

Neighbourhood issues

Anyone can talk to a lawyer for free at Tasmania Legal Aid.

To get free legal information call 1300 366 611, drop into our Hobart or Launceston office (no appointment necessary) or use the Legal Talk chat function on our website. We are open Monday to Friday, 9am to 5pm.

A lawyer can listen to your story and help identify the next steps you can take.

Neighbours not being very neighbourly? Three common problems that you might find in the neighbourhood relate to fences, trees and noise. We explain how the law and your rights relate to these.

Do you have issues with any of the following...

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Loud neighbours?

Local councils can control noise from a variety of sources such as lawn mowers, chainsaws, power tools, air conditioners and heat pumps through legislation. In some situations, such as noisy parties late at night, the police can help. If you have an issue with noise coming from your neighbours' property, you should try talking to your neighbour about it first.

Tree issues?

If the branches of a neighbour's tree hang over onto your property or tree roots from their tree grow through onto your property, the law says that you can prune or lop overhanging branches and cut invasive roots of a neighbours' tree. This is called a self-help remedy to abate a nuisance.

You can prune or cut back the offending branches or roots, without the owner of the tree preventing that action. You do not need to give notice to the owner of the tree first. However, it is a good idea to let your neighbour know before you do so. In contrast, there is no legal right to prune the branches of a neighbours' tree or cut back the roots, before they grow over the boundary, as a precautionary measure. You cannot simply rely on the fact that in the course of time the branches or roots would more than likely grow over onto your property.

Any lopped or pruned branches and cut roots should be returned to the owner, together with any fruit on them, as these are still their property. The right to lop branches and cut roots does not carry with it a right to claim ownership of the severed branches, roots or fruit.

Fences needing repair?

A fence that divides your property with your neighbours' property is called a boundary fence. If a boundary fence needs repairing or replacing, both you and your neighbour are jointly responsible for the costs of repair or replacement of that fence.

If you would like your neighbour to share the costs of repairing or replacing a boundary fence, you should issue them with a notice to repair or replace. The notice should include how you intend to repair or replace the fence, the materials you intend using and the cost of carrying out the repairs or replacement. The best way to approach this is to contact your neighbour to discuss the repair or replacement of the fence and get a couple of quotes to carry out the work. Your neighbour then has an opportunity to agree to your proposals. If your neighbour won't agree to share the cost of repair or replacement of the boundary fence, then you will need to go to court to recover your neighbours share.

To be successful, you need to have issued your neighbour with the required notice first.

If repairing or replacing a boundary fence, you are permitted to go on to your neighbour's property for this purpose, if access from your side is not possible. This also includes tradespeople you engage to carry out this work. Entry onto your neighbour's land must be always reasonable. You will be liable for any damage caused to your neighbours' property whilst you were entering it to replace or repair a boundary fence.

Do I have the right to privacy?

As far as the law is concerned, there are generally no rights of privacy between neighbours. Sometimes a neighbour will disagree with something that the other neighbour is doing entirely on his or her land, which involves no actual crossing of the boundary. For example, you might object a neighbour who seems to be always looking over your fence at what you are doing or listening to what is happening on your property. If you want to prevent your neighbour from being able to interfere, then putting up a higher fence, planting a tree or a hedge, installing curtains, a closed door or soundproofing are possible solutions. Any alterations you make to your property such as fencing or soundproofing may need to be approved by your local council.

Barking dogs?

It is against the law for a dog to be a nuisance to other neighbours by creating noise, such as barking. If your neighbour's dog is bothering you by barking, you should let your neighbour know. If your neighbour is not around during the time the dog is barking, they may not be aware of the problem. If the dog is still barking after you have alerted your neighbour, then you can complain to your local council who will investigate.

Drones?

Drones fall within the definition of 'aircraft' under the *Civil Aviation Act 1988* and are therefore subject to specific laws that govern their use.

This is written for people who live in or who are affected by the laws of Tasmania, Australia. The law changes all the time – this information is not legal advice. If you have a legal problem, you should talk to a lawyer before making a decision about what to do.