

1 QUESTIONS WITH NOTICE - Deputy Mayor, Councillor Roy Maggio**File Number: CLM/15/1/4/10 - BP15/210**

Question 1:

Damage to a home due to growing tree roots is not known to be covered by any insurer. What liability does Ryde Council hold after refusing the removal of a tree which is responsible for structural damage to a house which results to the need for extensive repairs?

Answer 1:

Council's General Counsel has advised that Council may be generally protected under the provisions of the Civil Liability Act 2002, provided that when it made the relevant decision to refuse the removal of the tree it took into account a number of matters, including but not limited to:

- (a) The information at hand when Council made that decision;
- (b) The availability to Council of appropriate resources (both financial and technical) for it to make that decision;
- (c) Whether the decision was reasonable having regard to all the matters at hand; and
- (d) Council's compliance with its established procedures for the determination of tree removal applications.

Question 2:

What is the scope of Council liability where the removal of a tree has been refused and there is an unfortunate incident which results to injury to a passing pedestrian or car?

Answer 2:

Every case is considered on its own merits. However, if Council has taken into consideration, amongst other things, the elements raised in answer 1 above in making its decision to refuse the removal of the tree, it is reasonable to expect that Council may be protected as to any liability under the relevant provisions of the Civil Liability Act 2002.

QUESTIONS WITH NOTICE 1 (continued)Question 3:

How does the Urban Forest Policy support the safety of residents with sizeable trees on their property who have been refused tree removal to avoid potential danger? How does the resident meet safety hazard criteria which will result to the removal of the tree in question?

Answer 3:

Council's administration of the Tree Preservation DCP is undertaken by qualified arborists who undertake assessment in accordance with the industry best practise standards to determine if tree requires removal.

It needs to be understood that large trees in suburbia do not immediately equate to a significant danger. Trees, like all assets located on private property, require maintenance. Maintenance includes regular pruning and inspection and if undertaken can significantly reduce future hazards.

The pruning and maintenance of the tree is the responsibility of the owner.

Any resident can obtain and submit an independent arborist report to Council for consideration, if they believe that the tree is likely to present a potential danger.

Question 4:

While the 10/50 vegetation clearing code of practice reduces the impact of bush fires, other conditions such as torrential weather can also prove to have catastrophic effects on lives and homes. What safety measures are in place to afford a similar level of safety to residents affected by large trees in close proximity to their home?

Answer 4:

Council's Development Control Plan 9.5 – Tree Preservation, allows for trees located within 3 metres of a dwelling to be removed without application to Council, so long as:

- The Tree is not part of a Threatened Ecological Community; and/or
- The tree or property does not fall within a Heritage Conservation Area or is not a Heritage Listed Item.

Council also offers an urgent tree assessment process, if the resident believes that the tree poses imminent danger. This is a guaranteed 3 day turn around and in most cases, if the tree is found dangerous, permission is granted on the same day of application and urgent application fee refunded.

QUESTIONS WITH NOTICE 1 (continued)Question 5:

In light of recent discussions about the SRV to address the costs of maintaining or upgrading infrastructure, cost is a critical factor. How does Ryde Council substantiate the costs of trees including pruning by a qualified arborist, removing fallen branches and structural repairs to homes and other hidden/unexpected costs?

Answer 5:

Trees, like all assets located on private property, require maintenance. Maintenance includes regular pruning and inspection and if undertaken, can significantly reduce future issues. Like a dwelling that requires annual maintenance which comes at a cost, a healthy tree also requires maintenance pruning approximately every 5 years.

The maintenance cost of the tree is market driven. Residents are encouraged to obtain at least two quotes to ensure they are getting value for money.

For Council owned street and park trees, this is a resourcing issue, subject to a funding allocation.