

## TREE DISPUTE CLAIM DETAILS (HIGH HEDGES)

COURT DETAILS	
<b>Court</b>	Land and Environment Court of New South Wales
<b>Class</b>	2
<b>Case number</b> [The Court will complete this.]	

**1 Why are you making this application?** [You may tick more than one box]:

- To remedy, restrain or prevent a severe obstruction of sunlight to a window of a dwelling [You need not answer Questions 9 to 13]
- To remedy, restrain or prevent a severe obstruction of any view from a dwelling [You need not answer Questions 4 to 8]

The purpose of the diagram required by Q 2 is to provide site plan references for the material required for each tree by Q 3 and Qs 4 to 13 (as applicable)

**2 Draw a diagram of your property and the property where the hedge is located showing:**

- the location of each tree in the hedge (number each tree with an identifier – T1, T2, T3 etc – to permit identification in the table in Question 3);
- the location of your dwelling and the location of each window to which sunlight is severely obstructed by the hedge (number each window with an identifier – W1, W2, W3 etc – to permit identification in the table in Question 3 and in Questions 4, 5 and 6);
- the location of any viewing point in your dwelling from which a view is severely obstructed by the hedge (number each viewing point with an identifier – V1, V2, V3 etc – to permit identification in the table in Question 3 and in Questions 9, 10 and 11);
- the boundary between your property and the property where the hedge is located;
- the location of anything, other than the trees, obstructing sunlight (number each obstruction with an identifier – OS1, OS2, OS3 etc – to permit identification in your answer to Question 7);
- the location of anything, other than the trees, obstructing views from your dwelling (number each viewing point with an identifier – OV1, OV2, OV3 etc – to permit identification to Question 12);and
- an arrow showing the direction of North.

**DIAGRAM FOR QUESTION 2**



**QUESTION 3 CONCERNS THE TIMING OF THE TREE, THE PURCHASE OR OCCUPATION OF THE PROPERTY AND CONSTRUCTION OF THE DWELLING**

**3 Information sheet(s) to be completed about the trees in the hedge.**

If all of the trees in the hedge are of the same species and height above ground level and were planted at the same time, you only need fill in one copy of this sheet.

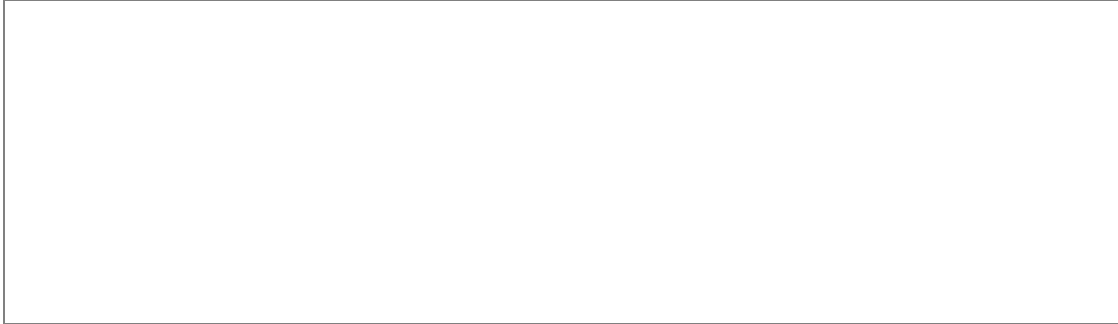
If the trees in the hedge are of different species or different heights above ground level or were planted at different times, you must fill in more than one copy of this sheet – extra sheets should be completed for each additional species or group of trees of the same height above ground level or group of trees that were planted at the same time.

<b>Tree(s) .....</b>	
[refer to the number(s) on the diagram drawn for Q 2]	
<b>What is the species of the tree?</b>	
a) Was the tree planted?	<b>YES/NO</b>
b) How high is the tree above existing ground level (in metres) today?	

c) When did you purchase your property or occupy your property?	
d) Was the tree already there when you occupied or purchased your property?	<b>YES/NO</b>
e) If the tree was not there when you purchased or occupied your property, when was the tree planted?	
f) If the tree was there when you purchased or occupied your property, how high was the tree above existing ground level at that time?	
g) Did your dwelling (which is the subject of this application) exist when you purchased or occupied your property?	<b>YES/NO</b>
h) If your dwelling was constructed after you purchased or occupied your property, when was your dwelling constructed?	
i) When your dwelling was constructed, was the tree already there?	<b>YES/NO</b>
j) If the tree was there when your dwelling was constructed, how high was the tree above existing ground level at that time?	

**QUESTIONS 4 to 8 CONCERN OBSTRUCTION OF SUNLIGHT ONLY**

- 4** What is the amount, and number of hours per day, of any sunlight to each window (referring to each window by the number in the diagram drawn for Q 2) that is lost as a result of the obstruction by the hedge throughout the year and the time of the year during which the sunlight is lost? [Please attach shadow diagrams if available. Please attach additional sheets if necessary]



- 5** For each window to which sunlight is obstructed, what are the facts, matters and circumstances that you say make the obstruction of sunlight to that window (referring to each window by the number in the diagram drawn for Q 2) a severe obstruction?



**6** Is any window to which sunlight is severely obstructed located in an addition to the dwelling constructed after the dwelling was built and, if so, what is the number in the diagram drawn for Q 2 for each such window?

- Yes      Number of each window .....
- No

If Yes, when was the addition constructed?

**7** Is there anything, other than the hedge, that has contributed, or is contributing, to the obstruction of the sunlight and, if so, what is the number in the diagram drawn for Q 2 for each such obstruction?

- Yes      Number of each obstruction .....
- No

If Yes, please specify.

**8** Have you or the owner of the land on which the hedge is situated taken any steps to prevent or rectify the obstruction of the sunlight?

- Yes
- No

If Yes, please specify what, when and by whom the steps were taken.

**QUESTIONS 9 to 13 CONCERN OBSTRUCTION OF VIEWS ONLY**

- 9** What is the nature and extent of each view from your dwelling affected by the obstruction by the hedge (referring to each viewing point in your dwelling by the number in the diagram drawn for Q 2) and the nature and extent of any remaining view? [Please attach photographs to illustrate both the obstructed and remaining views].



**10 For each viewing point in your dwelling (referring to each viewing point by the number in the diagram drawn for Q 2) from which a view is obstructed, what are the facts, matters and circumstances that you say make the obstruction of the view from that viewing point in your dwelling a severe obstruction?**

**11 Is any viewing point in your dwelling from which a view is severely obstructed located in an addition to the dwelling constructed after the dwelling was built and, if so, what is the number in the diagram at Q 2 for each such viewing point?**

- Yes      Number of each window .....
- No

If Yes, when was the addition constructed?

**12** Is there anything, other than the hedge, that has contributed, or is contributing, to the obstruction of the view and, if so, what is the number in the diagram drawn for Q 2 for each such obstruction?

Yes      Number of each obstruction .....

No

If Yes, please specify.

**13** Have you or the owner of the land on which the hedge is situated taken any steps to prevent or rectify the obstruction of the view?

Yes

No

If Yes, please specify what, when and by whom the steps were taken.



**QUESTIONS 14 TO 29 CONCERN MATTERS TO BE CONSIDERED BY THE COURT**

**14** Would interference with the hedge (or any tree or trees forming part of it), in the absence of section 6 (3) of the Trees Act, require any consent or other authorisation under the Environmental Planning and Assessment Act 1979 or the Heritage Act 1977 and, if so, has any such consent or authorisation been obtained?

Yes

No

If Yes, please specify.

**15** Does a local council tree preservation order apply to any or all the trees in the hedge?

Yes

No

If Yes, please specify.

**16** Is the hedge (or any tree or trees forming part of it) or the property on which the hedge is located listed or recorded by the local council as being of heritage value?

Yes

No

If Yes, please specify the listing or recording by the local council.

**17** Is the hedge or the property on which the hedge is located listed or recorded by the NSW Heritage Council as being of heritage value?

Yes

No

If Yes, please specify the listing or recording by the NSW Heritage Council.

**18** Are there any relevant conditions of development consent relating to the hedge (or any tree or trees forming part of it) such as requiring the planting of the trees or the preservation of the trees or restricting the species of trees to be planted or the height to which the trees are permitted to grow?

Yes

No

If Yes, please specify the relevant conditions of development consent and what those conditions require.

**19** Are there any other relevant conditions of development consent relating to your land or the land on which the hedge is situated?

Yes

No

If Yes, please specify the relevant conditions of development consent and what those conditions require.

**20** Are there any other legal controls that might prevent the Court making the orders you are seeking (such as a foreshore scenic protection control or a covenant in favour of neighbouring land or the local council)?

Yes

No

If Yes, please specify.

**21** Has the hedge (or any tree or trees forming part of it) any historical, cultural, social or scientific value?

Yes

No

If Yes, please specify.

**22** Does the hedge (or any tree or trees forming part of it) make any contribution to the local ecosystem and biodiversity?

Yes

No

If Yes, please specify.

**23 Does the hedge (or any tree or trees forming part of it) make any contribution to the natural landscape and scenic value of the land on which it is situated or the locality concerned?**

Yes

No

If Yes, please specify.

**24 Does the hedge (or any tree or trees forming part of it) have any intrinsic value to public amenity?**

Yes

No

If Yes, please specify.

**25 Does the hedge (or any tree or trees forming part of it) have any impact on soil stability, the water table or other natural features of the land or locality concerned?**

Yes

No

If Yes, please specify.

**26 Will any pruning (including the maintenance of the trees in the hedge at a certain height, width or shape) have any impact on the hedge (or any tree or trees forming part of it)?**

Yes

No

If Yes, please specify.

**27 Does the hedge (or any tree or trees forming part of it) make any contribution to privacy, landscaping, garden design, heritage values or protection from the sun, wind, noise, smells or smoke or the amenity of the land on which it is situated?**

Yes

No

If Yes, please specify.

**28 Does any tree forming part of the hedge lose its leaves at any time of the year?**

Yes

No

If Yes, please specify the number of each tree (as referenced in the diagram drawn for Q 2) and during what months or for what part of the year that tree loses its leaves.

**29** Are there any other matters that you consider are relevant for the Court to be aware of in the circumstances of the case?

Yes

No

If Yes, please specify.

**QUESTION 30 CONCERNS A MATTER ABOUT WHICH THE COURT MUST BE SATISFIED BEFORE MAKING AN ORDER**

**30** Have you made efforts to reach agreement to resolve this matter with the owner of the land on which the trees are situated?

Yes

No

If Yes, please specify.