



Application checklist: Tree dispute resolution

Before making an application to QCAT to resolve your tree dispute, please use the checklist 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>1. Do you own the land the tree is affecting?</p> <p>If no, contact your landlord or real estate agent and advise them of the issue.</p> <p>Note: If you own a unit in a body corporate, the body corporate is the owner, not the unit owner. The body corporate must make the application.</p>		
<p>2. Does your dispute involve overhanging branches?</p> <p>If yes, to use a Form 3 - Notice for removal of particular overhanging branches, the branches must be 2.5m or less above the ground and extend to a point that is more than 50cm from the common boundary.</p> <p>If the tree branches are more than 2.5m above the ground, you can apply to QCAT for an order.</p> <p>If you cannot apply to QCAT, you could:</p> <ul style="list-style-type: none"> • talk to your neighbour and agree how to deal with the branches • visit qld.gov.au/law/housing-and-neighbours/disputes-about-fences-trees-and-buildings/ for information on your rights and responsibilities, and how to use a <i>Notice for overhanging branches</i>. 		
<p>3. Have you tried to resolve the dispute with your neighbour?</p> <p>Dispute Resolution Centres offer free mediation services to help resolve neighbourhood disputes. For more information call 1800 017 288.</p> <p>Remember the tribunal has to be satisfied you have made reasonable efforts to reach agreement with your neighbour before it can make an order.</p>		

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. Your individual circumstances should determine any actions taken to resolve your dispute.

Before making an application	Yes	No
<p>4. Is the tree/s located in a park owned by the local government or council or on a community reserve?</p> <p>If yes, these trees are not within QCAT's jurisdiction and you cannot apply to the tribunal. Contact your local council or seek independent legal advice.</p>		
<p>5. Is the tree/s:</p> <ul style="list-style-type: none"> • growing on a parcel of land greater than four hectares or on rural land • planted or maintained for commercial purposes • planted or maintained as a condition of a development approval • planted or maintained under an order of a court or tribunal. <p>If yes, these trees are outside QCAT's jurisdiction and you cannot apply to the tribunal. You may seek legal advice for more information.</p>		
<p>6. Do you know about the possible costs involved in making an application?</p> <p>Costs include an initial application fee, costs for the QCAT assessor (\$1000 to be divided between the parties at the tribunal's discretion, see Practice Direction No. 7 of 2013), costs to attend proceedings and any costs you may incur to comply with the tribunal's decision or directions.</p>		
<p>7. Have you considered the possible outcomes of making an application?</p> <ul style="list-style-type: none"> • Time taken to attend any mediation or hearing about the application. • You may or may not be successful. • You may damage your relationship with your neighbour. 		

Lodging your tree dispute application checklist	Yes	No
<p>8. Are you using the right form?</p> <p>For disputes about the recovery of a debt in relation to overhanging branches, please complete Form 3 Application for Minor Civil Dispute – minor debt.</p> <p>For other tree disputes, please complete Form 51 Application for tree dispute – Neighbourhood Disputes (Dividing Fences and Trees) Act 2011.</p>		

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Lodging your tree dispute application checklist	Yes	No
<p>9. Have you read QCAT Practice Direction No. 7 of 2013 about 'Arrangements for applications for orders to resolve other issues about trees'?</p> <p>This practice direction outlines QCAT's procedure and important information about the appointment and payment of a qualified tree arborist to provide expert evidence about the tree.</p>		
<p>10. Are you ready to pay the correct application fee?</p>		
<p>11. Have you attached all material relevant to your application, for example photos, diagrams, affidavits and receipts?</p> <p>You are required to prove your case to the tribunal with evidence e.g. photographs of the tree or any alleged damage. You must also provide this evidence to the respondent. If you are alleging damage to property or a structure, you may need an expert report. If you are claiming compensation, you will need to prove the amount of compensation.</p>		

Legal advice

QCAT registry staff cannot provide legal advice. If you are seeking legal advice, please contact:

- Caxton Legal Centre on (07) 3214 6333 to book an appointment
- your local community legal centre through Community Legal Centres Queensland at communitylegalqld.org.au or phone 07 3392 0092.
- a private solicitor that can be found through Queensland Law Society at qls.com.au/For_the_community/Find_a_solicitor or phone 1300 367 757.

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