

## TREE DISPUTE CLAIM DETAILS (DAMAGE TO PROPERTY OR INJURY TO A PERSON)

COURT DETAILS	
<b>Court</b>	Land and Environment Court of New South Wales
<b>Class</b>	2
<b>Case number</b> [The Court will complete this.]	

**1**      **Why are you making this application?** [You may tick more than one box]:

- To remedy, restrain or prevent damage to property [You need not answer Questions 9 to 13]
- To prevent injury to any person [You need not answer Questions 4 to 8]

The purpose of the diagram required by Q 2 is to provide site plan references for the material required for each tree by Q 3 and Qs 4 to 12 (as applicable)

**2**      **Draw a diagram of your property and the property where each tree is located showing:**

- (a) the location of each tree that is the subject of your application (number each tree with an identifier – T1, T2, T3 etc – to permit identification in the table in Question 3);
- (b) the location of your dwelling and the location of each part of your dwelling or other aspect of your property that has been, is being or is likely to be damaged by a tree (number each damage location with an identifier – D1, D2, D3 etc – to permit identification in the table in Question 3 and in Questions 4, 5 and 6);
- (c) the location of each place on your property where the tree is likely to cause injury to a person (number each risk of injury place with an identifier – R1, R2, R3 etc – to permit identification in the table in Question 3 and in Questions 9, 10 and 11);
- (d) the boundary between your property and the property where the tree is/trees are located;
- (e) the location of anything, other than the trees that are the subject of this application, (including trees on your own property) that has caused, is causing or is likely to cause damage to each part of your property identified in (b) above (number each with an identifier – OD1, OD2, OD3 etc – to permit identification in your answer to Question 7);
- (f) the location of anything, other than the trees that are the subject of this application, (including trees on your own property) that have contributed, or are contributing, to the likelihood of injury identified in (c) above (number each with an identifier – OR1, OR2, OR3 etc – to permit identification in your answer to Question 7); and
- (g) an arrow showing the direction of North.

**DIAGRAM FOR QUESTION 2**



**QUESTIONS 4 to 8 CONCERN DAMAGE TO PROPERTY ONLY**

- 4 For each tree you say has caused, is causing or is likely to cause damage to your property, provide a detailed description of the damage including referring to each item identified for (a) and (b) on the diagram drawn for Q 2.**

[If appropriate, please attach photographs to illustrate your answer].



**5 For each tree you say has caused, is causing or is likely to cause damage, is there anything, other than the tree, that has contributed, or is contributing, to any such damage, including any act or omission by you and the impact of any trees owned by you? [If appropriate, please attach photographs to illustrate your answer].**

Yes

No

If Yes, please specify including referring to each item identified for (e) on the diagram drawn for Q 2

**6 Has the owner or occupier (if not the owner) of the land on which the tree is situated taken any steps to prevent or rectify any such damage?**

Yes

No

If Yes, please specify those steps.

**7 Have you taken any steps to prevent or rectify any such damage?**

Yes

No

If Yes, please specify those steps.

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**8 Do you have statements from other people concerning the damage, including by an arborist or engineer?**

Yes

No

If Yes, please provide names and addresses.

**Note: You must include a copy of these statements with your application.**

**Statement 1**

Name:	
Address:	

**Statement 2**

Name:	
Address:	

**Statement 3**

Name:	
Address:	

[Attach additional pages if necessary].

**QUESTIONS 9 to 13 CONCERN LIKELIHOOD OF INJURY ONLY**

- 9** For each tree you say is likely to cause injury, provide a detailed description of the likelihood of injury to people caused by the tree including referring to each item identified for (a) and (c) on the diagram drawn for Q 2. [If appropriate, please attach photographs to illustrate your answer].



**10 For each tree you say is likely to cause injury, is there anything, other than the tree, that has contributed, or is contributing, to any such likelihood, including any act or omission by you and the impact of any trees owned by you? [If appropriate, please attach photographs to illustrate your answer].**

Yes

No

If Yes, please specify including referring to each item identified for (f) on the diagram drawn for Q 2

**11 Has the owner or occupier (if not the owner) of the land on which the tree is situated taken any steps to prevent any such injury?**

Yes

No

If Yes, please specify those steps.

**12 Have you taken any steps to prevent any such injury?**

- Yes
- No

If Yes, please specify those steps.

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**13 Do you have statements from other people concerning the likelihood of injury, including by an arborist or engineer?**

- Yes
- No

If Yes, please provide names and addresses.

**Note: You must include a copy of these statements with your application.**

**Statement 1**

Name:	
Address:	

**Statement 2**

Name:	
Address:	

**Statement 3**

Name:	
Address:	

[Attach additional pages if necessary].

**QUESTIONS 14 AND 15 CONCERN CLAIMS FOR COMPENSATION ONLY**

**14 What is the amount of compensation you are claiming?**

Item description	Amount
.....	\$ .....
.....	\$ .....
.....	\$ .....
.....	\$ .....
<b>TOTAL</b>	<b>\$ .....</b>

**15 What is the basis of your calculations?**

[Attach additional pages and documents – including copies of any relevant expert reports, quotes, invoices or receipts if necessary.]

**QUESTION 16 CONCERNS ORDERS FOR RECTIFICATION OF DAMAGE ONLY**

**16 If you have specified order(s) for rectification works to your property in the orders you are asking the Court to make, what is the basis for seeking such order(s)?**

[Attach additional pages and documents – including copies of any relevant expert reports, quotes, invoices or receipts if necessary.]

**QUESTION 17 CONCERNS APPLICATIONS RELATING TO DIVIDING FENCES DAMAGED BY A TREE**

**17** If the tree has damaged a fence on the boundary between your property and the property where the tree is wholly or principally situated and you are seeking an order for rectification of the damage to the fence caused by the tree, are you seeking any further order pursuant to s 13A of the Dividing Fences Act, 1991 concerning any portion of the fence that has not been damaged by the tree?

- Yes  
 No

If Yes, please specify details.

**QUESTIONS 18 TO 29 CONCERN MATTERS TO BE CONSIDERED BY THE COURT**

**18** Would interference with the tree, in the absence of section 6 (3) of the Trees Act, require any consent or other authorisation under the Environmental Planning and Assessment Act 1979 or the Heritage Act 1977 and, if so, has any such consent or authorisation been obtained?

- Yes  
 No

If Yes, please specify.

**19**      **Would interference with the tree, in the absence of section 25(t) of the Native Vegetation Act 2003, require approval under that Act?**

     Yes

     No

If Yes, please specify.

**20**      **Does a local council tree preservation order apply to the tree?**

     Yes

     No

If Yes, please specify details.

**21**      **Is the tree or property on which the tree is located listed or recorded by the local council as being of heritage value?**

     Yes

     No

If Yes, please specify the listing or recording by the local council.

**22** Is the tree or property on which the tree is located listed or recorded by the NSW Heritage Council as being of heritage value?

- Yes
- No

If Yes, please specify the listing or recording by the NSW Heritage Council.

**23** Are there any other legal controls that would prevent the Court making the orders you are seeking (such as a foreshore scenic protection control or a covenant in favour of neighbouring land or the local council)?

- Yes
- No

If Yes, please specify the other legal controls.

**24** Will any pruning (including the maintenance of the trees at a certain height, width or shape) have any impact on the trees?

- Yes
- No

If Yes, please specify.

**25 Does the tree make any contribution to privacy, landscaping, garden design, heritage values or protection from the sun, wind, noise, smells or smoke or the amenity of the land on which it is situated?**

Yes

No

If Yes, please specify.

**26 Has the tree any historical, cultural, social or scientific value?**

Yes

No

If Yes, please specify.

**27 Does the tree make any contribution to the local ecosystem and biodiversity?**

Yes

No

If Yes, please specify.

**28** Does the tree make any contribution to the natural landscape and scenic value of the land on which it is situated or the locality concerned?

Yes

No

If Yes, please specify.

**29** Does the tree have any intrinsic value to public amenity?

Yes

No

If Yes, please specify.

**30** Does the tree have any impact on soil stability, the water table or other natural features of the land or locality concerned?

Yes

No

If Yes, please specify.

**31** Are there any other matters that you consider are relevant for the Court to be aware of in the circumstances of the case?

Yes

No

If Yes, please specify.

**QUESTION 32 CONCERNS A MATTER ABOUT WHICH THE COURT MUST BE SATISFIED BEFORE MAKING AN ORDER**

**32** Have you made efforts to reach agreement to resolve this matter with the owner of the land on which the trees are situated?

Yes

No

If Yes, please specify.