2 Disputes between neighbours

Council’s role in disputes between neighbours concerning privately owned trees is currently limited to the Development Application stage of the construction process. Public information to this effect can be found on Council’s website (www.waverley.nsw.gov.au) under the heading ‘Neighbours’ Trees’.

Recent court cases have found that branches of a tree that cross neighbourhood boundaries can be legally pruned, as long as consent has been granted under the Tree Preservation Order, the health of the tree is not compromised and work is in accordance with Australian Standards and OH&S provisions. However, all branches, fruit and leaves from that tree continue to be the property of the owner and must be returned to them.

A similar situation applies to pruning roots of neighbouring trees. However, it is recommended that root mapping is undertaken to prove that the roots in question are the cause of the problem, as opposed to reactive soils or some other impact. If the tree owner refuses to give approval for root pruning the applicant may consider civil action through the courts.

Disputes may also arise between neighbours over inappropriate tree planting. Sometimes trees are planted with good intentions but the wrong species could cause potential problems for neighbouring properties by blocking views/solar access or damaging sewer lines, fences and other structures. Presently, Council can intervene at the Development Application stage by ensuring compliance with approved landscape plans. These plans should reference the Council’s recommended species list included in Volume two of this tree management plan.

There is very little information available for the general public on suitable trees and shrubs for the local area. Community education in the form of the recommended tree species list can be made available as a brochure and listed on Council’s website. This list can also highlight current problem trees such as Robinias and Cypress hedges and suggest more suitable species as alternatives.

3 Private fruit trees

As part of promoting Ecologically Sustainable Development in Waverley it has been suggested that fruit trees such as citrus and pecan be planted on private land, particularly along pedestrian routes and GreenLink laneways. However, this should be weighed against their potential for fruit drop, capacity to attract predators of small native birds and associated liability claims.

4 Impact of private trees on remnant vegetation

As discussed in the previous chapter, very little remnant vegetation remains in Waverley. Private trees planted next to remnant vegetation can have a negative impact that should be considered when evaluating proposals to plant certain species on private property. Environmental weeds are an obvious example.

5 Trees on strata or company title properties

In the case of trees within strata or company title properties, the applicant must ensure that the authorising agent and/or owner have endorsed the application by providing the body corporate or company seal (for strata and company title respectively). The body corporate is to notify Council and neighbours more than one week in advance of work being performed, where practical.