

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 loss 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.

Recommendation: That the Board recommend to the City Services Committee that the lime tree be removed.

Chairman's

Recommendation: That the foregoing recommendation be adopted.

4 July 1999

Dear Mr. Fielding-Cotterell

Thank you for the letter outlining your plans for the Lime Tree.

My wife and I have discussed the proposals and we are concerned that any tampering with the roots may increase any instability in the tree and would not relieve our fears about the safety aspects.

We are therefore not prepared to agree to the intrusion onto our property to carry out the proposed work

The work would do nothing to alleviate the other problems outlined in my original request.

The tree will still loom over our house, block our view of the sky and remain a continual year-round nuisance.

Our property is not the only one affected by many of the problems listed in my original letter and some of the views expressed in the residents' poll reflected that.

I believe that because of the results of that poll, that the tree should be removed as you originally recommended.

(Signed)

Brian G Drumm

19 July 1999

Dear Mr & Mrs Drumm

LIME TREE – 3 SWITHLAND PLACE

As you are aware, at its meeting on 1 June 1999 the Fendalton/Waimairi Community Board having considered your submissions and the Parks Unit's report, resolved as follows:

“That an investigation into a method of curbing root growth and pruning be undertaken, with a report back on progress in two months time”.

To determine the actual position of the lime in relation to the joint property/road boundary. I have had our surveyors find the boundary pegs in the opposing corners of your property. Taking a line between these pegs it seems that the outer trunk of the lime is only 300mm or so from the boundary, closer if the major root flare which disappears into the ground just short of the boundary, is taken into account. The tree is 4.1 metres from your house foundation.

One of the three main vertical limbs, which divide from the main trunk and is closest to your house, is just inside the Council's road boundary.

In accordance with the Board's resolution, I have considered methods of alleviating the problems you are experiencing with the lime and propose the following works for your consideration.

- (i) At a distance of 3.0 metres from the tree, using a narrow trench chain digger, excavate a 1.0 metre deep trench along the tree's side of the house foundation severing all roots at that depth.*

Nb: To maintain the safety/stability of the tree I would not recommend excavating and severing lateral roots much closer than the 3 metres stated above.

- (ii) Install a double layer of 250 micron polythene along the wall of the trench to act as a barrier against further root intrusion.*
- (iii) Backfill with soil and reinstate lawn with “Ready Turf”.*
- (iv) Prune to shorten back lateral branches extending over the boundary to a length to be agreed between yourself and the parks Unit (but not further back than the boundary line).*
- (v) That the tree shall be trimmed annually to maintain the lateral branches at the agreed length.*
- (vi) Cable brace together the three main limbs to prevent breakage and the risk of them falling on the house.*

All the above works to be carried out at the expense of the Parks Unit.

I hope the works specified above meet with your approval, if you have any queries please contact me.

(Signed) Walter Fielding-Cotterell (Parks Arboriculturist)