1. In May 2007, the Review of the Neighbourly Relations was launched. A discussion paper and online survey were released on the *Dividing Fences Act 1953.* In July 2008, two discussion papers were released entitled “Trees” and “Resolving neighbourhood disputes”.
2. The consultation draft Neighbourhood Disputes Resolution Bill 2010places responsibility for the care and maintenance of a tree on a tree owner and introduces new remedies for neighbours in relation to trees.
3. The common law right of abatement remains available to neighbours. However, the draft Bill alters the common law requirement that the cut branches, roots and fruit encroaching onto the neighbour’s land must be returned to the tree owner. The draft Bill provides that a neighbour is no longer compelled to return to the tree owner the branches, roots or fruit which have been cut to the boundary line.
4. The draft Bill contains a formal resolution process placing an obligation on a tree owner to prune branches overhanging onto his or her neighbour’s land where the neighbour gives notice to the tree owner. If the tree owner does not respond to the notice, or cut and remove the overhanging branches within the notice period, the neighbour is able to recover costs for pruning the tree as debt. This section is subject to vegetation protection orders or other similar orders which protect the tree.
5. The draft Bill places responsibility on the tree owner for ensuring that the tree does not cause injury to a person, damage to an adjoining landowner’s land and any property on that land or substantial, ongoing and unreasonable interference with the adjoining landowners enjoyment of their land. A new statutory framework gives the Queensland Civil and Administrative Tribunal (QCAT) jurisdiction to make orders on the application of a landowner for the removal or pruning of a tree in circumstances where the applicant can demonstrate the tree caused or is likely to cause injury to a person, damage to the applicant’s land and any property on that land or unreasonable interference with the adjoining landowners enjoyment of their land.
6. Before deciding an application, QCAT must consider certain matters including whether the tree has any historical, cultural, or social value; and any contribution the tree makes to local eco systems and to biodiversity. There is a presumption against removal or destruction of a living tree and any tree that is ordered to be removed may be replaced with another tree.
7. Cabinet approved the tabling of a Consultation Draft of the Neighbourhood Disputes Resolution Bill 2010 in the Legislative Assembly.
8. *Attachments*
* [Consultation Draft - Neighbourhood Disputes Resolution Bill 2010](Attachments/Consultation%20Draft%20Bill.pdf)
* [Consultation Draft - Explanatory Notes](Attachments/Consultation%20Draft%20Ex%20Notes.pdf)