



FACT SHEET - DISPUTES BETWEEN NEIGHBOURS

Common Disputes

Unfortunately disputes between neighbours occur fairly regularly and there are a range of issues over which arguments can occur. For example disagreements can result from:

- Buildings being built without development consent or in breach of the conditions of a consent
- Development applications having the potential to cause adverse amenity impacts such as view loss, overshadowing or privacy issues
- Tree branches hanging over a boundary fence or tree roots affecting a retaining wall or a drain or pipes on neighbouring land
- A dividing fence needing to be rebuilt or the fence being too high or not high enough
- Noise from air-conditioning units or from the plant and equipment of a nearby apartment block
- Refusal of access to neighbouring land that is needed to carry out maintenance and repair work
- Rubbish piling up in a neighbouring property causing rat infestation or fire hazards
- Overland flows of storm water resulting in flooding of neighbouring land

Applicable law

There are a number of different pieces of NSW legislation that apply to the resolution between neighbours, the main ones being:

- **Environmental Planning and Assessment Act 1979** – this Act provides members of the public with the right to make submissions to councils concerning objectionable development applications, to give evidence before the Land and Environment Court concerning adverse amenity impacts that might result from a development proposal, and with the ability to take court proceedings to restrain land uses that are being carried out either without development approval or in contravention of the terms of an approval (for example illegal brothels and night clubs).
- **The Dividing Fences Act 1991** – this Act provides neighbours with a way of resolving disputes concerning the maintenance and repair of dividing fences. It outlines the general principles under which responsibility for the cost of fencing work is allocated as well as procedures that can be followed either in a Community Justice Centre or in Local Court to require the owner of neighbouring property to pay her/his fair share of those costs.

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Environmental, Government and Town Planning Law

- **Trees (Disputes Between Neighbours) Act 2006** – this Act provides for proceedings in the Land and Environment Court to remedy or prevent damage to land, or to prevent possible injury to persons, that is being caused or threatened by a tree that is located on adjoining land. An order can be sought to require the owner of land on which a tree is situated to repair damage that the tree has caused or to pay compensation.
- **Protection of the Environment Operations Act (POEO Act) 1997** – this Act enables a person who is suffering from offensive noise to seek an order from the Local Court to abate the noise.
- **Access to Neighbouring Land Act 2000** – this Act makes it possible to obtain an order from the Local Court to secure access to neighbouring property that is necessary in order to carry out work such as building construction, maintenance and repair; inspection and repair of drains, sewers, pipes and cables; assessment of the condition of trees, hedges and shrubs and replacement of this vegetation; and clearing or filling in ditches.

Concordia Pacific can assist you to resolve your disputes with your neighbours quickly and cost-effectively. We will advise you on the most effective strategy for resolving the problem, conduct negotiations with your neighbours, and, where necessary, take your matter to Court.

To find out how we can help you, please call us on **9233 4914** or contact us by email at conpacif@tpg.com.au.

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