

Tree Preservation Order Policy

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Tree Preservation Order and Policy

This order is made by the City of Canada Bay under authority conferred by the *Environmental Planning and Assessment Act 1979* and pursuant to Clause 8 of the *Environmental Planning and Assessment Model Provisions 1980*, which is adopted by the environmental planning instruments in the City of Canada Bay.

This order was made by the City of Canada Bay Council on 31st January 2006.

1. That Council adopt the amended Tree Preservation Order.
2. THAT all remaining statutory steps be taken to enact the documents.
3. THAT the duplicated wording, shown in Clause 3(b) of the Tree Preservation Order for the Poplar and Willow species, be removed.
4. THAT the General Manager provide a report to Council, including the proposed standard conditions of consent, to give effect to the following concept:

As part of the Development Application process, Council has an expectation that where the following tree species

<i>Alnus jorullensis</i>	Evergreen Alder
<i>Bambusa spp</i>	Bamboo
<i>Celtris occidentalis</i>	Sugarberry
<i>Erythrina x sykesii</i>	Indian Coral
<i>Erythrina crista-galli</i>	Coral Tree
<i>Ficus elastica</i>	Rubber Tree
<i>Ligustrum spp</i>	Privet
<i>Nerium oleander</i>	Oleander
<i>Olea Africana</i>	African olive
<i>Populus spp</i>	Poplar
<i>Salix spp</i>	Willow
<i>Schefflera spp</i>	Umbrella Trees
<i>Syagrus romanzoffianum</i>	Queen / Cocos Palm
<i>Toxicodendron spp</i>	Rhus Tree
<i>Cinnamomum camphora</i>	Camphor Laurel
<i>Liquidamber styraciflua</i>	Liquidambar

or a tree species that is a declared noxious weed in the local government area of the City of Canada Bay under the Noxious Weed Act 1993

are on the land to which the Development Application relates or are on adjacent public land under the control of Council, the Development Consent, if given, would include a condition that each of the abovementioned tree species, where present, be replaced with at least a 25 litre indigenous tree species, Australian native tree species and/or a tree species satisfactory

1 Aim of the Order

The aim of the Tree Preservation Order is to conserve and enhance the tree scape and environmental amenity of the City of Canada Bay.

2 The Order

This Tree Preservation Order applies throughout the local government area of the City of Canada Bay.

By this order, the Council prohibits the ring barking, cutting down, lopping, removing, injuring or wilful destruction of any tree, or any part of the tree, if:

- (a) The tree has a height of, or greater than, four (4) metres;
- (b) The tree has a trunk girth of, or greater than, 500mm at any point; or
- (c) The tree is a cycad or mangrove, irrespective of its dimensions, except with the express written consent of the Council.

3 Exemptions

A person will be exempt from the prohibition with respect to particular tree works if the person establishes that:

- (a) The tree was dead or that the works were limited to the removal of dead branches;
- (b) The tree was one of the following exempt species (provided the tree is not listed as a Heritage Item in an environmental planning instrument – in which case the prohibition applies);

<i>Alnus jorullensis</i>	Evergreen Alder
<i>Bambusa spp</i>	Bamboo
<i>Celtris occidentalis</i>	Sugarberry
<i>Erythrina x sykesii</i>	Indian Coral
<i>Erythrina crista-galli</i>	Coral Tree
<i>Ficus elastica</i>	Rubber Tree
<i>Ligustrum spp</i>	Privet
<i>Nerium oleander</i>	Oleander
<i>Olea Africana</i>	African olive
<i>Populus spp</i>	Poplar
<i>Salix spp</i>	Willow
<i>Schefflera spp</i>	Umbrella Trees
<i>Syagrus romanzoffianum</i>	Queen / Cocos Palm
<i>Toxicodendron spp</i>	Rhus Tree

Cinnamomum camphora (Camphor Laurel) or *Liquidamber styraciflua* (Liquidambar) where the outside edge of the trunk of such tree is located within 3 metres of any single storey dwelling (not being an out building eg. Garage, carport, shed, etc).

A fruit tree grown for the purposes of fruit or fodder production except *Acmena spp* (Lilly Pilly), *Syzygium spp* (Lilly Pilly) or *Elaeocarpus spp* (Blueberry Ash).

- (c) The tree is a declared noxious weed in the local government area of the City of Canada Bay under the Noxious Weed Act 1993.

- (d) The tree works were limited to the maintenance of a minimum clearance of five hundred (500) millimetres from domestic service leads as specified by Energy Australia, provided that the works were carried out by a qualified or experienced Arborist or Tree surgeon, in accordance with the Australian Standards for the Pruning of Amenity Trees AS 4373-1996.

4 The prohibition does not apply to with respect to the following works

- a) Emergency Works- any works carried out by Council, the State Emergency Services, the Rural Fire Service of NSW, or a public authority in response to an emergency;
- b) Works carried out by State and Federal Government departments or Authorities under current legislative requirements;
- c) Tree works carried out by Council or its agents on land owned or under the care and control of Council, provided that assessment of the tree work has been carried out in accordance with the City of Canada Bay Council Tree Preservation Order Policy;

5 Definitions

- “Council” means the City of Canada Bay Council or any officer or delegated authority authorised to act on behalf of Council.
- “Injuring” includes the administration to any part of a tree of any chemical or compound or substance which has the potential to harm the tree, irrespective of whether it actually harms the tree; “injuring” also includes altering the ground level in the near vicinity of the tree; “injuring” also includes changing the level of the water table so as to adversely affect the tree.
- “Removal” and “Cutting down” means the cutting down of a tree so that the tree, including its branches, foliage, trunk, stump and root system will not regrow. This includes the poisoning of the stump and/or roots and/or removal or grinding out of its remains to prevent regrowth. “Transplanting” is “Removal” when a tree is relocated from one property to another.
- “Tree” means a perennial plant with at least one self-supporting woody or fibrous stem.

6 Penalties

Penalties are in accordance with the Environmental Planning and Assessment Act.

Tree Preservation Order (TPO) - Guide to Procedure (Policy)

Nothing in this document should be taken to provide consent for the purposes of the Council's Tree Preservation Order or to alter the terms of the Tree Preservation Order. To the extent that there is any inconsistency between this document and the Tree Preservation Order, the Tree Preservation Order prevails.

1 Guide to Procedure - Aim

The aim of the Tree Preservation Order Guide is to conserve and enhance the treescape and environmental amenity of the City of Canada Bay by:

- Providing a guide to the regulatory framework for the preservation of trees.
- Helping in establishing a coordinated approach to the assessment and management of trees.

2 Procedural Guidelines

2.1 Procedural Guidelines

2.1.1 Filling out a Tree Preservation Order Permit Application Form

- All requests to prune or remove trees protected under the Tree Preservation Order are to be submitted on a Tree Preservation Order Permit Application Form available from Council for this purpose.
- The owner, or the delegated agent of the property, on which the tree(s) are growing must sign the Tree Preservation Order Permit Application Form.
- In the case of Strata or Company Title property, the Secretary of the Body Corporate or the Managing Agent must sign the Tree Preservation Order Permit Application Form. Council cannot process an application form where the application is NOT signed by the owner/agent as specified above, under provisions of the Environmental Planning & Assessment Act. The appropriate processing fee as determined by Council must accompany the Tree Preservation Order Permit Application Form.

2.1.2 Submission of a Tree Preservation Order Permit Application Form

- Upon submission of Tree Preservation Order Permit Application Form, Council's Customer Service Officers will ensure the Tree Preservation Order Permit Application Form is correctly filled out and contains all necessary information required to allow lodgement and if the tree is registered on Council's Significant Tree register. The use of the Tree preservation Order checklist will be used for this purpose.
- Trees listed under Council's Significant Tree Register will require a detailed arborists report, meeting Council's guideline's for the preparation of an arborists report, upon lodgement of Tree Preservation Order Permit Application Form.
- The Tree Preservation Order Permit Application Form is to be scanned into Council's File Management System and allocated to Council's Tree Management Section for processing.
- Council's Tree Management Section will check the Tree Preservation Order Permit Application Form if there is any current or past (within three years) approved or refused Development Application and/or any Land & Environment Court action affecting the trees. (Delays in processing may occur if the above applies to the application form).

2.1.3 Inspection procedures

- It is not essential that the owner be present unless access is required for the inspection. An appointment can however be made for a mutually convenient time, if required. This may cause a delay in processing the application.
- Where an appointment is not required for inspection of the identified tree(s) an inspection will be carried out, in most cases, within twenty (20) working days;
- Where an appointment is required for inspection of the identified tree/s an inspection may take up to forty (40) working days;
- Where the tree(s) are or have been affected by a current or past Development Application and/or any Land & Environment Court action an inspection may take up to sixty (60) working days.
- After inspection of the tree(s) a Tree Preservation Order Permit, where applicable, will be issued within seven (7) working days.
- Permits are issued subject to specific conditions of consent as appropriate to the particular circumstance.
- Permits are valid for a period of one (1) year from the date of issue

2.2 Criteria for assessment of trees

The Tree Management Officer will determine if the work you wish to undertake is appropriate. You should note that it is the intention of the Tree Preservation Order to preserve trees and the circumstances for removal would need to be significant. Dropping of leaves, flowers, fruit or twigs will not generally justify removal, nor will issues such as the cracking of pipes, driveways, footpaths, paving or fences.

Council may issue a permit for the removal of tree(s) if the following criteria are met:

- The tree is a poor specimen and is in decline and or inappropriate for the location;
- The tree has caused significant structural damage and supporting documentation is provided i.e. structural engineer's report;
- It can be demonstrated that there is an on-going problem with the tree and no other course of action will rectify the problem.

Council may issue a permit for the pruning of tree(s) if the following criteria are met:

- The tree(s) have structural defects and or disease and remedial pruning (to AS 4373-1996), will improve the health of the tree;
- The tree(s) require crown thinning (no reduction in height permitted) to reduce weight within the tree if the tree is overhanging property or for other areas deemed appropriate i.e. access issues etc. A percentage no greater than 15% is generally issued.
- Selective root pruning where necessary to reduce impacts on buildings, underground infrastructure or other structures where such pruning is deemed not detrimental to the health or stability of the tree.

In some circumstances it may be necessary for you to supply, at your cost, an independent arborist, structural, plumbers and or pest report. A comprehensive report must meet the criteria as outlined in Council's Guidelines for the Preparation of Reports available from Council.

The Tree Management Officer will determine if such reports are necessary and such circumstances may include those where there is the possibility that the tree has been deliberately tampered with or extra supporting information is needed.

2.3 Notice of Consent

- A qualified arborist should carry out all tree work approved for pruning/removal or root pruning. In regards to pruning, all work should be carried out in accordance with Australian Standard AS 4373-1996 'Pruning of Amenity Trees'.
- It is recommended that any approved pruning/removal work be carried out in accordance with WorkCover's Code of Practice - 'Amenity Tree Industry'.
- In most cases replacement planting of a tree(s), required container size twenty-five (25) litres of a species nominated by Council, must be undertaken prior to removal of the nominated tree(s) before a Tree Preservation Order Permit has been issued. In cases where removal may damage the replacement tree, then approval may be granted to undertake replacement planting upon removal of the tree(s). In these cases replacement planting must be undertaken within twenty-one (21) days of the removal of the tree(s) where a Tree Preservation Order Permit has been issued. Pruning applications do not require replacement planting. Failure to comply with replacement planting will be deemed as a breach of the Tree Preservation Order.

3 Appeal Process

- Where Council's Tree Management Officer has not granted approval for works requested by the applicant, the decision can be appealed.
- The owner must lodge an appeal in writing, stating the reasons for reconsideration and include any additional information relevant to the matter.
- This appeal must be lodged within one (1) year from the date of the first assessment and must contain additional information not present in the first application.
- A Tree Management Officer not involved in the first assessment and/or Council's Manager of Parks & Gardens will undertake the assessment.
- If the appeal is refused, the owner can reappeal in writing through to Council.

4 Neighbouring Properties

- A common situation in an urban area is where tree branches or encroaching roots enter a neighbouring property from an adjoining property. If the neighbour requires overhanging branches to be pruned and or roots trimmed, they should approach the owner of the tree and have the owner co-sign the application form and submit this to Council.
- Should the owner of the tree not agree to the request for pruning, the matter might then need to be addressed in a dispute resolution forum, such as the Community Justice Department. It is not the role of Council under the TPO to adjudicate in these private matters. Council will only issue a permit for tree work to the owner of the tree.

- In assessing applications to prune overhanging branches, pruning of the tree crown back to the boundary line is not considered appropriate. Pruning should be back to main branches or back to the main trunk of the tree, which ever is applicable.

5 Emergency Procedures

- Where a tree(s) pose a potential hazard to property, the applicant should identify this on the application form. Council may expedite the assessment time to less than twenty (20) working days. No responsibility shall be taken by Council should a tree fail and cause damage or injury prior to inspection and the issue of the Tree Preservation Order Permit. Emergency Orders may be issued to applicants if deemed necessary by Council's Tree Management Officer(s).
- In respect of potential hazard situations, tree problems do not usually occur in the short term, (except in the event of physical/mechanical damage i.e storm activity etc).

For more information, please contact City of Canada Bay Council
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