

# OVERHANGING BRANCHES & TREE ROOTS

## Information Sheet 7 – Extracts from [Legal Aid](#)

### **What can I do about my neighbour's overhanging branches or tree roots that are coming on to my property?**

If you have a problem with overhanging branches or invading tree roots, talk to your neighbour and try to resolve the complaint first.

### **Can I remove branches or roots that have come onto my property?**

Unless the tree is protected by a tree preservation order, you are allowed to:

- cut an overhanging branch back to the point where it enters your property; or
- dig up the root and cut a tree root back to the boundary or fence line of your property.

You should take care not to cause unnecessary damage to the tree. If you are planning to remove a large amount of branches or roots, which could damage the tree, it is best to tell your neighbour first and get them to arrange for the branches or roots to be pruned.

Any root, branch, flower or fruit growing on a branch that you cut back still belongs to the tree's owner and should be returned to your neighbour. With the owner's permission, you could throw it out. Be careful about how they are returned. You are responsible for any damage or littering that might happen. It is sensible to let your neighbour know what you are going to do.

### **You must not:**

- cut the branch or root on your neighbour's side of the boundary;
- poison the neighbour's tree or any roots that are on your property; or
- enter your neighbour's property without their agreement.

### **Do I have to let my neighbour or anyone else know?**

You do not have to let your neighbour know you intend to cut things back from your property, but it is a good idea to let them know there is a problem and what you are planning to do.

Some local councils have tree preservation orders in place. These orders may ban pruning or removing specified trees without a permit. You should check with the City's Environmental Team on 9257 9999.

### **Who has to pay the cost of removing branches or pay for repairs?**

Once your neighbour knows of the problem caused by their tree (or should have become aware of it), they have a responsibility to fix the problem so it does not continue or get worse. They may be responsible for paying the cost to have it pruned back to the boundary line, or for repairs to fix damage caused by fallen branches or tree roots.

If possible, you should discuss the issue with your neighbour and agree on who will pay and organise things *before* you start the job. Sometimes, your neighbour may want to organise pruning the tree. If you hire someone before telling your neighbour, it is more likely to lead to disputes later about who should pay and whether the cost was reasonable.

If you need to have repairs done or hire a specialist to remove the roots or branches, write a letter, email or send a text message to your neighbour:

- setting out what the problem or damage is (perhaps include some photos to show them);
- giving them copies of quotes for getting the work done; and
- asking them to pay for the work to fix the problem or repair the damage.

You should keep a copy of the letter, email or text.

If you cannot agree on what to do, or who should pay, there are [mediation services](#) available that might help to resolve the dispute. Legal action against neighbour can lead to bad relationships that cannot be repaired, so where possible, think about negotiating an agreement or going to a dispute resolution service instead of taking court action.

For more information visit - [www.legalaid.wa.gov.au](http://www.legalaid.wa.gov.au)