

# Tree dispute resolution

The Queensland Civil and Administrative Tribunal (QCAT) is an independent tribunal that resolves disputes in a manner that is accessible, quick and inexpensive.

## Before applying to QCAT

You must make a reasonable effort to reach agreement with your neighbour about the tree dispute before applying to QCAT.

Trying to avoid or resolve a dispute directly with your neighbour will be quicker and cheaper than taking legal action. If you can reach an agreement, put it in writing. Both neighbours should sign and date the agreement and keep a copy. For more information visit [qld.gov.au/law/housing-and-neighbours/disputes-about-fences-trees-and-buildings/](http://qld.gov.au/law/housing-and-neighbours/disputes-about-fences-trees-and-buildings/).

If you cannot reach an agreement, contact a [Dispute Resolution Centre](#) to discuss free mediation options before you take any legal action. If you cannot resolve the issue through mediation, you may wish to seek legal advice.

## Tree disputes and QCAT

The Queensland Government's website (see '[What to do if a neighbour's tree is affecting you](#)' at [qld.gov.au](http://qld.gov.au)) and Smart Service Queensland (13 74 68) provide information on the notice process for resolving tree disputes between neighbours.

### Overhanging branches

If your dispute involves overhanging branches, visit [qld.gov.au/law/housing-and-neighbours/disputes-about-fences-trees-and-buildings/](http://qld.gov.au/law/housing-and-neighbours/disputes-about-fences-trees-and-buildings/) for more information on steps to take to resolve it.

If the dispute cannot be resolved, you can apply to QCAT to recover a debt associated with cutting and removing minor overhanging branches. For more information, see our fact sheet on [overhanging branches and debt recovery](#).

If the dispute cannot be resolved, you may apply to QCAT. The tribunal makes decisions on:

- recovering a debt from a neighbour as a result of removing minor overhanging branches
- other disputes involving a tree affecting neighbouring land include when a tree causes damage to a property or injury to a person on the neighbouring land, or where a tree interferes with the use and enjoyment of neighbouring land.

## Are all trees included under the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*?

No. You cannot apply to QCAT to resolve disputes where the tree is:

- on rural land
- on land a local council owns that is used as a public park
- on land more than four hectares in size
- planted or maintained for commercial purposes, as a condition of a development approval, or under an order of a court or tribunal.

*This fact sheet 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.*

## What to expect at QCAT

QCAT may list the matter for a directions hearing at an early stage of the proceeding where one or more of the following may occur.

- A final decision is made resolving the matter if the parties can reach an agreement.
- The matter is listed for a mediation or a compulsory conference.
- You may be directed to file additional documents to support your case.
- The need for a qualified arborist to assess the tree and provide a report to QCAT is discussed with the parties and directions are made for the parties to contribute to the cost of the assessor.

These are examples only. The member hearing the matter may decide on another course of action.

Access more information about the tribunal's process to hear and decide tree disputes in [Practice Direction 7/2013, Arrangements for applications for orders to resolve other issues about trees](#), (practice directions are guidelines for QCAT proceedings).

## Mediation or compulsory conference

A [mediation or compulsory conference](#) provides you with an opportunity to settle the matter yourselves without a QCAT determination. Mediation will usually be ordered where the issues in dispute are minor such as leaf litter or overhanging branches.

## What orders can QCAT make about a tree?

The tribunal has powers to make orders to prevent:

- serious injury to a person
- serious damage to your land or property on your land
- substantial, ongoing and unreasonable interference with the use and enjoyment of land caused by a tree. If this interference is an obstruction of sunlight, or a view from a house that existed when you took possession of the land, you must be able to show that the obstruction is severe.

QCAT will not necessarily make an order if branches from a neighbour's tree overhang your land or a tree deposits leaf litter in your garden.

Orders made by QCAT may include annual maintenance work, compensation for damage to land or property caused by a tree, or the removal of a tree. The removal of a tree will only be ordered if no other satisfactory outcome can be achieved.

If QCAT makes an order in relation to a tree, the order will be available on QCAT's website at [qcat.qld.gov.au/matter-types/tree-disputes/tree-order-register](http://qcat.qld.gov.au/matter-types/tree-disputes/tree-order-register). Tree orders remain in force for 10 years unless QCAT decides that the order has been satisfied.

## What will QCAT consider when making a decision and order?

The tribunal considers a number of matters including whether a tree may cause serious injury or damage. Other considerations may include:

- if something other than the tree may have caused or contributed to the problem
- the potential impact of any maintenance works
- if the tree poses a risk in the event of an extreme weather event
- if the tree was there before you bought your land
- the contribution of the tree to the local ecosystem and landscape.

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## QCAT tree assessors

QCAT may appoint a tree assessor to assist the tribunal. QCAT-appointed tree assessors are qualified and experienced arborists, who will visit the site of the tree, inspect it and provide a report to QCAT. Parties are required to contribute to the arborist's fees.

## Experts

If you have engaged an expert to provide a report, your expert may be required to attend an experts' conclave and must comply with:

- QCAT's [Practice Direction 2009/04, Guide to expert conferences](#)
- the [Uniform Civil Procedure Rules 1999](#) (rule 428).

Should an experts' conclave be required, the parties must pay for the QCAT-appointed arborist's fees and hearing attendance if required.

## Avoiding tree disputes

Some tree disputes may be avoided through appropriate tree selection, care and maintenance. For information on qualified arborists, visit the Queensland Arboricultural Association via [gaa.net.au](http://gaa.net.au).

## Legal advice

As part of an independent tribunal, QCAT registry staff are unable to provide legal advice. To obtain legal advice contact:

- Caxton Legal Centre on 07 3214 6333 to book an appointment
- your local community legal centre. To find a local centre, contact Community Legal Centres Queensland at [communitylegalqld.org.au](http://communitylegalqld.org.au) or phone 07 3392 0092
- a private solicitor. Contact Queensland Law Society at [qls.com.au/For the community/Find a solicitor](http://qls.com.au/For_the_community/Find_a_solicitor) or phone 1300 367 757.

### Contact information

#### Queensland Civil and Administrative Tribunal (QCAT)

##### Brisbane

Email: [enquiries@qcat.qld.gov.au](mailto:enquiries@qcat.qld.gov.au)

Phone: 1300 753 228

##### Outside of Brisbane

To find your nearest Magistrates Court, visit [courts.qld.gov.au](http://courts.qld.gov.au) or look up Queensland Magistrates Courts in the phone book.

##### Dispute Resolution Centres

07 3239 6269 or 1800 017 288 (toll free outside of Brisbane)

##### Local government authorities (councils)

To locate your local government authority, visit [dlgp.qld.gov.au/local-government-directory](http://dlgp.qld.gov.au/local-government-directory), check your rates notice or look in the phone book.

## Resources

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

- [Frequently asked questions – tree disputes](#)
- [Overhanging branches and debt recovery fact sheet](#)
- [Application checklist – Tree dispute resolution](#).

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