

## Terms of Reference

### **Review of the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011***

#### **Background**

The objects of the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011* (the Act) are to:

- provide rules about each neighbour's responsibility for dividing fences and for trees so that neighbours are able to resolve issues about fences or trees without a dispute arising; and
- facilitate the resolution of any disputes about dividing fences or trees that arise between neighbours.

The Act gives jurisdiction to the Queensland Civil and Administrative Tribunal (QCAT) to hear and decide matters under the Act.

While QCAT hears and decides disputes about dividing fences and trees, the Dispute Resolution Branch (DRB) in the Department of Justice and Attorney-General (DJAG) provides free mediation services to assist neighbours to resolve disputes informally where possible. DJAG also provides online information to help citizens informally resolve fence and tree issues.

Under section 97 a review of the Act must start within three years of its commencement. The review must start by 1 November 2014. The review must consider whether the objects of the Act remain valid, whether the Act is meeting its objectives, and investigate any specific issues recommended by the Minister. Under section 97 of the Act, the Minister must, within six months after finishing the review, table a report about its outcome in the Legislative Assembly.

I, Jarrod Bleijie, Attorney-General and Minister for Justice, refer to the Queensland Law Reform Commission (the Commission) under section 10 of the *Law Reform Commission Act 1968*, the review of the Act.

#### **Scope**

The review of the Act is to consider:

1. Whether the objects of the Act remain valid;
2. Whether the Act is meeting its objects;
3. Without limiting its scope or form, the review will consider the following issues:

- a) whether the allocation of responsibilities, liabilities and rights under the Act promotes resolution by neighbours of issues relating to dividing fences and trees;
- b) whether dispute resolution processes under the Act are fair, just and effective;
- c) the simplicity and ease of use of the Act for members of the community, including clarity of the legislative provisions;
- d) whether the Act provides QCAT with sufficient powers to resolve issues;
- e) the appropriateness of the remedies and penalties provided in the Act, including for non-compliance with QCAT orders;
- f) the operation of the Act in relation to other Acts or laws;
- g) the operation and effect of section 66(3)(b)(ii) of the Act including whether it should operate retrospectively having regard to section 178 of the *Property Law Act 1974*;
- h) the operation and effect of section 57 of the Act; and
- i) whether scope of the Act should be expanded to include disputes about retaining walls built on neighbouring properties' boundaries.

### **Consultation**

The review is to include public consultation about issues with the Act and associated solutions.

### **Timeframe**

The Commission is to provide a report on the outcomes of the review to the Attorney-General and Minister for Justice by 1 November 2015.

Dated the 27<sup>th</sup> day of October 2014



**Jarrod Bleijie**  
**Attorney-General and Minister for Justice**