

## Media Release

### Chiefs of Staff, News Directors

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## New law report examines neighbour disputes over trees and hedges

A statutory scheme designed to help resolve disputes relating to a neighbour's trees or hedges is one recommendation from a new report released today by the Tasmania Law Reform Institute.

The final report, *Problem Trees and Hedges: Access to Sunlight and Views*, examines the law as it relates to disputes between neighbours about trees and hedges on one property that obstruct the access of sunlight to, and/or views from, a neighbouring property.

In these situations, the landowner's right to the full use and enjoyment of their land, including the freedom to plant such vegetation as they choose, may impinge on neighbouring landowners' rights.

The report identifies a number of main concerns including:

- The lack of redress available to residents whose enjoyment of their property is reduced due to trees or hedges on a neighbouring property which block their sunlight or views
- The need to recognise the right of a resident to establish and maintain a garden on their property, which may include the use of trees and hedges to provide some form of privacy screen
- The need to identify a suitable mechanism to resolve disputes between neighbours which involve competing interests concerning trees and hedges.

It ultimately concludes that, due to inadequacies in the existing law in Tasmania, reforms in this area are required.

"Trees and hedges on private property can be a source of substantial conflict between neighbours," Institute Director Terese Henning said.

"In some instances despite good intentions such disputes may be unresolvable and, in the absence of a satisfactory solution, anger and frustration between neighbours may become entrenched."

The report makes 18 recommendations.

The principal recommendation is that a statutory scheme be implemented to address problems with trees and hedges on neighbouring land which block access to sunlight and views and that the scheme vests the Resource Management and Planning Appeals Tribunal with jurisdiction to hear disputes.

The features of the scheme should include:

- the Tribunal's jurisdiction to hear disputes is limited by the nature and severity of the obstruction complained of;
- parties are required to make reasonable attempts to resolve the dispute themselves, including engaging in some form of alternative dispute resolution where appropriate, before a matter can proceed to a hearing before the Tribunal;
- the legislation applies to land in any zone, but that the zoning of the land on which the tree or hedge is situated be a factor that must be considered by the decision maker; and
- the decision maker has discretion to allocate the burden of any costs associated with carrying out an order in respect of a tree or hedge.

“A stream-lined, affordable, and accessible regime could be beneficial not only to those who experience significant problems due to a neighbour's trees or hedges, but also for the wider community through the promotion of more harmonious neighbour relations,” Ms Henning said.

A copy of the final report can be found at [www.utas.edu.au/law-reform/](http://www.utas.edu.au/law-reform/)

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