

Frequently Asked Questions

Some roots of a tree on your neighbour's property start pushing up your carefully manicured lawn. What can you do?

You can ask your neighbour to do something about it but, if they refuse, you are allowed to remove any part of a neighbour's property that intrudes into yours. Your right to take action stops at the boundary line between your property and your neighbour's. Using poison is illegal, as it could kill the tree on your neighbour's side, having an effect beyond your side of the boundary. You should consider legal action.

You purchased your home for the great view. Some trees on a property down the road have grown, blocking your view completely. Can you do anything about having them cut back?

It is always recommended that you speak with your neighbour first and reach an agreement on how to deal with the trees. However, if this is unsuccessful you can apply to the District Court for a Court Order for the removal or trimming of dangerous or nuisance trees.

You remove a branch from a neighbour's tree growing over your property. This is quite legal, but the tree dies as a result of the "amputation". Can your neighbour demand compensation?

No. You were within your rights when you cut off the branch on your side of the boundary. It could be argued that any resulting damage to the tree was the neighbour's fault because they did not prune the branch when it was young and the life of the tree was less likely to be affected.

Fruit trees growing on your property branch out over your neighbour's. The neighbour picks all the fruit growing on their side of the fence. Can you do anything about it?

Yes. A neighbour must not take your property. Even if the branches are hanging well over your neighbour's section, the fruit on them still belongs to you. But the neighbour could exercise their right to cut off the branches which are "intruding" on their property.

Trees on a neighbour's property are blocking sunlight from reaching your property. Is this a good enough reason to insist they be cut back?

Yes. If neighbourly reason fails, then you can take legal action. You will have to convince a Court that the trees are having an adverse effect on your property and your enjoyment. If the Court agrees, the neighbour will have to cut those trees back.

A large tree on the other side of your fence is obviously dying and could fall on your house. Your neighbour refuses to do something about it. Can you have the tree chopped down?

Ask your lawyer to apply for a Court Order to have the tree removed. If the Court agrees that the tree is likely to damage your house, the neighbour will have no choice but to cut it down.

There are large branches of a tree hanging over onto your side of the boundary fence. Is your neighbour obliged to do the work or pay for it to be done?

No. Provided the branches are causing no real nuisance, they are your responsibility if they are growing on your side of the fence.

A neighbour's tree continually drops leaves in the guttering of your house, forcing you to climb a ladder every few weeks to get the leaves out. Do you have to suffer this inconvenience?

If the branches causing the problem are growing over your side of the fence you are allowed to prune them back to the fence. If not, you can ask your neighbour to cut back the trees or remove them. If the neighbour disagrees, you could get a Court Order to solve the problem.



A Guide to Trees and Your Neighbours Your Legal Rights



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The information in this brochure is a guide only, and is not a statutory document.

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What is Council's Involvement with Trees?

Controls around trees are primarily dealt with under the Property Law Act, 2007 (see below). However, there are a few specific situations where Council Rules come into play. These are as follows:

Protected Trees

Council has a schedule of heritage trees which have been protected due to their significance for the District. Works to these trees and earthworks within the dripline are covered by the District Plan (available on Council's website (www.ruapehudc.govt.nz):

- Appendix 6—Schedule of Heritage Trees.
- HE3—Heritage Rules



Shelter Belts

These are a single row of trees over 20m long. The Ruapehu District Plan places restrictions on shelterbelts where they will shade the road or an existing dwelling. The rules can be found in Section DR3.3.3 of the District Plan. Please note that some Certificates of Title may include covenants affecting tree height which need to be complied with.

Forestry Plantation

The Ruapehu District Plan defines these as a closely planted area of trees over 1ha in area and any associated activities. There are some regulations in the District Plan regarding Forestry Activities. Therefore, it is recommended that, if you are planning to engage in forestry activities, contact is made with Council's Planners.

Indigenous Vegetation and Habitats of Indigenous Fauna

Both Ruapehu District Council and Horizons Regional Council have Rules which protect native vegetation in the District. It is recommended that anyone intending to undertake any activity that includes areas of native bush, contact Council and the Regional Council.

Council Trees

If you have any concerns regarding Council trees, whether they are overhanging onto your property, obstructing the footpath or road or being a nuisance or dangerous please contact Council's Property Team (email: info@ruapehudc.govt.nz).



What about the Property Law Act?

The Property Law Act 2007 says that property owners are responsible for any nuisance or damage their trees cause to neighbours, even if the trees were planted before they bought the property.

You should decide first whether the nuisance is worth the risk of souring relationships with your neighbour. You need to decide, too, whether the problem outweighs the benefits the trees give you both - such as beauty, privacy, shelter and shade. Try to work out a solution tactfully. Give neighbours time to think about what you are suggesting. They may agree to help carry out any work required as a result of their trees if it means saving the trees. It is better to talk over the fence than in a Court.

If you reach an impasse, you may need to take legal action. If you do, tell your neighbour - how would you feel if you received a Court Order in the name of your neighbour without warning? Your neighbour may co-operate if there is a legal obligation to do so. If you go ahead with legal action, ask your lawyer to organise a Court Order. The District Court will then send a notice to your neighbour, ordering action to be taken within a set time - or appear in Court.

Disclaimer

This brochure has been developed as a general guide only.

Ruapehu District Council **does not** administer the Property Law Act 2007. For further advice or information on the Property Law Act please contact your lawyer.