

Officer responsible Parks Manager	Author Walter Fielding-Cotterell, Parks Arboriculturist
Corporate Plan Output: Street Tree Maintenance and Felling City Wide	

The purpose of this report is to resolve a situation where a large street tree is detrimentally affecting a neighbouring property. The matter will be referred to the City Services Committee for a decision along with any comments/recommendations the Board wishes to make.

The tree, a large lime is situated on road reserve close to the boundary of 3 Swithland Place, the property of Mr & Mrs B. Drumm.

At the Board’s meeting of 1 June 1999, it was resolved “*that an investigation into a method of curbing root growth and pruning be undertaken*”.

In response to the Board’s resolution a letter was sent to Mr & Mrs Drumm advising of the true position of the tree in relation to the property boundary and proposing a range of tree work aimed at alleviating the problems being caused to their property. It was proposed that the works be carried out at the expense of the Parks Unit.

The letter specifying the works proposed is attached.

On 16 July 1999 the Parks Unit received a faxed letter from Mr Drumm declining to accept the tree work proposals stating the following essential reasons:

- Any tampering with the roots may increase any instability in the tree which would not relieve fears about the safety aspects.
- The work would do nothing to alleviate the other problems outlined in the original request.
- The tree will still loom over the house, block the view of the sky and remain a continual year round nuisance.
- Because of the result of the poll of Swithland Place residents the tree should be removed as originally recommended.
- The Drumm’s are therefore not prepared to agree to the intrusion onto their property to carry out the proposed work.

The complete letter from Mr Drumm is attached.

CONCLUSION

The means of curbing the root growth proposed by the Parks Unit was dependent on the Drumm’s consenting to the works taking place on their land. This would have allowed trenching, root cutting and the installation of a plastic root barrier at a safe distance from the trunk (approximately 3.0 metres).

Without this consent the roots can only be severed and a barrier installed at the boundary which is only 300 mm (12 inches) from the trunk. Carrying out the operation at this distance would result in nearly half of the roots of the lime being cut with an equivalent lost of root anchorage. In addition to the health of the lime being seriously jeopardized, the tree would be left in an obviously dangerous condition and the Council would have no safe option but to remove it.

Under the Common law of Nuisance, the occupier of a property affected by branches or roots which encroach over their land is entitled to abate the trespass or nuisance by cutting them back to the boundary.

Trees on Council land are not exempt from this law, therefore Mr Drumm could cut the offending roots and branches on his property back to the boundary himself or require the Council to do so at its own expense if this is beyond his capabilities.

In view of the above considerations and having explored all reasonable means of resolving the situation without success, it is recommended that the tree be removed as Mr and Mrs Drumm have requested and suitable replacement trees planted nearby.

The Fendalton/Waimairi Community Board recommends to the City Services Committee that the lime tree be removed and that a suitable replacement tree be planted in the vicinity.

Chairman's

Recommendation: That the Board's recommendation be adopted.