

9 January 2018

Dear Resident

Re: Castle Drive Fig Tree

I refer to your email regarding the fig tree in Castle Drive and it is important that you understand the background and context of the decision made by Council.

The decision to remove the tree was made in response to the ongoing damage to adjoining properties, along with the insurance risk to the public, rather than any concerns about the health of the tree.

Point one of the resolution of Council made on 23 November 2017 highlighted part of the reasoning behind this decision in that Council no longer has public liability insurance coverage in respect to any adjoining property damage arising from the tree.

A copy of point one of that resolution is as follows:

1. *That based on the advice from Council's Insurer that the Council and the community will not have any insurance coverage in respect to future property damage claims arising from the Fig Tree located in Castle Drive, Lennox Head, Council accepts there is no reasonable alternative but to authorise the General Manager to remove Fig Tree and replace it with a suitable mature native species.*

The above resolution was passed by the elected Council at the 23 November 2017 Ordinary meeting based on a number of reports that have been submitted to Council over the last 12 months, outlining the property damage being caused by the tree, along with examining options to retain it.

Furthermore, Council's technical officers have been involved in the management of this tree for many years and independent tree assessment reports by AQF level 5 arborists have been undertaken and the Council staff managing this review process and the care and maintenance of the tree, also hold this qualification.

In respect of the property damage, building inspections by suitably qualified persons have confirmed there is enough evidence in respect of the tree causing damage to the properties for our insurer to accept the liability for the damage caused. Structural engineering reports have also been undertaken prior to our insurer accepting liability for existing claims and also then confirming with Council they will no longer accept further claims for property damage.

Many suggestions have been submitted to Council including:

1. *Leave the tree alone, but have it professionally maintained.*

The tree has been maintained, to the extent possible, by Council's professionally qualified staff. Unfortunately this option does not address the need to ensure it does not continue to be the cause of damage to a private property or expose Council to the significant costs of ongoing repairs and compensation without insurance cover. Therefore this is not a valid option.

2. *Build a structurally engineered retaining wall to suppress root elongation in the direction of number 7 and 9 Castle Drive.*

Our investigations have identified the construction of a barrier undertaken on Council land would result in an incursion into the structural root zone and tree protection zone. In the opinion of Council's technical officers, this will result in an elevation of the risks associated with the tree and severely impact on its health. This then also increases the risk of the tree failing and our insurer has advised that they are unlikely to insure Council for any public liability claim that originates in personal or property damage arising from any works of this nature on the tree. This also means that this option is problematic for Council in that essentially we have no public liability insurance coverage.

3. *Buy back number 7 and 9 Castle Drive, relocate/remove the houses and return the area to parkland.*

4.

One of these properties has a recent documented sale price of \$830,000 meaning that the cost to buy these properties, if the owners were willing to sell, would be in the vicinity of \$1.6 million. Council does not have funding of this magnitude available for such a purchase

5. *Move the Fig across the road to the adjacent vacant land.*

We have conducted preliminary investigations into this option and the estimate for this relocation is possibly around the \$100,000 plus figure, with there being no guarantee the tree will survive such a relocation.

In conclusion the Council has not made this decision lightly and it is important to acknowledge that no one wants to see this tree removed. Unfortunately, despite a long period of review, we have not been able to identify a technically feasible solution that will achieve the required risk mitigation.

I trust the above information assists you to understand our position in this matter.

Yours faithfully



David Wright  
Mayor