

FACT SHEET

Neighbourhood Disputes About Plants Amendment Bill 2019

The *Neighbourhood Disputes about Plants Act 2017* commenced operation on 1 December 2017. It provides for neighbourhood disputes relating to plants to be dealt with, including disputes relating to sunlight and views.

The Bill makes the following minor technical and operational amendments to improve the operation of the Act.

New Enforcement Provisions

The Bill inserts new enforcement provisions to allow the Resources Management and Planning Appeal Tribunal to make an order, if it is satisfied that the original order has not been complied with in the time specified in the order. This will allow the affected landholder, or their employee, agent or contractor to carry out the work and to recover as a debt from the defaulting party, the reasonable expenses incurred in carrying out the work and the costs of the application.

The Bill also makes provision for the affected landholder to make the relevant application, and for the Tribunal chairperson to waive, reduce or refund all or part of the application fee, if the chairperson is satisfied that paying it may cause financial hardship to that person.

The Bill also inserts a specific offence and penalty provision for failing to comply with an order of the Tribunal.

Clarification of notice requirements

The Bill clarifies that the current requirement to provide at least 7 days' notice of the intention to enter land to perform work under the Act, does not apply to a notice given under the branch removal notice provisions. This change is necessary because it is currently unclear whether the person is required to provide 7 days notice or 24 hours notice to the other person.

The Bill also clarifies that the requirement to provide at least 7 days notice of the intention to enter land to perform work, does not apply in circumstances where the Tribunal makes an interim order. This exception is necessary because interim orders can only be made in situations where there is immediate risk of injury to persons or property.

Expanding consideration of matters by Tribunal

The Bill also provides that the Tribunal may take into account any other matter that the Tribunal considers relevant, when it is determining whether parties have made reasonable attempts to resolve disputes. Currently under the Act, the Tribunal is required to be satisfied that reasonable attempts to resolve the matter have been made by the parties before it may hear a matter, but in deciding this the Tribunal may only take into account certain matters.

The Act requires an independent review of the operation of the Act to be carried out as soon as practicable after 1 December 2021. The Bill makes discrete amendments to improve the operation of the Act which can be addressed quickly and prior to this fourth anniversary review being undertaken.