

Trees on Private Property – Information Sheet

Who is responsible for trees on private property?

It is the responsibility of the landowner to regularly inspect trees on their property to ensure they are in a safe condition.

General tree nuisance issues are civil disputes between neighbours and are resolved in the Magistrates Court if mutual agreement cannot be reached.

www.magistratescourt.wa.gov.au
(08) 9425 2222

Before taking any action the Town recommends you seek independent legal advice and the services of mediation and dispute resolution. For further information please refer to the Legal Aid WA website [Dividing fences and other boundary issues | Legal Aid WA](#) or the Citizens Advice Bureau [Home - Citizens Advice Bureau \(cabwa.com.au\)](#).

My neighbour's tree is a nuisance, what can I do?

The Town recommends you first talk to your neighbour to try and resolve the issue. You can ask your neighbour to trim back the tree.

If a tree from a neighbouring property has branches and/or roots that encroach into your land, you are entitled to remove the material up to the boundary of your property without the prior approval of your neighbour, unless the tree is protected by a Tree Preservation Order (refer [Tree Preservation Orders](#)). Take care not to cause unnecessary damage to the health of the tree.

You must not cut the branch or root on your neighbour's side of the boundary without their agreement, nor are you entitled to enter the neighbouring property to do this without prior permission.

Any material removed from a neighbouring tree still belongs to the tree's owner and should be returned. Care must be taken when pruning and returning the pruned branches as you may be liable for any damage you may cause.

Advising your neighbours of damage

Repairing damage caused by a neighbour's tree can be costly. Roots can damage foundations, fences, block drains or raise brick paving. Costs for work or repairs carried out on your property should be met by the owner of the tree.

If you need to have repairs done or need to seek the services of a specialist to remove roots or branches, first write a letter to your neighbour setting out what the damage to your property is and requesting that your neighbour take steps to remedy the situation. The following information should be included:

- Copies of quotes for repairs and/or specialist work required.
- A request that the neighbour pay to fix the problem and prevent it from happening again.

You should keep a copy of your letter.

Payment for damage caused by neighbour's trees

Once your neighbour has been made aware of the problem they have a legal responsibility to fix it. If there is a cost involved, you should reach an agreement with your neighbour about who will pay the costs before work is commenced. If you cannot reach an agreement with your neighbour you may have to apply to court for an order that legally obliges your neighbour to have the branches or roots removed and/ or the damage to the property fixed.

Dangerous Trees

If you consider a tree on neighbouring property to be dangerous, it is recommended that you first discuss the matter with your neighbour to try and resolve the problem.

To determine whether a tree is structurally sound or represents a potential danger, the following is recommended:

1. Obtain a written report from a qualified arboricultural consultant with a minimum AQF Level 5 (Diploma) in Arboriculture, assessing the tree against a recognised tree risk assessment method such as Quantified Tree Risk Assessment (QTRA) or Tree Risk Assessment Qualification (TRAQ).
2. Supply the owner of the tree with a copy of this report with a further request to carry out the required work.