



Who is responsible for your boundary trees?

Planting trees on your Canterbury farm can provide shelter for livestock, fodder in the drier months, prevent soil erosion, and act as an easily visible indicator of the boundary lines.

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It is no surprise that shelter belts are a common sight across the Canterbury plains. Planting a shelter belt along a boundary fence may benefit your neighbour's lot in the same manner.

Despite the communal benefit it may have, the legal position is that the owner of the land where the trees are planted, is responsible for those trees.

If you have a shelterbelt running along a boundary fence, you have a responsibility to maintain the trees to ensure they are not causing damage to the neighbouring property. At a minimum you should ensure the trees are maintained to prevent branches falling onto the neighbour's property or in more extreme cases to prevent the trees from uprooting all together.

If your trees are encroaching on to a neighbour's property, they have a right to cut back your trees up to the boundary line. Your neighbour is entitled to place the cuttings

back on to your property as the trees, and anything growing on the trees, are your legal property, so long as doing so does not cause damage to any of your property.

Your neighbour can also cut back any roots which are encroaching onto their property, however they will need to be careful to not cause any serious damage to the tree, or cause the tree to die, or they may be liable for the value of your tree.

Where your neighbour decides to cut back the encroaching shelter belt, they do so at their own cost. However, if your trees are causing or are likely to cause damage to the neighbour's property (such as a dead tree with shallow roots threatening to fall on your neighbour's equipment) your neighbour can apply for a court order under section 333 of the Property Law Act 2007 forcing you to trim or remove your trees at your cost, within 20 working days of the order.

Using section 337 of the Property Law Act 2007, your neighbour can also claim for costs relating to repairing any damage caused to their property. Whether the court



grants these costs will depend on the merits and circumstances of each application.

It is important to remember that damage can also occur below the soil. The roots of your trees may be encroaching on to a part of your neighbour's property which contains irrigation piping, or private roads which can be costly to repair.

To help minimise the risk of your shelter

belt being the subject of a dispute we recommend talking to your neighbours first. You may be able to reach a private agreement about how to deal with any encroaching trees without incurring legal costs.

If you would like to know more about your specific situation with your boundary trees we recommend you engage a Solicitor to advise you.