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# SOLVING NEIGHBOURHOOD PROBLEMS

## Series: Solving Neighbourhood Problems

### Part 5 of 12: Trees and other plants

Each state and territory by now has its own legislation about tree disputes and if a dispute goes far enough, then these laws should be referenced. This note looks at the common law and some common sense on the topic.

1. There are trees to avoid planting and places to avoid planting them. A rubber plant will find pipes and drains on the other side of the city if that's how far it has to go for a drink. A rule about what can be planted and where, is a good use of the rule making powers for the owners corporation.
2. You don't need council approval to plant a tree unless there are tree controls in place for the property, but you might need approval to remove or trim trees. There may be heritage controls or a tree is classified by council as a significant tree in which case a permit is required. Check with your local council before having a working bee with chainsaws at the ready. (Also check your insurance before letting the secretary rip with anything sharper than a pen).
3. Local councils are responsible for trees on pavements, grass verges and nature strips. It is usual in Victoria that the owners corporation mows the grass the nature strip on its street frontage. The owners corporation should not undertake planting on the nature strip.
4. Branches and roots from a neighbouring tree are a trespass to land and the owners corporation may prune and return the trimmings to the tree owner's property. Roots should not cut prior to determining that the stability of the tree will not be affected. If the tree is subject to heritage or building controls a permit may be required. The neighbour should be consulted before cutting down half the magnolia and hurling the cuttings into their pool.
5. The common law of nuisance applies to physical land or buildings but does not include the right to sunlight or an unobstructed view. In some places, including Sydney, there is legislation about hedges blocking views so look for this if the Opera House is fading to green.



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6. There is a great website for information on neighborhood dispute resolution centers around the nation although presently it seems active only for Victoria, Queensland and New South Wales [www.complaintline.com.au](http://www.complaintline.com.au).
  
7. In Victoria tree disputes come under the "Fences Act 1968". This link will take you to the Dispute Settlement Centre of Victoria website which can provide mediation services when resolving tree and other neighbourhood disputes. <http://www.disputes.vic.gov.au/>

**Next week: Part 6—Water, Drains and Swimming Pools**