

Instructions for completing**Application for tree dispute – *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*****What type of application are you making?**

A tree dispute is a disagreement between neighbours about a tree or trees on adjoining properties.

A dispute about the recovery of the reasonable expenses incurred by a neighbour in cutting and removing overhanging branches (up to a maximum of \$300) is a debt dispute. If you want to recover this debt, you should complete an *Application for Minor Civil Dispute – minor debt* form (available from www.qcat.qld.gov.au or by calling 1300 753 228).

General instructions**Copies of the application****You need to lodge at QCAT:**

- your original application and any attached documents
- plus 2 copies of the original application and any attached documents
- plus an extra copy for the respondent
- plus an extra copy for each other person who is required to be given a copy.

The people who are required to be given a copy of your application are:

- the tree-keeper (the respondent)
- a government authority, if the work you are requesting needs the consent or authorisation of that government authority
- any other person who might be affected by an order
- any occupier of the respondent's land
- the registered owner of the land, if they are not also the respondent or the occupier
- a buyer of your land.

Applications may be lodged

By post: QCAT, GPO Box 1639, Brisbane QLD 4001

If you are posting your original application and copies to QCAT, you need to include a stamped self-addressed A4 envelope with your application.

In person: At QCAT, Level 9, 259 Queen Street (BOQ Centre), Brisbane OR any Magistrates Court.

To find your nearest Magistrates Court, look under "Justice and Attorney-General" in the phone book or visit www.courts.qld.gov.au.

Applications must be accompanied by the prescribed application fee

You must pay the prescribed application fee when you lodge your application. For more information on fees visit www.qcat.qld.gov.au or call 1300 753 228.

Payment can be made by cash (only when application being lodged in person), cheque or money order (payable to Department of Justice and Attorney-General), or credit card payment authorisation (see *Credit card payment authorisation form* available from www.qcat.qld.gov.au or by calling 1300 753 228 – MasterCard and Visa accepted).

Instructions for completing (continued)

After you lodge your application

QCAT will keep your original application and attached documents, and 1 extra copy.

QCAT will stamp QCAT's seal on the copies and return them to you.

One copy is for you and you need to give the other stamped copies to the respondent and to each other person who is required to be given a copy.

Providing copies to the respondent and other parties

You must give the stamped copies of the application as soon as practicable, and no later than 7 days after you lodge the application.

The most common ways to give the stamped application to the respondent and any other party is by:

- posting it to their address
- giving it to them in person, or if they refuse to take it, by putting it down in their presence and telling them what the application is
- leaving it with another adult who lives or works at their address

You cannot give the stamped application to the respondent or any other party by leaving it in their letterbox or putting it under the door.

You will need to establish that the application has been given to the respondent and each other person who is required to be given a copy by filing a Form 9 Affidavit of Service, or a written acknowledgement from each person that they have received the application.

PART A APPLICANT'S AND RESPONDENT'S DETAILS

- More than one applicant and respondent may be named in the application. If there is not enough space to include additional parties, attach additional pages with similar details.
- If the applicant or respondent is not an individual then the correct name must be used, for example:
 - a company name
 - a business name, whether registered or unregistered
 - a State agency name, for example a Queensland Government Department.
- Your address will be the address at which documents are given or sent to you, unless you indicate your representative's address as your address for notices.
- If you want to change your address for notices, complete a *Change of contact details* form, file it in the tribunal and serve it on all other parties.

Representative's details

If you want your representative's address as the address for notices, please complete your representative's details.

If you want your representative to represent you in any proceedings before the tribunal you must complete the form *Application for leave to be represented* (available from www.qcat.qld.gov.au or by calling 1300 753 228). Generally the tribunal expects people to represent themselves. It may not grant your request. You must give reasons for why you want to be represented.

You are not required to seek leave if:

- you are a child or a person with impaired capacity
- an Act or the Rules state that you may be legally represented.

PART B GENERAL DISPUTE DETAILS

You should answer all of the questions in this section.

If you are an occupier and the land is recorded in the freehold land register, you can only apply to QCAT if the registered owner of the land has refused to make an application. You should include the registered owner's address and contact details. You must answer the question about whether you have requested the registered owner to make an application about the tree dispute. If the answer to this question is no, then your application will not be accepted.

If there is insufficient space for your answers, please attach additional pages.

PART C HOW YOUR LAND IS AFFECTED BY THE TREE

You should answer any of the questions in this section that you can and provide further details as required.

If there is insufficient space for your answers, please attach additional pages.

PART D FURTHER INFORMATION TO ASSIST THE TRIBUNAL

You should answer any of the questions in this section that you can and provide further details as required.

If there is insufficient space for your answers, please attach additional pages.

PART E DIVIDING FENCE DISPUTES

Different laws may apply to a tree that is also part of a dividing fence. Please tick the relevant boxes and provide details as required.

If there is insufficient space for your answers, please attach additional pages.

PART F DETAILS OF WHAT YOU SEEK FROM THE TRIBUNAL

State what orders you are seeking from the tribunal and why you consider the orders sought should be made. Please include a clear outline of the history and nature of the dispute.

If there is insufficient space for your answers, please attach additional pages.

Form Number 51 (version 2)

Queensland Civil and Administrative Tribunal Act 2009 (section 33)

Application for a tree dispute – Neighbourhood Disputes (Dividing Fences and Trees) Act 2011

Refer to attached instructions at the front of this application before filling out this form.

Important information for respondents

You may respond to this application by completing and lodging a *Response to application for tree dispute* (available from www.qcat.qld.gov.au or by calling 1300 753 228) within twenty eight (28) days after you are given a copy of the application.

For office use only

Case number:	
Date:	
Registry:	
Sent to:	
Fee paid:	
Rec no:	

PART A APPLICANT'S DETAILS

Name

<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>Title</i>	<i>Given name/s</i>	<i>Surname/Family name</i>

OR

Company

<input type="text"/>	ABN	<input type="text"/>
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Address

<input type="text"/>		
<input type="text"/>	Postcode	<input type="text"/>

Telephone

() <input type="text"/>	() <input type="text"/>	<input type="text"/>
<i>Home</i>	<i>Business</i>	<i>Mobile</i>

Fax

() <input type="text"/>

Email

<input type="text"/>

PART A APPLICANT'S DETAILS *(continued)*

Representative's details *(if applicable)*

Tick if you want this to be your address for notices

Tick if you want your representative to represent you in proceedings before the tribunal *(see Part A of the instructions – you may be required to seek the tribunal's leave for this to happen by making an application using the form Application for leave to be represented).*

Name

<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>Title</i>	<i>Given name/s</i>	<i>Surname/Family name</i>

OR

Company

<input type="text"/>	ABN	<input type="text"/>
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Address

<input type="text"/>	<input type="text"/>
<input type="text"/>	Postcode <input type="text"/>

Telephone

<input type="text"/> () <input type="text"/>	<input type="text"/>
<i>Business</i>	<i>Mobile</i>

Fax

<input type="text"/> () <input type="text"/>

Email

<input type="text"/>

PART A RESPONDENT'S DETAILS

Name

<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>Title</i>	<i>Given name/s</i>	<i>Surname/Family name</i>

OR

Company

<input type="text"/>	ABN	<input type="text"/>
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Address

<input type="text"/>	<input type="text"/>
<input type="text"/>	Postcode <input type="text"/>

PART A RESPONDENT'S DETAILS (continued)

Telephone () ()
Home Business Mobile

Fax ()

Email

PART B GENERAL DISPUTE DETAILS

1. What is your connection with the land affected by the tree?

- Registered owner of land (go to question 5)
- Occupier of land (go to question 2)
- Body corporate for land (go to question 5)

2. If you are an occupier, please provide the name, address and telephone number of the registered owner of the land you occupy.

Name

() () ()
Title Given name/s Surname/Family name

OR

Company

() **ABN** ()

Address

() **Postcode** ()

Telephone () ()
Business Mobile

Fax ()

Email

3. If you are an occupier, have you asked the registered home owner to make an application about the tree dispute?

Yes

No

If Yes, please provide details:

4. Has the registered home owner refused to make an application about the tree dispute?

Yes

No

Please provide details:

5. Have you tried to resolve this dispute with the respondent?

Yes

No

Please provide details:

6. Have you tried to resolve this dispute under a local law, or local government scheme or administrative process?

Yes

No

If Yes, please provide details:

7. What kind of land is the tree on?

- Land recorded in the freehold land register
- Land subject to a lease or licence
- Land subject to an occupation permit or stock grazing permit
- A reserve, other than a reserve for community purposes

8. If the dispute is about overhanging branches, do the branches extend to a point over your land that is 50cm or more from the common boundary?

- Yes
- No

If Yes, please provide details:

9. If the dispute is about overhanging branches, are the branches more than 2.5 metres above the ground?

- Yes
- No

If Yes, please provide details:

10. What local government area is the tree in?

PART C HOW YOUR LAND IS AFFECTED BY THE TREE

11. Has the tree caused serious injury to any person?

- Yes
- No
- No, but it is likely to within the next 12 months

Please provide details:

12. If yes, when did the tree cause the injury?

- In the past
- Now

13. Has the tree caused serious damage to your land, or property on your land?

- Yes
- No
- No, but it is likely to within the next 12 months

Please provide details:

14. If yes, when did the tree cause the damage?

- In the past
- Now

15. Is there anything other than the tree that has contributed, or is contributing, to the injury or damage?

Yes

No

If Yes, please provide details:

16. Is there anything you have done that has contributed, or is contributing, to the injury or damage?

Yes

No

If Yes, please provide details:

17. Is there anything you could have done, and haven't, that has contributed, or is contributing, to the injury or damage?

Yes

No

If Yes, please provide details:

18. Is there any tree on your land that may have contributed, or is contributing, to the injury or damage?

Yes

No

If Yes, please provide details:

If the work you are seeking involves destroying the tree, please answer questions 19-22. Otherwise go to question 23.

19. How long have you known of the injury or damage?

Please provide details:

20. Has the respondent taken any steps to prevent further injury or damage?

Yes

No

If Yes, please provide details:

21. Have you taken any steps to prevent further injury or damage?

Yes

No

If Yes, please provide details:

22. Is there anything other than the tree that may have caused, or contributed to, some or all of the injury or damage?

Yes

No

If Yes, please provide details:

23. Has the tree caused substantial, ongoing and unreasonable interference with your use and enjoyment of your land?

Yes

No

No, but it is likely to within the next 12 months

Please provide details:

24. If yes, when did the interference occur?

In the past

Now

If you answered yes to any of questions 23-24, please answer the following additional questions.

25. Is there anything other than the tree that has contributed, or is contributing, to the interference?

Yes

No

If Yes, please provide details:

26. Has the respondent taken any steps to stop or reduce the interference?

Yes

No

If Yes, please provide details:

27. Have you taken any steps to stop or reduce the interference?

Yes

No

If Yes, please provide details:

28. What is the size of your land?

Please provide details:

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29. Was the tree on the respondent's land at the time you acquired your land?

- Yes
- No
- Don't know

If Yes, please provide details:

30. Are you claiming that the interference is an obstruction of sunlight or a view?

- Yes
- No

If Yes, please provide details:

If you answered yes to question 30, please answer the following additional question.

31. Does the tree contribute to the protection or revegetation of a waterway or foreshore?

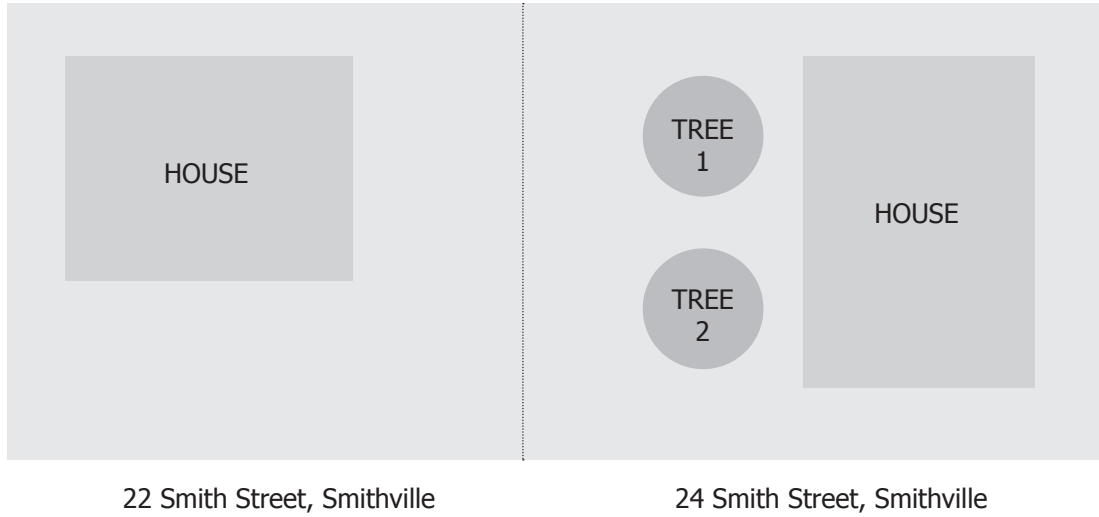
- Yes
- No
- Don't know

If Yes, please provide details:

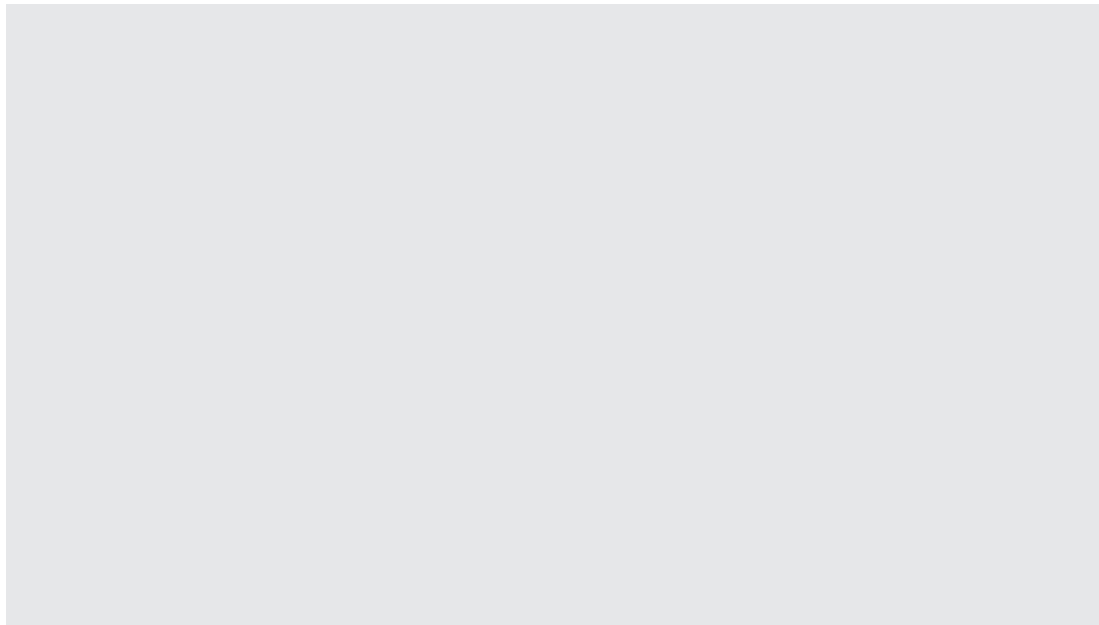
PART D FURTHER INFORMATION TO ASSIST THE TRIBUNAL

32. Please draw a diagram showing the tree, the boundary and any premises, fence or other structure affected by the tree.

Example diagram:



Your diagram:



33. Is any consent or other authorisation from a government authority needed to carry out work on the tree? For example, a local law, the *Nature Conservation Act 1992*, or the *Vegetation Management Act 1999*?

Yes

No

If yes, please provide details:

Note to applicants: A government authority may appear in a proceeding if carrying out work on the tree may require the consent or authorisation of that government authority. The Tribunal may forward this application to government authorities to determine whether such consent or authorisation is required for any work requested in the application.

34. If yes, has this consent or other authorisation been obtained?

Yes

No

If yes, please provide details:

35. To assist the tribunal, please provide any information you have about any of the following matters (please attach additional information as necessary)

- whether the tree has any historical, cultural, social or scientific value
- whether the tree contributes to the local ecosystem and to biodiversity
- whether the tree contributes to the natural landscape and the scenic value of the land or locality
- whether the tree contributes to public amenity
- whether the tree contributes to the amenity of the land on which it is situated? For example, to privacy, landscaping, garden design or protection from sun, wind, noise, odour or smoke
- whether the tree has any impact on soil stability, the water table or other natural features of the land or locality
- whether there are any risks associated with the tree in the event of a cyclone or other extreme weather event
- is there any likely impact on the tree if it is pruned, including maintaining it at a particular height, width or shape
- what kind or species of tree it is: _____
- whether the species of tree is a pest or weed, or is described as a pest or weed in other legislation or a local law.

PART E DIVIDING FENCE DISPUTES

36. Does the tree form part of the dividing fence between your land and the respondent's land?

Yes

No

If yes, please provide details:

37. If the tree has damaged the dividing fence, have you given the respondent a *Notice to contribute for fencing work*?

Yes

No

If yes, please provide details:

38. Have you or the respondent already made an application to QCAT about the dividing fence?

Yes

No

If yes, please provide details:

PART F DETAILS OF WHAT YOU SEEK FROM THE TRIBUNAL

39. I want the tribunal to make the following order/s: (please tick)

- an order that the respondent carry out work on the tree
 - to remove the tree
 - to remove or prune the branches of the tree
 - to remove or prune the roots of the tree
 - other tree work
- an order that a survey be undertaken to show the tree's location in relation to the common boundary
- an order that the respondent apply for a consent or other authorisation from a government authority in relation to the tree
- an order that a person can enter the respondent's land to carry out an order
- an order that a person can enter the respondent's land to obtain a quote to carry out an order
- an order that the respondent pay the costs for carrying out these orders
- an order that the respondent pay compensation to you for damage to your land or property in the amount of \$ _____
- an order that an appropriately qualified arborist prepare a report
- other orders – please provide details (attach additional numbered pages as necessary):

40. The reasons I consider the order/s sought should be made are (set out reasons in numbered paragraphs and attach additional numbered pages as necessary):

PART G CHECKLIST AND SIGNATURE

- I have completed all questions on the application form according to the instructions
- I have provided the correct number of copies of the application form and attachments (for the number of copies required - see the instructions)
- I have paid the prescribed fee
- I am ready to proceed with this application.

Interpreter

Is an interpreter required? *The assistance of an interpreter is subject to approval by the tribunal.*

- Yes No

If Yes, please specify language: _____

Warning

Section 216 of the *Queensland Civil and Administrative Tribunal Act 2009* makes it an offence for a person to knowingly give the registry documents containing false or misleading information.

Maximum penalty for such an offence – \$10,000.

SIGN AND DATE HERE

The information in this application is true to the best of my knowledge.

Applicant/s sign here

Date

If more than one applicant is named all must sign the application.

PRIVACY CONSENT AND DISCLOSURE STATEMENT

The Queensland Civil and Administrative Tribunal (QCAT) collects personal information from applicants in proceedings (You), for the purpose of compliance with the provisions of the Queensland Civil and *Administrative Tribunal Act 2009*,

Research purposes

QCAT wishes to use your personal information for research purposes to improve its services. An example of research is an online survey or focus group. QCAT may also share information about You with research companies for the purposes of conducting research. Any research company engaged by QCAT will undertake to keep your personal information confidential subject to the *Information Privacy Act 2009*.

By signing this Statement, you consent to communicate with QCAT by email or other suitable manner for research purposes; you consent to the sharing of your personal information with third parties as indicated and you waive your right to take further action against QCAT for any breach of your privacy.

Your consent commences from the date that you sign this Statement and return it to QCAT and continues for research purposes after your matter with QCAT has finalised and until you either withdraw your consent or upon the expiration of a period of 12 months.

Signature of applicant

By signing below, I acknowledge that I have read this Privacy Consent and Disclosure Statement and that I consent to the use and disclosure of my personal information as described in this Statement.

Applicant/s sign here

Contact details

For further information call 1300 753 228 or write to the QCAT registry, GPO Box 1639, Brisbane 4001.