

Policy title	Tree Risk Management on Council Controlled Land
Responsible manager(s)	Director, Infrastructure Services
Contact officer(s)	Divisional Manager, Works
Directorate	Infrastructure Services
Approval date	22 November 2022
Outcome area	2. Our community that welcomes, celebrates and supports everyone 4. Our connected community through reliable and safe infrastructure networks
Strategy	2.2 Encourage community spirit and enable healthy lifestyles 4.1 Provide integrated and active transport networks to enable a connected and accessible Eurobodalla
Delivery Program	2.2.3 Plan for, and deliver safe and accessible recreation opportunities guided by the Recreation and Open Space Strategy and asset management plan 4.1.3 Provide a safe and reliable local rural and urban roads, guided by asset management plan
Operational Plan	4.1.3.1 Maintain the local rural and urban road network 2.2.3.1 Provide, maintain and renew recreation facilities

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 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 (eg maintaining sight lines around corners, trees within clear zones). These issues are addressed separately in the *Bush Fire Risk Management* and *Vegetation Clearing – Roadsides & Infrastructure Lines* policies.

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 (ie the community's), potential liability and provide equity between people seeking action to address their concerns about trees.

Policy aims

- Promote an integrated framework for dealing with the 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*, the *Civil Liability Act 2002* and the *Privacy & Personal Information Protection Act 1998*.
- 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 details

1	<p>Application</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>
2	<p>Legislation</p> <p>Eurobodalla Shire Council will comply with the Local Government Act 1993, Roads Act 1993, Civil Liability Act 2002 and Privacy & Personal Information Protection Act 1998</p>
3	<p>Duty of Care</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 system to manage 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>
4	<p>Financial and other Resources</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"> provide sufficient funding to address identified trees with a risk rating as having a high risk under Council's Code of Practice; 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; aim to protect trees rated as a low risk under Council's Code of Practice.

Implementation

Requirements		Responsibility
1	<p>Code of Practice</p> <p>This Policy will be implemented by following Council’s <i>Tree Risk Management on Council Controlled Land Code of Practice</i>, which specifies in detail the matters for consideration and procedures to be followed.</p>	Council officers
2	<p>Risk Management</p> <p>This Policy and the Code of Practice have been developed taking account of the principles of AS/NZ ISO 31000-2018 Risk Management Standard and Statewide Mutual’s Best Practice Manual, <i>Trees and Tree Roots Version 8</i> with a view to limiting Council’s (ie the community’s), exposure to potential litigation claims.</p> <p>Council resources do not permit inspection and risk rating of trees on a proactive basis due the number of trees within the Shire. Council will respond to concerns raised by customers in a systematic way in accordance with the Tree Risk Management Code of Practice.</p> <p>The Code of Practice includes:</p> <ul style="list-style-type: none"> a) The methodology for rating the risk from each tree. b) The methodology for determining if works are required. c) The methodology for determining how works are to be prioritised. d) Details of customer service requirements. e) A system for recording all actions relating to inquiries on tree matters. f) As a general principle, priority to be given to public safety over other factors such as environmental and heritage issues. g) Council will not remove trees solely for the retention or provision of solar access to, or views from, dwellings. h) Council will not be obliged to treat termite infestations in trees within land under Council’s control. 	Council officers
3	<p>Staff</p> <p>Under supervision, and once appropriate training has been received, relevant Council staff will be responsible for ensuring that this Policy is implemented within their work area.</p>	Council officers
4	<p>Concerns</p> <p>Public concerns communicated to Council in relation to this Policy will be recorded on Council’s records system and handled in accordance with Council’s Customer Service or Complaints Policy. These records will be used to determine any follow-up actions and analyse the history of reported public concerns.</p>	Council officers
5	<p>Consultation</p> <p>Any consultation deemed necessary will occur as required with key stakeholders, which may include (but not be limited to) the community, other agencies, statutory and industry bodies. Public submissions regarding this Policy are invited for consideration during the exhibition period.</p>	As applicable

Review

This policy will be reviewed every 4 years. It may also be reviewed and updated as necessary if legislation requires it; or when Council's related policies, 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.

The policy may be revoked by Council at the expiration of twelve months after the declaration of the poll for the next general NSW local government election, unless Council updates or revokes it sooner.

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
Eurobodalla Shire Council <i>Bush Fire Risk Management Policy</i>	Bush Fire Risk Management Policy
Eurobodalla Shire Council <i>Vegetation Clearing – Roadside & Infrastructure Lines Policy</i>	Vegetation Clearing - Roadside & Infrastructure Lines Policy
Eurobodalla Shire Council <i>Tree Preservation Code</i>	Tree Preservation Code
<i>Local Government Act 1993</i>	Local Government Act 1993
<i>Roads Act 1993</i>	Roads Act 1993
<i>Civil Liability Act 2002</i>	Civil Liability Act 2002
<i>Privacy & Personal Information Protection Act 1998</i>	Privacy & Personal Information Protection Act 1998

Related external references

Name	Link
Office of Local Government	www.olg.nsw.gov.au

Supporting documents

Name	Link
AS/NZ ISO 31000-2018 Risk Management Standard	ISO 31000:2018(en), Risk management — Guidelines

Statewide Mutual's Best Practice Manual, Trees and Tree Roots Version 8	www.statewide.nsw.gov.au
---	--

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.
3	10 Sep 2013	Council	13/279	E13.7095	Reviewed and updated.
4	27 Jun 2017	Council	17/214	E16.0297 E06.0375	Reviewed and updated (start of new Council term) Report GMR17/021
5	22 November 2022	Council	22/313	S004-T00060	Reviewed and updated (start of new Council term) Report

Internal use

Responsible officer		Director, Infrastructure Services		Approved by	Council
Minute	TBA	Report	GMR22/111	Effective date	22 November 2022
File	S004-T00060	Review date	Sep 2022	Pages	5