

## FACT SHEET

### *Neighbourhood Disputes About Plants Bill 2017*

The *Neighbourhood Disputes about Plants Bill 2017* establishes a cost effective, efficient and accessible statutory scheme for the resolution of neighbourhood disputes relating to plants.

An affected landholder may have redress under the scheme in the following circumstances.

- Where branches of the plant overhang the affected land; or
- Where the plant has caused, is causing or is likely within the next 12 months to cause, serious injury to a person on the affected land, serious damage to the affected land or property on that land, or substantial, ongoing and unreasonable interference with the use and enjoyment by a person of that land.

Substantial, ongoing and unreasonable interference with the use and enjoyment of land may include severe obstructions to views and sunlight.

The Bill outlines the rights and responsibilities of land owners in relation to plants and outlines the responsibilities of parties in respect to the sale of land.

The Bill also provides that those entities which are deemed to be land owners and who therefore may have responsibility for plants under the Bill, include persons who are entitled to freehold in possession, life tenants, some lease and licence holders, the Minister or authority that is responsible for Crown land in some cases, and persons who hold a prescribed interest in the land.

The Bill does not apply to plants that are situated on excluded land, plants that are planted or maintained for the purpose of sale or are located on a farm for a purpose that is necessary or desirable for the management or operation of the farm, or are planted or maintained under an order of a court or tribunal.

Live boundary fences disputes will be dealt with under the *Boundary Fences Act*.

The Bill does not authorise any work that would otherwise be unlawful under another Act or limit the operation of another law which requires consent or authorisation to be obtained before the work can be carried out. Parties who are seeking orders under the Bill will still be required to obtain any relevant permits from the planning authority, or if the permit has not been obtained when the matter comes before the Resource Management and Planning Appeal Tribunal, the Tribunal may put a stay on proceedings in order to enable the relevant permit to be obtained.

The Bill restates the Common Law right of abatement, but modifies this right by clarifying that an affected landholder may, but is not required to, return the severed part of the plant to the plant owner.

The Bill provides for the Resource Management and Planning Appeal Tribunal to have jurisdiction to hear and determine disputes using the processes and procedures set up under the Bill, as well as using some of the processes and procedures that are set up under the *Resource Management and Planning Appeal Tribunal Act 1993*.

Mechanisms are included in the Bill to encourage informal dispute resolution before formal dispute resolution where possible, and the informal and formal dispute resolution processes are outlined.

The Bill provides that the Minister is to cause an independent review of the operation of the Act as soon as practicable after the fourth anniversary that the relevant section commences.