



### OVERHANGING TREES AND VEGETATION

<b>Originated Date:</b>	Adopted March 2015 – Min. No. 79/15 (as Policy 76)
<b>Amended Date/s:</b>	Amended 20 February 2017 – Min. No. 49/17 Reviewed 4 March 2021 Amended 15 December 2025 – Min No. 25/377
<b>Applicable Legislation:</b>	<i>Local Government Act 1993</i> <i>Local Government (Highways) Act 1982</i> <i>Neighbourhood Disputes about Plants Act 2017</i>
<b>Objective</b>	To provide a fair and consistent approach to the reduction of potential nuisance caused by overhanging trees within the settlement areas of the Northern Midlands.
<b>Administration:</b>	Governance
<b>Review Cycle/Date:</b>	Next review 2029 or as required by legislation.

#### INTRODUCTION

The land between the boundary of a property and the carriageway of a road is variously referred to as the footpath, nature strip or road reserve. Depending on its location, this land can frequently be used by pedestrians, cyclists and horse riders. Each of these users has a reasonable expectation that they can use this area safely.

Vegetation extending beyond a property boundary into this area can create a potential hazard, or nuisance, for users.

Protruding vegetation may be considered as *causes, or likely to cause, danger or harm to the health, safety or welfare of the public* and thus constitute a nuisance according to the *Local Government Act 1993*.

#### DEFINITIONS

<i>Boundary</i>	refers to the property boundary as shown on the property title plan.
<i>Overhanging Trees</i>	for the purpose of this policy, “Overhanging Trees” refers to <b>any and all</b> vegetation, including but not limited to trees, shrubs, hedges and plants, which extends beyond the property boundary and into, over or under a footpath, nature strip, road reserve and/or highway.
Highway	is all that land encompassing the road and land abutting the road between the property boundaries on each side.

#### APPLICATION

This policy applies to all properties located within the municipality of the Northern Midlands.

#### OPERATION

##### 1 HEIGHT REQUIREMENTS

Property owners are expected to maintain their property boundaries such that Overhanging Trees are not problematic and do not cause a nuisance.

Overhanging Trees are to be:

- Cut back to the property boundary; and



- Provide a clear height above an area intended mainly for the use of pedestrians (i.e. constructed footpaths) of 2.5 metres; and
- Provide a clear height above an area designated as a horse trail of 3.0 metres; and
- Provide a clear height above the nature strip, on the carriage-way side of a constructed foot path of 4.5 metres.
- Provide a clear height above the roadway of 6 metres.

### 2 *INSPECTION*

Every residential street shall be inspected by Councils authorised officers twice per year.

In addition, Councils authorised officers will respond to, and inspect, all sites where an Overhanging Trees complaint or concern is brought to Councils attention.

### 3 *PROCESS*

#### *i Advertise:*

Council will place an advertisement in newspapers circulating in the municipality, twice per year reminding residents and property owners of the requirement to maintain their property boundaries. The advertisements will also to be shared on Council's Facebook page and website.

#### *ii Inspection:*

The authorised officers will conduct an inspection of all residential streets, twice yearly, as well as any properties brought to Council's attention outside of those times.

#### *iii Friendly Reminder Notice:*

Where, in the opinion of the authorised officer, there is an Overhanging Tree, a letter will be sent to the owner or occupier of the land requesting the Overhanging Tree to be removed within 14 days of the date of the letter.

#### *iv Review of decision:*

The owner or occupier of land who receives the Friendly Reminder Notice referred to in paragraph iii above, may apply to Council in writing, requesting the Council exercise its discretion not to require the removal of the Overhanging Tree based on:

- Heritage grounds; and/or
- Such action will result in the death of the Overhanging Tree.

An application will be considered by Council's General Manager and discussed between Councils authorised officers and the property owner. If a resolution cannot be reached between the parties, a report is to be presented to Council for a determination to be made.

#### *v Follow Up Inspection:*

The authorised officer will conduct a follow up inspection of all properties where a Friendly Reminder Notice was sent after the expiration of 14 days of the date of the letter.

#### *vi Abatement Notice:*

Where, in the opinion of the authorised officer, there is an Overhanging Tree, an Abatement Notice will be served upon the owner or occupier of the land requiring the nuisance to be abated within 14 days in accordance with section 200 *Local Government Act 1993*.

#### *vii Appeal or carry out work:*

The owner or occupier of the land must undertake works to abate the nuisance, or alternatively appeal to a Magistrate within 14 days of the service of the Abatement Notice and provides Council with notice in



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writing of the election to the Magistrates Court being made, in accordance with the provisions of the *Local Government Act 1993*.

viii *Nuisance not abated:*

If the owner or occupier does not abate the nuisance or lodge an appeal with the Magistrates Court within the prescribed 14 day period, Council will send a letter to the owner or occupier advising that Council will engage a contractor to carry out the works at the owner or occupier's expense.

ix *Send Contractor:*

Once the letter referred to in step (viii) is sent, the authorised officer will engage a contractor do anything reasonably necessary to remove the nuisance.

x *Charge to owner:*

All costs associated with the contractor, plus an administration fee, will be invoiced to the owner or occupier.

This cost will be incurred by the owner or occupier even if the owner or occupier abates the nuisance, but do so after the expiry of the prescribed period, but prior to the arrival of Councils contractor.

xi Failure to comply with an Abatement Notice may result in Council issuing an Infringement Notice(s) may be issued in accordance with s.204A of the *Local Government Act 1993*.

#### 4 Neighbourhood Dispute Regarding Plants

Council does not have the authority to intervene in disputes solely between private property owners regarding trees or vegetation that do not impact public land. Matters relating to overhanging branches, roots, or other vegetation encroaching from one private property to another are considered civil matters between the affected parties.

##### *Guidance for Residents:*

- Residents are encouraged to resolve such disputes amicably through direct communication with their neighbours.
- If a resolution cannot be reached, residents may seek independent legal advice or mediation services.
- For more information about residents rights and responsibilities, and the process for resolving neighbourhood tree disputes, visit:
  - TASCAT – Neighbourhood Disputes about Plants (<https://www.tascat.tas.gov.au/resource-and-planning/neighbourhood-disputes-about-plants>)
  - Department of Justice – Neighbourhood disputes about plant (<https://www.justice.tas.gov.au/justice-system/disputes/neighbourhood-disputes-about-plants>)