

POS	TREES ON PRIVATELY OWNED LAND	PSEW18
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POSITION STATEMENT CODE:	PSEW18
DIRECTORATE:	Engineering & Works
BUSINESS UNIT:	Parks & Environment Department
SERVICE UNIT:	Parks Services
RESPONSIBLE OFFICER:	Manager, Parks & Environment
FILE NO.:	182/002
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ATTACHMENTS:	N/A
VERSION NO.	3

Dates of Amendments / Reviews:	
DAPPS Meeting:	31 January 2013 27 August 2015 23 February 2017
OCM:	14 February 2013 10 September 2015

BACKGROUND:

From time to time requests are received by the City for action to be taken against proprietors of privately owned land, requiring them to prune or remove trees growing on their land because the requestor considers them to be dangerous and/or adversely impacting on the ability they have to enjoy the amenity of their own land.

PURPOSE:

To provide clear direction to the City's Officers when requests are received for action to be taken against proprietors of privately owned land, to prune or remove trees growing on their land.

POSITION:

- (1) Trees on Privately Owned Land

In the interest of public safety and in accordance with the Local Government Act 1995, the City will play an active role in the management of potentially dangerous trees growing on privately owned land.

- (2) Assessment and Notification of Dangerous Trees on Privately Owned Land

Where a resident raises a concern regarding the safety of a tree on privately owned land, an officer from the City will at the earliest opportunity conduct a visual inspection of the tree and determine the risk:

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1. Where the visual inspection reveals a tree is a 'serious and immediate danger' and immediate action is required to alleviate the risk, the City will, in accordance with Section 3.27(1) Schedule 3.2(7) of the Local Government Act 1995, take action to make safe the tree, with or without consent of the owner or occupier of the land.
2. Where the visual inspection reveals a tree to be potentially dangerous but not a 'serious and immediate danger' the City will, in accordance with Section 3.25(1) Schedule 3.1(8) and (9) of the Local Government Act 1995, issue a Notice requiring the owner or occupier to remove all or part of the tree to ensure that it is made safe. The Notice will include advice, in accordance with S9.1 to 9.9 of the Act, which outlines the right to objection/appeal, noting that an objection in this regard requires the owner or occupier to provide a written report, from a suitably qualified expert in the field of arboriculture, to the contrary of the City's original assessment.
3. Where the visual inspection does not clearly reveal a tree poses a danger, the City will engage a suitably qualified expert in the field of arboriculture to provide a written report. Where the written report determines that the tree poses a danger, the City, in accordance with Section 3.25(1) Schedule 3.1(8) and (9) of the Local Government Act 1995, will issue a Notice requiring the owner or occupier to remove all or part of the tree to ensure that it is made safe.
4. Where the visual inspection clearly reveals a tree poses no danger, then, the City will take no further action.

(3) Recovery of Costs for Action Taken By the City

Where an Action has been taken by the City or a Notice is issued to a resident with regard to the safety of a tree on privately owned land, the City will:

1. Where the visual inspection reveals a tree is a 'serious and immediate danger' and the City has taken immediate action to alleviate the risk, without notice or consent of the owner/occupier - in accordance with the requirements of Section 3.27(1) of the Local Government Act 1995, the City will incur the costs of such an action.
2. Where a Notice is issued and an owner or occupier is unable to comply with the Notice due to financial constraints, the City will offer to undertake the associated works necessary in making the tree safe and offer the owner or occupier the option of reimbursing the City in instalments over a period of 3 months.
3. Where the owner or occupier fails to comply with the Notice, then the City will, in accordance with Section 3.26(2) and (3) of the Local Government Act 1995, take whatever action is considered necessary to

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achieve the intent and purpose of the original Notice. Costs incurred by the City from such action will be recovered as a debt from the Notice recipient.

(4) Arbitration of “Nuisance” Trees on Privately Owned Land

The City will not investigate or arbitrate concerns regarding trees growing on privately owned land, which may be adversely impacting on the ability of an adjoining owner/occupier to enjoy the amenity of their land, through such things as leaf drop, shading, obstruction of views etc.

(5) Arbitration of Trees Causing Damage to Fences and Minor Structures

The City will not investigate or arbitrate concerns of residents regarding trees and shrubs growing on privately owned land, which are causing or may cause damage to dividing fences and/or minor structures on adjoining land.