

2. TREE NUISANCE/HAZARD, TOORAK RESERVE, AVONHEAD

An onsite inspection will be held at 4.30 pm, leaving from the Service Centre at 4.15 pm.

Mr and Mrs L Fraser live at 60 Toorak Avenue, their property adjoins the Council reserve. In a letter to the Chairperson of the Community Board they write:

"We write seeking the consideration of your Board, on a situation which increasingly causes us more than some alarm and despondency. The north-eastern boundary of our house and section adjoins the Toorak Ave Reserve, and along this boundary and about one metre from it, in the Reserve are a couple of Silver Birch trees, now over twenty five years old and over nine metres high. Also a little further out, a Chinese Poplar about twelve metres in height.

For years these three trees have continually littered our property – particularly the Birch's litter penetrating roof guttering, drains and entries. Root penetration is causing cracking of the asphalt driveway. The Poplar corms have a glue like staining aspect on concrete and painted surfaces, but of particular concern is the apparently tenuous hold this tree has on its clay base. Should any of these trees be blown over in an excessive n/e wind, damage to our house and surrounds would now be inevitable.

We have presented a request to the CCC Reserves Department, asking for these trees to be removed, or at least the nuisance/hazard be reduced. This was declined and we're advised to seek consideration for this request from our Community Board. If acceded to, the dept, we understand, would have no objection to action.

For over thirty years this has been our residence, and we've observed the Reserve develop to the delightful area it is at the moment, indeed, in the past, and with permission, we've planted and nurtured less aggressive (if that's the word) trees and shrubs and would do so again should that be helpful."

We have acknowledged this letter and a report has been prepared by the Council's Arborist, Walter Fielding-Cotterell.

Officer responsible Greenspace Manager	Author W. Fielding-Cotterell, DDI 941-8630
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The purpose of this report is to obtain the Board's decision as to an application from Mr and Mrs L Fraser of 60 Toorak Avenue, for the removal of trees in Toorak Park that are situated near their boundary. The Board has delegated authority to decide on the removal or retention of trees on local reserves.

Background

Over a period of about ten years, the Council has received a number of requests for the removal of several birch trees growing in Toorak Park along the boundary with Mr and Mrs Fraser's property at No. 60. Toorak Avenue. According to Mr Fraser, the birch trees were actually planted by him some 25 years ago. In the past the complaints about the trees related mainly to the litter deposited on the Frasers' property, in the form of leaves and seeds from the birch trees. In response to these previous requests, two of the poorer quality birches were subsequently removed, leaving the current two trees. Both of these trees have been pruned to alleviate the litter problems experienced by the Frasers. However, more recent requests to remove the remaining birch trees have, to date, been declined by the Greenspace Unit. This latest request from Mr and Mrs Fraser lists the following for wanting the trees removed:

- Tree litter
- The glue-like staining effect of the chinese poplar "corms".
- Root damage to the tarsealed driveway.
- Concerns that the trees may be blown onto their house.

The trees

The two birch trees are situated opposite the western end of the Frasers' house (refer **attached** photo), their trunks being about 1.0 metre from the park boundary with the property. The birches are about 13 metres in height with crown diameters of 7.0 metres. Both trees overhang the park boundary and extend across the Frasers' property (driveway) by 2-3 metres.

The birches are 25-30 years old, in good condition, with quite attractive crown forms. There are no signs of any structural defects, adverse soil conditions, or root instability that would render them liable to wind-throw in high wind conditions.

The Poplar in question is a chinese poplar (*Populus yunnanensis*). This tree is situated 9.0 metres from the Park's boundary with the Frasers' property, in line with the eastern end of their house. The poplar is about 18 metres tall with a crown diameter also of 18.0 metres. No branches actually overhang the Frasers' property, however. The poplar is about 25 – 30 years old. It is growing vigorously with an attractive crown form, and shows no sign of structural defects, or root instability that would render it liable to wind-throw or trunk breakage in high wind conditions.

The tree problems

One of the main problems associated with birch trees is their seeding habit. Many small seeds are produced by birch, which by virtue of their small size and flat form, enable them to pass through quite small openings, such as the narrow gaps between closed doors and window frames. Because of their small size and lightness they can be carried long distances by winds. Dead twigs and seasonal leaf litter are also deposited by birch.

There are several isolated bumps in the Frasers' tar-seal driveway, near the birch, that may have been caused by roots from the trees. The trees' roots can easily extend this far, although there is no crack line in the seal extending from the trunks to the bumps

The main problem caused by Chinese poplars is the resinous substance that is formed on the leaf bud scales. In early spring, at leaf burst, these sticky scales fall, the substance eventually hardening to a degree that makes it very difficult to remove from any objects that it lands on.

Poplar roots are well known for their aggressive, invasive characteristics and roots would be capable of travelling the 9.0 metres or so to the Frasers' driveway. However, it is far from certain that the (filled) cracks across the driveway seal are a result of root invasion. The cracks are far too straight and evenly spaced than is normally experienced with root damage. The Frasers' also have a substantial (beech) tree of their own growing right against the edge of the driveway. This tree is as likely to cause damage to the driveway as the poplar.

Tree work options/considerations

Branches from the two birches extend 2.0 – 3.0 metres over the park boundary and across The Frasers' property. As the trees are situated only 1.0 metre from the boundary roots would certainly extend under the driveway, whether or not they are responsible for the lumps in the driveway seal. Under the common law of Nuisance the Frasers would be within their rights to ask that any tree parts encroaching across the boundary, and causing damage, be removed from their land. The resulting root and branch pruning would leave the birches in such an unstable and unsightly condition that they would have to be removed.

At a distance of 9.0 metres from the boundary, the branches on the chinese poplar do not encroach over the boundary, although it is conceded that the sticky leaf scales can be blown this far. Roots from the tree are capable of encroaching over the boundary, although in this case, the boundary is sufficiently far from the tree to enable root pruning to be carried out if required. Pruning to shorten the branches extending towards the Frasers' property, could also be carried out to alleviate the sticky leaf scale problem.

Landscape/ amenity value considerations

The only trees providing any significant vertical scale on the western side of the park, are the two birches and the poplar. The trees tend to break the hard rectangular lines of the Frasers' house, also providing some sense of enclosure and separation between the park and the adjacent residential area. The loss of all three trees would leave the Frasers' house fully exposed where it would become the dominant feature in the landscape of this side of the park, as seen by park users.

Conclusion

While it is desirable for the overall amenity values of the park to retain all three trees, the two birches due to their close proximity, are the ones most difficult to retain from a legal point of view and that of preventing future damage to the Frasers' driveway. Removal and replacement with new trees (of a different species) and positioned further from the park boundary, needs to be considered.

If it is decided to retain the chinese poplar, it would be possible to carry out remedial tree work to alleviate the problems experienced by the Frasers.

- Recommendation:**
- (i) That the Board approve the removal of the two birch trees.
 - (ii) That the Board decline the removal of the Chinese poplar subject to the tree receiving remedial branch and root pruning treatment.
 - (iii) That new tree plantings, not consisting of birch or poplar species, be carried out well clear of the boundary at the southern end of the park.