

## 15. TREES IN JAMES CONDON PARK

RR 7553

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Corporate Plan Output: Local Park Tree Maintenance and Felling	

The purpose of this report is to inform the Committee that the Parks Unit has received a number of complaints in recent years from Mr and Mrs Hinkley of 34 Prestons Road about the inconvenience and damage caused to their property by the row of five oak trees situated in James Condon Park near their boundary.

The complaints relate to the following problems:

1. Blocked roof spouting and drain pipes.
2. Need to clear leaves and other tree debris.
3. Shading impact on garden plant growth.
4. Sticky honeydew secreted by aphids on oaks causing messy unsightly deposits on roofs of house and garage.
5. Periodic cleaning costs of over \$200 a time.

The Parks Unit has carried out some pruning work to alleviate the problem by shortening branches extending over the boundary of the Hinkley's property. Falling honeydew will drift sideways in the wind, however, and deposits still land on the buildings. The honeydew turns black as a result of fungal yeasts developing on the deposits, discolouring building surfaces. The Parks Unit has agreed to contribute towards the current cleaning costs.

Under the common law of nuisance, the Council has no right for the branches of the trees to overhang neighbouring land and create a nuisance or interfere with enjoyment of the property irrespective of whether the trees were present or the nuisance existed when the occupiers purchased the property. If asked, the Council would be required to prune back all overhanging branches back to the park side of the boundary. The Hinkleys would also have the right to apply to a District Court for the trees to be removed under Section 129c of the Property Law Act. The Council's solicitor has advised that an application might be successful because of the continuing damage caused to the buildings by the honeydew.

Three of the oak trees are large, two are considerably smaller with misshapen tops due to suppression by the larger trees. The trees are estimated to be 70-100 years old and appear to be remnants of old farm plantings.

Two of the larger oaks on the western end of the row are in a good, sound condition with no defects that might lead to breakage or windthrow in high winds.

The smaller oak in the middle of the row has a large wound in the trunk which is decaying, creating a weak point in the structure of the trunk. The large oak to the east of this tree has a trunk which divides into two co-dominant stems, one stem leaning towards the Hinkley's house. A crack is forming on one side of the trunk, indicating a weak stem union.

Although it would be possible to improve the safety of this tree with cable bracing, there will always be a higher level of risk due to the lean of the stem towards the Hinkley's house.

The remaining smaller oak does not present much of a problem to the Hinkley's property.

In view of the above considerations, the following remedial works are proposed:

- To remove the two oaks with structural defects which will also reduce the honeydew, tree debris and shading effects to the Hinkley's property.
- To carry out further pruning to shorten branches back to the boundary as legally required.
- To plant replacement trees of a different species further back into the park.

**Recommendation:** That the works proposed above be implemented.

**Chairperson's**

**Recommendation:** That the officer's recommendation be adopted.