

## POLICY

<b>Policy name</b>	Tree Risk Management On Council Controlled Land
<b>Responsible manager(s)</b>	Director Infrastructure Services
<b>Contact officer(s)</b>	Divisional Manager Works
<b>Directorate</b>	Infrastructure Services
<b>Approval date</b>	10 September 2013

### Purpose

Eurobodalla Shire Council has a duty of care to take reasonable measures within budget limitations to manage the risks arising from trees on all land under Council's control.

This policy provides for the appropriate management of risks arising from:

- Tree failure potentially causing injury to people and/or property damage.
- Tree roots causing and/or likely to cause damage to property such as buildings and structures.

This policy does not address the risks posed by trees or other vegetation in terms of fire mitigation, protection of Council assets or safety on roadways (e.g. maintaining sight lines around corners, trees within clear zones). These issues are addressed separately (refer policy links).

Section 42 of the *Civil Liability Act 2002* makes allowance for Council's ability to carry out its duty of care as being limited by the financial and other resources which are reasonably available to exercise its functions. To rely on this defence Council is required to show evidence of its compliance with the general procedures and applicable standards for the exercise of its functions, such as risk management from trees on public land controlled by Council.

The risk management of trees on public land is often a difficult and emotive issue and one that requires a balance between managing the risks to the community's safety and infrastructure, whilst acknowledging the significant benefit of trees within the landscape to the social, environmental, economic and cultural wellbeing of our community. Council must also manage this issue within its limited financial resources in such a way as to limit Council's, i.e. the community's, potential liability and provide equity between people seeking action to address their concerns about trees.

The policy aims to:

- Promote an integrated framework for dealing with the appropriate management of risks from trees on land under the control of Council and take reasonable steps to ensure that Council delivers its required duty of care.
- Ensure consistency and fairness in the manner in which the Council manages the risks arising from trees within public land controlled by Council.
- Ensure compliance with legislative requirements under the *Local Government Act 1993*, *Roads Act 1993* and the *Civil Liability Act 2002*.
- Take such steps as are appropriate to ensure a balance between managing the risks to the community's safety and infrastructure, whilst acknowledging the significant benefit of trees within the landscape to the social, environmental, economic and cultural wellbeing of our community.
- Make the Council's policies and requirements for Tree Risk Management on Council controlled land readily accessible and understandable to the public.

## Policy statement

<b>1</b>	<p><b>Application</b></p> <p>This policy applies to all lands under Council's control including road reserves, public reserves, freehold land and Crown reserves under Council's care and control.</p>
<b>2</b>	<p><b>Legislation</b></p> <p>Eurobodalla Shire Council will comply with <a href="#">the Local Government Act 1993</a>, <a href="#">Roads Act 1993</a> and <a href="#">Civil Liability Act 2002</a></p>
<b>3</b>	<p><b>Duty of Care</b></p> <p>It is accepted that the removal of all risk is not practicably achievable. The systems implemented by Council will be based on prioritising works within the limited budgets available to Council.</p> <p>The implementation of a systematic approach to managing the risk arising from trees on land under Council's control provides for better management of trees, reduces the risk to the community, minimises the cost of public liability insurance premiums Council pays to protect the community's interest and assists in providing a legal defence where claims are made against Council.</p> <p>It is acknowledged that it is not reasonably practicable for Council to inspect all trees on land under Council's control. Council will use this policy in response to concerns raised by the public.</p>
<b>4</b>	<p><b>Financial and other Resources</b></p> <p>Council will establish an annual budget for managing the risk from trees on public lands under Council's control.</p> <p>Council will prioritise work and:</p> <ol style="list-style-type: none"> <li>a) provide sufficient funding to address identified trees with a risk rating as having a high to very high risk under Council's Code of Practice;</li> <li>b) give private landowners the option of funding works on trees on Council controlled land where trees are rated as a moderate risk under Council's Code of Practice;</li> <li>c) aim to protect trees rated as a low risk under Council's Code of Practice.</li> </ol>

## Implementation

Requirements	Responsibility
<p><b>1 Code of Practice</b></p> <p>This policy will be implemented by following Council's Tree Risk Management on Council Controlled Land Code of Practice</p>	Council Officers
<p><b>2 Risk Management</b></p> <p>This Policy and the Code of Practice has been developed taking account of the principles of AS/NZ ISO 31000-2009 Risk Management Standard and Statewide Mutual's Best Practice Manual, Trees and Tree Roots Version 5 with a view to limiting Council's, i.e. the community's, exposure to potential litigation claims.</p> <p>Council resources do not permit inspection and risk rating of trees on a pro-active basis due the number of trees within the Shire. Council will respond to concerns raised by customers in a systematic way in accord</p>	Council Officers

	<p>with the Tree Risk Management Code of Practice.</p> <p>The Code of Practice includes:</p> <ul style="list-style-type: none"> <li>a) The methodology for rating the risk from each tree.</li> <li>b) The methodology for determining if works are required.</li> <li>c) The methodology for determining how works are to be prioritised.</li> <li>d) Details of customer service requirements.</li> <li>e) A system for recording all actions relating to inquiries on tree matters.</li> <li>f) As a general principle, priority to be given to public safety over other factors such as environmental and heritage issues.</li> <li>g) Council will not remove trees solely for the retention or provision of solar access to, or views from, dwellings.</li> <li>h) Council will not be obliged to treat termite infestations in trees within land under Council's control.</li> </ul>	
<b>3</b>	<p><b>Staff</b></p> <p>Under supervision, applicable Council staff will be responsible for ensuring that policies are implemented appropriately within their work area, after they have received relevant training to do so.</p>	Council Officers
<b>4</b>	<p><b>Concerns</b></p> <p>Concerns received regarding this policy will be recorded on Council's customer service request (CSR) or records system and handled in accordance with Council's Customer Service Policy. They will be used to analyse the history of concerns and requests and to help determine follow up actions.</p>	Council Officers
<b>5</b>	<p><b>Complaints</b></p> <p>Complaints received regarding this policy will be lodged with the Public Officer and handled in accordance with council's Complaints Policy.</p>	Public Officer
<b>6</b>	<p><b>Consultation</b></p> <p>Consultation regarding this policy will occur as relevant with key stakeholders and may include legislative bodies, other agencies, relevant legislation, industry guidelines, and public comment. Public submissions regarding this policy are invited for consideration during the policy exhibition period.</p>	As required

## Review

The policy will be automatically revoked at the expiration of twelve months after the declaration of the poll for the next general NSW local government election, unless Council revokes it sooner. **Note:** *Automatic revocation of the policy is provided for by section 165(4) of the Local Government Act 1993. The next general local government election is expected to be held in September 2016.*

This policy may also be reviewed and updated as necessary if legislation requires it; or when Council's functions, structure or activities change; or when technological advances or new systems change the way that council manages tree risk management on Council controlled land.

Reviews of the effectiveness of this policy could include the following:

Performance indicator	Data source(s)
Customer Concerns or Customer Feedback Survey Responses	Council records
Claims for damage from Trees	Council records
Internal or external audit	Audit

## Governance

This policy should be read in conjunction with any related legislation, codes of practice, relevant internal policies, and guidelines.

### Related legislation and policies

Name	Link
Code of Practice	<a href="http://www.esc.nsw.gov.au">www.esc.nsw.gov.au</a>
Local Government Act 1993	<a href="http://www.austlii.edu.au/au/legis/nsw/consol_act/lga1993182">www.austlii.edu.au/au/legis/nsw/consol_act/lga1993182</a>
Roads Act 1993	<a href="http://www.austlii.edu.au/au/legis/nsw/consol_act/ra199373">www.austlii.edu.au/au/legis/nsw/consol_act/ra199373</a>
Civil Liability Act 2002	<a href="http://www.austlii.edu.au/au/legis/nsw/consol_act/cla2002161">www.austlii.edu.au/au/legis/nsw/consol_act/cla2002161</a>

### Related external references

Name	Link
Division of Local Government	<a href="http://www.dlg.nsw.gov.au">www.dlg.nsw.gov.au</a>

### Supporting documents

Name	Link
AS/NZ ISO 31000-2009 Risk Management Standard	Available for purchase from SAI Global
Statewide Mutual's Best Practice Manual, Trees and Tree Roots Version 5	<a href="http://www.statewide.nsw.gov.au">www.statewide.nsw.gov.au</a>

### Change history

Version	Approval date	Approved by	Min No	File No	Change
1	2006	Council	06/136	06.	Policy commenced
2	22 Sep 2009	Council	09/291	E09.3418	Policy reviewed and adopted.
2	10 Sep 2013	Council	13/279	E13.7095	Reviewed and updated.

### Internal use

Responsible officer	Director Infrastructure Services		Approved by	Council
Minute	13/279	Report no	O13/63	Effective date
File No	E13.7095	Review date	Sep 2016	Pages
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