

Neighbouring Trees Complaints Policy

Responsible Division	Infrastructure and Assets
Responsible Business Unit	Parks and Environment
Responsible Officer	Manager Parks and Environment
Affected Business Units	Parks and Environment
ECM Document Set ID	4122442

Purpose

To provide guidance with regards to complaints regarding trees within neighbouring private property that may be or have a high likelihood of causing damage to adjoining private property.

Definitions

Nil.

Policy Statement

Where a property owner has concerns over the structural integrity of a tree adjacent to their property that may cause damage to their property or injury to a person the following actions are required to take place:

1. Firstly, the property owner should talk to the neighbouring property owner regarding the concerns they have with the tree and come to an agreement about what should be done.
2. If an agreement cannot be reached the property owner is to engage an Independent Consulting Arborist that holds a minimum of a Diploma in Arboriculture (AQF level 5) to undertake a risk assessment of the tree(s) using either the Quantified Tree Risk Assessment system (QTRA) or the International Society of Arboriculture's (ISA) risk assessment system (Tree Risk Assessment Qualification).
3. The Independent Consulting Arborist is to provide a written report including the following information:
 - Address of the site containing the tree(s)
 - Botanical name of the tree
 - Measurements of the tree, including: height, diameter at breast height (1.4m), width of canopy
 - Distance to targets identified in the risk assessment such as buildings, sheds etc.
 - Age classification
 - Observations on the tree(s) health and condition
 - Supporting photographs
 - An aerial photograph showing the location of the tree
 - The risk assessment process with Risk of Harm outcome
4. The property owner should provide a copy of the report to the neighbouring property owner and come to an agreement about what should be done.

5. If an agreement cannot be reached, the City recommend that the property owner engage a mediation agency. Mediation is a cost-effective, efficient, and less formal alternative to court proceedings. The mediator will provide relevant information and advise on rights, ensuring all parties are well-prepared. Additionally, the arborist report should be presented during mediation for clarity. The City recommends completing mediation and following the advice of the Mediator.
6. For cases where an agreement has been struck through mediation to address tree safety, the City recommends that the property owner write a duplicate letter to the owner of the property where the tree is situated. This letter should request necessary steps (such as pruning or removal) to ensure tree safety. It is advisable to send this letter via Certified or Registered Post and retain the delivery confirmation receipt
7. If the neighbour fails to take action within the agreed-upon timeframe specified in the mediation letter, the property owner may contact the City. They should provide details of the steps followed and share the findings from the arborist report. The City will then determine the actions that can be taken by the City in accordance with Part 3, Division 3, Sections 3.25 and 3.27 of the *Local Government Act 1995*.
8. For the City to consider the option of issuing a notice under Section 3.25, or undertaking works under Section 3.27, of the *Local Government Act 1995*, the report would have to demonstrate that the subject tree poses a level of risk greater than 1/10,000 as per the QTRA system or 'High' or 'Extreme' as per the TRAQ system.
9. If this criterion is met, the City's Consulting Arborist will present their recommendations to the City's Chief Executive Officer (CEO) on what actions are required, inclusive of an appropriate timeframe to reduce the level of risk to an acceptable level.
10. The CEO may then issue a notice or work order accordingly.
11. Where a tree is causing damage to a dividing fence, the City has no jurisdiction over this matter and outcomes are to be negotiated by the owners of the respective fence only. Refer to *the Dividing Fences Act 1961*.

Related Legislation

- *Local Government Act 1995*
- Part 3, Division 3, Sections 3.25 and 3.27
- *Dividing Fences Act 1961*

Related Documentation

Nil.

Document Details

Relevant delegations	Nil.
Risk evaluation	Low
Strategic link	In accordance with the City of Bayswater Strategic Community Plan 2021-2031, the following applies: Theme: Environment and Liveability E5: Protect and enhance the City's natural environment and biodiversity and encourage the community to participate in its protection.
Council adoption	27 February 2007 Resolution N/A

Reviewed/modified	17 March 2016	Resolution	N/A
Reviewed/modified	30 January 2019		
Reviewed/modified	23 July 2024		
Next Review Due	July 2028		