




Speech by  
**Grace Grace**

**MEMBER FOR BRISBANE CENTRAL**

Hansard Tuesday, 2 August 2011

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## **NEIGHBOURHOOD DISPUTES RESOLUTION BILL**

 **Ms GRACE** (Brisbane Central—ALP) (8.01 pm): I rise to support the Neighbourhood Disputes Resolution Bill, which is current and up-to-date legislation that goes about solving common disputes between neighbours regarding dividing fences and trees. The bill reflects the review that was undertaken of the neighbourly relations project, and that was about encouraging good neighbourly relations and bringing about a method of support for neighbours to resolve their disputes in a friendly, timely and assessable manner. I hope that the bill is true to this and will enable neighbours who do have a problem with dividing fences or trees to be able to reach a mutually agreeable outcome. The bill encourages neighbours to resolve the dispute informally and uses easy-to-understand and simplified language and obviously updates a bill that is some 60 years old.

The bill contains two distinct chapters—one dealing with fences and the other dealing with trees. Since I was elected there have been many calls to my office regarding problems associated with trees and dividing fences, and they range from trees not being cut down to roots causing damage to leaves causing plumbing problems to fences being built where people did not think they should have been built. It often has been very difficult to have these disputes resolved. I found that the Brisbane City Council in my electorate had a very hands-off type of attitude to this and in a way left neighbours stewing with the problem confronting them with no obvious means of being able to resolve the dispute. As we often say, people want to have either their day in court or to be in front of a conciliator or somebody they can tell their side of the story to and have somebody either help them come to a resolution or somebody who is able to make a decision regarding their problems. If these issues fester and remain unresolved, these are people living next door to each other, for many years often, and it can get unreasonable and be ongoing. Those people need somewhere where they can get their matter resolved.

This bill addresses most of the concerns raised in the broad consultation process on the draft bill which was done over a period of time in 2010 and many people made submissions to those consultations and many of the suggestions that were put forward have been picked up in this bill. We are trying to make it very clear. There is a clear direction about who the tree keeper is, and that is a term that is used in the bill. It talks about their responsibilities and reflects the strong community view that the tree owner or the tree keeper really should have the prime responsibility for the proper care and maintenance of the tree growing on their land, possibly where they planted it or where they inherited it, ensuring that it does not interfere with the neighbours and that they take the prime responsibility. That was very clearly pointed out in the consultation process and the bill paramourntly picks that up as the essence of how we are going to resolve these disputes.

The bill sets out the paramount principle of public safety of course in that no-one is now allowed to have an unsafe tree. The tree keeper or the tree owner have to take care of it. Given the importance of considering how the tree contributes to a neighbour's liveability, their environment and their ability to enjoy their block of land and their backyard, it is going to be very important that those factors be taken into account in deciding for removal or pruning or whatever the resolution is going to be in the end. The bill will revolutionise the law around trees. It will revolutionise the law around fences. There are clear descriptions about what fencing is all about, who pays and what a retaining wall is. There are adequate descriptions so

that there are no grey areas in trying to work out how the bill will relate to people. I am sure the government and the department will put out easy-to-follow guidelines on the processes that one has to follow in order to give notice of cutting a tree or an order from QCAT that the tree be removed, or whatever the resolution is going to be to the dispute.

This is common-sense legislation for an issue that all of us in this House know comes before us from time to time in many ways, shapes and forms. Only just recently—I think it was about a week ago—I had an elderly woman who was very distressed about trees overhanging her property, causing her untold concerns. It took quite a lot of doing to get the neighbour to meet their obligations and ensure that their tree keeps the other neighbour's property clean and tidy. This legislation creates clarity with its easy-to-understand language and with the ability for the bill to provide that QCAT is the deciding factor.

There are conciliators who can help resolve the process of a fence or a tree dispute. The conciliation process involves a conciliator assisting participants to identify the issues in the dispute, develop options, consider alternatives and of course try to meet a reasonable and mutual resolution or agreement. They can provide advice, they can provide options but they cannot make a determination. The conciliators are there to help to reach agreement. Where there is a will there is generally a way, and a skilled conciliator can help to resolve the dispute. In keeping with the intention of the bill, it will really be up to the neighbours with that assistance to reach a mutual agreement. Conciliation is always a step in the right direction. I commend the bill to the House. I commend the previous Attorney-General and the current Attorney-General in the drafting of the bill. It goes a long way to helping us in our electorate offices meet the needs of our constituents. I again commend the bill to the House.