Neighbours Come in all Shapes and Sizes…and so do your Common Boundary Disputes

All properties have boundaries and inevitably, at some time or another you may be faced with a dispute arising over your boundary line or the structures contained thereon.

If you are faced with a boundary issue, seek legal advice early as the issues may be resolved quickly and easily.

You are not required to automatically allow access to your land by an Adjoining Owner performing works on their land. You have various rights and certain conditions should be met before consent for access is provided.

Do you have:

- a boundary fence requiring repair
- a tree on your neighbour's land pushing over your retaining wall or other structure
- a neighbour's structure encroaching on your property
- a contractor carrying out building works on the adjoining property requiring the installation of ground anchors under your property, the use of a crane over your property or underpinning structures under your land
- a neighbour's drainage system or council pipes running through your property
- property damage arising from neighbouring works
- a sewer pipe from an adjoining property leaking on to your land
- a neighbour undertaking works and removing the 'support' for your land causing damage such as excavation works

You may be entitled to:

- the creation of an easement over your land with terms and conditions as to the ongoing repair and maintenance of the easement site by the adjoining owner registered on title and the payment of market value compensation for the portion of your land affected by the easement
- protection from the Contractor and/or from the adjoining owner for loss and damage arising from the works, reasonable insurance cover, compliance with Development Consent Conditions, adherence to safety requirements and the payment of a licence fee and/or relevant compensation under a suitable Deed of Agreement for the carrying out of works affecting your land
- damages for loss arising as result of the removal of support for your land

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- repairs or possible replacement of pipes by Council if the subject stormwater pipes, sewerage or drainage systems were installed by Council on your land
- repair costs for damage caused to structures as a result of tree damage
- removal of encroaching structures
- remediation works for damage arising from stormwater pipes, sewage, etc

Statutory protection

There is a vast amount of legislation within New South Wales covering the different types of boundary disputes including:

- Access to Neighbouring Land Act 2000
- Conveyancing Act 1919 *(*s88K*,* s177*)*
- Dividing Fences Act 1991
- Encroachment of Building Act 1922 No 23
- Land Acquisition (Just Terms and Compensation) Act 1991
- Land and Environment Court Act 1979
- Local Government Act 1993 (s59A)
- Trees (Disputes Between Neighbours) Act 2006

Why should you bear the risk or suffer financial loss when that risk or loss may be someone else's responsibility?

Key takeaways

- Boundary disputes can arise from various issues including fences, trees, and encroachments.
- Property owners have specific rights and remedies available under NSW law.
- Early legal advice can help resolve boundary issues quickly and effectively.
- Legislation such as the Access to Neighbouring Land Act 2000 governs boundary disputes.
- Property owners may be entitled to compensation for damages caused by neighbouring works.

****The information contained in this article is general information only and not legal advice. The currency, accuracy and completeness of this article (and its contents) should be checked by obtaining independent legal advice before you take any action or otherwise rely upon its contents in any way.*

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