

- The removal of branches interfering with buildings, structures, over head wires or utility networks but only to the extent that they are touching those buildings or structures, or likely to compromise the effective operation of those overhead wires or utility networks. The Council must be notified in advance of the work being undertaken and it must be carried out or supervised by a qualified arborist;
- The removal of broken branches, dead wood or diseased vegetation (as confirmed by a qualified arborist); and
- Trimming required as an emergency work.

If your property is in the Greenbelt Residential Zone and you have a tree that is identified as a Notable Tree then the following are permitted:

- Minor trimming and maintenance of the tree in order to maintain its state of health; and
- The removal of the tree by Council where this is required as an emergency work.

If a person wants to undertake works to a Notable Tree or conduct an activity within the drip line of a Notable Tree and these works could adversely affect the values for which the tree was considered worthy of protection or where the activity could result in an adverse effect on the tree, they will need to obtain a Land Use Consent (as a discretionary activity) from the Council before undertaking the works. Council would need to be satisfied that the tree is dead or diseased and/or the tree has become a danger to life, is causing damage to property, or is likely to do so.

#### **Rural Zone – Planting setbacks for Plantation Forestry and Shelterbelt Planting:**

- No plantation forest shall be planted within 10m of any boundary of a site under separate ownership or road; and
- No plantation forest shall be planted within 30m of any existing residential dwelling unit of a site under separate ownership;
- Vegetation planted to form a shelterbelt for more than 20m in length shall not exceed 6m in height from ground level within 10m horizontal distance of any boundary of a site under separate ownership or road.
- No plantation forest or shelterbelt shall be planted or allowed to grow in any position which could result in any icing of any public road carriageway as a result of shading of the road between 10:00am and 2:00pm on the shortest day.

## Need to know more?

This publication is a guide only. For more detailed information about Notable Trees and restrictions on plantation forestry and shelterbelt planting in the Rural Zone please contact the Council.

You may also need to seek additional advice from a planning consultant, surveyor or solicitor.

If you are concerned that a tree growing near electricity lines is a potential hazard, the Electricity (Hazards from Trees) Regulations 2003 applies. Please contact Electra on 0800 353 2872 or 0800 Electra for more information.

**Note:** The provisions outlined in this brochure are from the Horowhenua District Plan as at June 2014. These provisions may change and, as such, should only be used as a guide.

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**Horowhenua**  **Horowhenua**  
DISTRICT COUNCIL

# Trees and your rights



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Residential and rural areas need trees. They improve the quality of the air we breathe, provide a source of food and shelter for birdlife and beautify our towns and landscapes.

### However...

Trees can also block drains, disrupt walls and foundations, hide views, cast shadows and from time to time fall down.

So what are your rights as a landowner or neighbour? What should you do if there's a problem with a neighbour's tree? What is Council's role in these situations?

The following is a guide to help answer these questions and outline the rights and responsibilities you have concerning trees.

#### 1. Who is responsible?

You are responsible for ensuring your own trees do not cause problems for anyone else.

Nobody may interfere unreasonably with other people's use and enjoyment of their land.

#### 2. What if there's a problem?

If a neighbour's tree is causing a problem on your property, the first step to take is to talk to them.

They may be unaware of your concerns. This also gives them a chance to fix the problem and for both the owner and the neighbour to find a mutually agreeable solution.

For example, if you are concerned about a tree's shading, it may be that the tree can be thinned rather than chopped down.

#### 3. Who can cut the tree?

Tree owners should take reasonable steps to stop their trees interfering with their neighbour's enjoyment of their own properties.

- If a tree's roots or branches encroach onto your property, you may cut them back to the boundary line. In law this is called "abatement".
  - If you don't want to do this, you can ask a District Court for an order for the trimming or even removal of the tree.
  - Cuttings and fruit belong to the tree owner. You can put them back on their property or ask for them to be removed.
- You do not have the right to...
- Trespass on your neighbour's property;
  - Create any other problems for your neighbour ie: cause the tree or ground surrounding the tree to become unstable;
  - Poison the roots or spray the tree with herbicide; or
  - Chop a tree down if the trunk extends over the boundary.

#### 4. Who pays?

A tree planted on your neighbour's property belongs to them, and they will be liable for any damage it causes. If the tree was planted on the boundary you are probably a co-owner.

Costs Incurred...	Tree Owner Pays	Neighbour Pays
Cutting back roots and branches on your side of the boundary	✗	✓
Due to damage caused by roots ie: drains or fallen branches	✓	✗

#### 5. What role does Council play?

Local Councils are generally reluctant to become involved in neighbourhood disputes about trees. However, if you are planning on trimming or cutting down a large tree you need to be aware that some trees within the Horowhenua District are protected. These trees are classified in the District Plan as "Notable Trees".

A "Notable Tree" is any tree listed on the Register of Notable Trees in Schedule Three of the Horowhenua District Plan. Before you undertake any work it is advisable to check whether the tree is protected and to do this you can either check the on line

version of the Proposed District Plan which can be found on Council's website [www.horowhenua.govt.nz](http://www.horowhenua.govt.nz) or phone the Council.

If your property is in the Residential, Industrial, Commercial, Rural or Open Space Zone and you have a tree that is identified as a "Notable Tree" then the following is permitted:

- The removal or partial removal of the tree if it is required as an emergency work or if the Council has confirmed the tree is dead;
- Works are permitted within the drip line of a Notable Tree, except;
  - The construction of any building or structure;
  - The laying of overhead or underground services;
  - Any sealing, paving, soil compaction or any other impervious surface;
  - The alteration of existing ground levels; and
  - The discharge of any toxic hazardous substance.
- Trimming or maintenance of a Notable Tree is permitted, although it shall be limited to:
  - Minor trimming necessary to maintain the health of the tree. The Council must be notified in advance of the work being undertaken and it must be carried out or supervised by a qualified arborist;