
From: [REDACTED]
Sent: Thursday, 23 August 2012 7:48 PM
To: EHPP Landscapes & Ecosystems Section Mailbox
Subject: Submission re Review

From Richard Fisher

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23 August 2012

Dear Sir/Madam,

I am aware that the Review is centred on regulating the agricultural sector, nevertheless I submit the following relating to urban areas.

Need for landlords to have greater powers bestowed by the Act

Over the last couple of decades the value of trees has been pretty well drummed into the community, and that's good. But the pendulum has swung too far. Currently the power to approve lopping or removal of trees is vested in local councils. It's reasonable to claim that the staff at [REDACTED] Council are encumbered with a doctrine of "keep the status quo, don't allow any action if anybody might complain about it", and anecdotal evidence is that such is the norm in other shires too. There is also confusion about who makes the rules, I approached one councillor about potentially dangerous trees and was told that Council's hands were tied, it was to do with the Native Vegetation Act, I should make a submission to the review.

I may be wrong, but my reading of available information leads me to believe that it's not the Act that is overly restrictive, it's [REDACTED] Council's Tree Preservation Policy. Which leads me to submit that the Act or its regulations should include greater 'automatic' permission to manage inappropriate trees than it currently does, local governments can't be relied upon.

As well, in [REDACTED] residents can't find out whether they are allowed to attend to a tree (otherwise than an exempt species) without lodging a development

application together with the prescribed fee of about \$80. With a community sentiment of "Don't bother trying, they won't let you, you'll just be wasting your money", few are willing to risk asking.

Failure to amend regulations to override local government excessive restrictions, and enshrine the right of landlords:

- To manage trees, so that the right amount of tree growth is easily obtainable;
- To mitigate danger presented by trees, either through falling timber or bushfire; and
- To exploit solar energy initiatives;

would be a sad failing by today's Government. The reasons follow.

Trees that outgrow appropriate size limits

In the past, people in a new suburb would plant hardy quick growing trees, and plan to remove them as smaller, more suitable trees grew to an adequate size. The planned removal was because the hardy quick growing trees were often of a species that grew to a height greater than the width of the block, or which were not suitable as garden enhancements when they grew old and straggling.

Because local councils had taken tree preservation initiatives to the extreme, people are hesitant to plant trees in new developments. Thus the current rules are working against the goal - which must be, to have the right number of the right trees in settled areas.

Trees that are a potential danger

We are obliged 'to protect our fellows through prudent conduct', and community mores impose a higher expectation in the case of protecting children.

Regulations compell us:

- To fence swimming pools in the name of safety;
- To provide young children travelling in motor vehicles to be in safety capsules, and to have older children (and adults) wear seatbelts; and
- To prevent animals that are recognised as potentially dangerous from roaming unrestrained in public places.

Such impositions are not unwelcome among responsible adults.

How inappropriate is it then, that regulations also deny responsible adults the right to keep people inside a dwelling safe from the impact of falling timber?

We have heard all sorts of spin in the past about 'Of course you can remove the danger if you get an accredited arborist to certify that the tree is dangerous.' Only if they can find enough ill health in the tree to guarantee that it might topple onto or drop a limb onto a dwelling in the near future will they submit a report recommending removal.

The 'arborist' process is fundamentally and dangerously flawed. A quite healthy gum tree can shed a limb without warning, an arborist cannot predict whether that will occur. Some trees are shallow rooted, and despite being quite healthy they blow down in the wind. An arborist cannot predict whether that will occur. Yet parents are being coerced into living with these dangers hanging over them.

These rules seem to pay no heed to the undeniable fact that given time, each and every tree will fall. The only variable is 'when'. There is only one way to ensure that all or part of a tree does not fall onto an adjacent building, and that is to keep the tree to a size so that it can't.

Regulations should include overriding provisions to permit a landlord to take remedial treatment with any tree that can strike a building if all or part of it falls, without the need for a development application and fee. A ten metre high tree six metres from a dwelling should be either removed or lopped to less than six metres.

Large trees are inappropriate for built up areas

We now live in an urban type area, and can't accept that it's appropriate to have the number and size of trees around us. When the neighbour here with the most trees was extending a dwelling, they sought council permission to remove most of ten mature casuarinas, they're over 15 metres high. They had been there since the days when landowners cut down trees that were no longer suitable. The neighbours were allowed to remove the two trees closest to the dwelling, that's all. They have five left within eight metres of the dwelling. Every couple of years, a big one in this neighbourhood falls over, they only root to about half a metre in the shale soil here. But they're healthy, so no-one can do anything about them. It might be legally correct, but it's just plain wrong. The spotted gums and stringybarks also have shallow root balls, we know that because they also regularly blow over.

It's worth repeating here that we are all expected 'to protect our fellows through prudent conduct', that obligation applies to the people who make the rules as well.

Regulations should prescribe 'exempt trees' for 'certain circumstances', for example, spotted gums and casuarinas for blocks of less than 2000 square metres. That would not resolve a case of a nuisance or dangerous tree that a neighbour wanted to keep, but the threat of civil action, without the defence of 'I'm not allowed to cut it down' might help.

Bushfire threat

It seems that we have learned nothing from King Lake. I live in a village overwhelmed by euclaypts and casuarinas, both species 'explode' in a bushfire. I previously lived on a well treed rural block in this shire and was obliged to keep around the dwelling a 40 metre buffer zone clear of trees. The village where I now live does have fire hydrants, but speaking as one who knows the ferocity of a fire on one of those awful, gale-force wind, dry air days, if a fire is coming on such a day I'll head for the surf.

One neighbour here was denied a development application to build a wooden deck, on the grounds that we live in a bushfire zone. This after he was knocked back when he wanted to remove a gum tree that ensures the north face of his roof is in permanent shade for nine months each year.

Access to sunlight

A landowner should have an automatic right to sunlight to meet the goals of government initiatives aimed at optimising solar energy. Currently many of the houses in this region don't have a roof area suitable for solar panels, because of trees. Those who have asked have been told that no special provisions apply in the case of solar access.

Regulations should prescribe that landowners may take any action necessary to prevent a tree from excessively shading a dwelling. What 'excessively' means would need to be prescribed as well.

Yours faithfully,

Richard Fisher