



Speech by

## Hon. Cameron Dick

MEMBER FOR GREENSLOPES

Hansard Thursday, 25 November 2010

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### NEIGHBOURHOOD DISPUTES RESOLUTION BILL

#### First Reading

**Hon. CR DICK** (Greenslopes—ALP) (Attorney-General and Minister for Industrial Relations) (2.30 pm): I present a bill for an act to deal with matters about dividing fences and trees, to make consequential and minor amendments to the acts mentioned in schedule 1 and to amend the Land Act 1994 and the Queensland Civil and Administrative Tribunal Act 2009 for particular purposes. I present the explanatory notes, and I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

*Tabled paper:* Neighbourhood Disputes Resolution Bill [\[3672\]](#).

*Tabled paper:* Neighbourhood Disputes Resolution Bill, explanatory notes [\[3673\]](#).

#### Second Reading

**Hon. CR DICK** (Greenslopes—ALP) (Attorney-General and Minister for Industrial Relations) (2.31 pm): I move—

That the bill be now read a second time.

The Neighbourhood Disputes Resolution Bill 2010 is the conclusion of the review of neighbourly relations project. The review considered the current laws, processes and remedies available to neighbours and their practicality when applied to common neighbourhood disputes about dividing fences and trees. The review was undertaken with the aim of encouraging the people of Queensland to be good neighbours and to support neighbours to resolve their disputes in a friendly, timely and accessible manner. I believe that the current bill has stayed true to this intention.

The Neighbourhood Disputes Resolution Bill 2010 encourages neighbours to resolve neighbourhood disputes informally and uses easy to understand and simplified drafting styles and language. It also provides more effective and accessible remedies for neighbours to help them resolve the most common causes of disputes in neighbourhoods—those relating to dividing fences and trees.

More particularly, this bill will modernise Queensland law in relation to dividing fences legislation, it changes the common law of abatement in relation to overhanging tree branches, and it introduces a simplified remedy to deal with trees. The bill confers jurisdiction on the Queensland Civil and Administrative Tribunal in relation to these matters.

The bill contains two distinct chapters—one dealing with fences; the other with trees. The Dividing Fences Act 1953, which has been the statutory authority on dividing fences for almost 60 years, will be repealed. This act will be replaced by a chapter on dividing fences.

Another separate chapter will introduce new state based tree legislation which will provide a simple statutory remedy for the resolution of disputes about trees likely to cause serious injury, serious damage or substantial, ongoing and unreasonable interference with a person's use and enjoyment of the person's land.

The bill addresses most of the concerns raised during a broad public consultation process on the draft bill undertaken over an eight-week period from May to July 2010. Most submissions related to the proposed new tree legislation and were very supportive of the new provisions for notices to trim overhanging branches to the boundary line.

The proposed bill provides clear direction about a tree keeper's responsibilities and reflects the strong community view that a tree owner, known as the 'tree keeper' in the bill, should be responsible for the proper care and maintenance of a tree growing on their land in the neighbourhood.

While the bill sets out the paramount principle of public safety, the importance of considering the contribution trees make to the environment is also reflected in the bill. QCAT is required to consider several matters in relation to a tree before deciding any application for removal or pruning. These matters include any contribution the tree makes to the protection of waterways or foreshores and any contribution the tree makes to the local ecosystems, biodiversity and public amenity. If a tree is ordered to be removed by QCAT then the bill provides that QCAT may order that another tree be planted in its place.

This bill will revolutionise the law about trees. It will provide a statutory remedy for nuisance caused by a tree which historically has been a difficult remedy to access for the average Queenslanders because of costs associated with bringing matters in the higher courts.

The bill will bring greater certainty to the community by clarifying that the ownership of a dividing fence on a common boundary line is shared equally between neighbours. A distinction will also be clearly made between retaining walls and fences.

Two new forms will be made available to neighbours to enable them to effectively communicate to resolve a potential dispute. A 'Notice for Contribution to Fencing Work' and a 'Notice for Overhanging Branches' will provide guidance to neighbours wanting to act within the provisions of the bill.

There is a focus throughout the bill on informal resolution of disputes about trees and dividing fences. Conciliation will be the alternative dispute resolution process used to resolve fence and tree disputes. A conciliation process involves a conciliator assisting participants to identify issues in dispute, develop options, consider alternatives and try to reach an agreement.

A conciliator will be able to provide advice on matters in dispute and options for resolution but will not make a determination. In keeping with the intention of the bill, it will be up to the neighbours to reach mutual agreement on issues.

Prior to its commencement, the government will implement a strategy to ensure that Queenslanders are aware of the important changes brought about by this bill. The bill will be reviewed three years after its commencement to assess whether it has achieved its objectives.

Friendly, tight-knit communities are one of Queensland's great strengths. This bill helps preserve the great lifestyle that Queenslanders have come to enjoy, and it will make it easier for neighbours to avoid and reduce disputes before they escalate. I commend the bill to the House.