland via [www.legalaid.qld.gov.au/](http://www.legalaid.qld.gov.au/) or 1300 65 11 88
- Caxton Legal Centre via [www.caxton.org.au](http://www.caxton.org.au) or 07 3214 6333
- your local community legal centre. To find a local centre, contact the Queensland Association of Independent Legal Services (QAILS) via [www.qails.org.au](http://www.qails.org.au) or 07 3392 0092.

For referral to a suitable private solicitor contact the Queensland Law Society via [www.qls.com.au](http://www.qls.com.au) or 07 3842 5842.

## Contact information

<p><b>QCAT</b>  <b>Brisbane</b>            Address: Level 9, BOQ Centre, 259 Queen Street, Brisbane, 4000            Post: GPO Box 1639, Brisbane Qld 4001            Phone: 1300 753 228            Email: <a href="mailto:enquiries@qcat.qld.gov.au">enquiries@qcat.qld.gov.au</a>            Website: <a href="http://www.qcat.qld.gov.au">www.qcat.qld.gov.au</a></p> <p><b>Outside of Brisbane</b>            Your local Magistrates Court (excluding Brisbane Magistrates Court) can supply and accept all QCAT application forms. To find your nearest Magistrates Court, look under "Justice and Attorney-General" in the phone book or visit <a href="http://www.courts.qld.gov.au">www.courts.qld.gov.au</a>.</p> <p><b>Dispute Resolution Centres</b>            07 3239 6269 or 1800 017 288 (toll free outside of Brisbane) or <a href="http://www.justice.qld.gov.au">www.justice.qld.gov.au</a></p> <p><b>Local government authorities (councils)</b>            To locate your local government authority, check you rates notice, look in the phone book or visit <a href="http://www.dlgp.qld.gov.au/local-government-directory/">http://www.dlgp.qld.gov.au/local-government-directory/</a></p>
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## Resources

Available from [www.qcat.qld.gov.au](http://www.qcat.qld.gov.au):

- Frequently asked questions – tree dispute resolution
- QCAT fact sheet – Overhanging branches and debt recovery
- QCAT fact sheet – Tree dispute resolution
- Form 51 – Application for tree dispute – *Neighbourhood Disputes Resolution Act 2011*
- Form 52 – Response to application for tree dispute – *Neighbourhood Disputes Resolution Act 2011*

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