

**PART 6.7: PRESERVATION OF TREES AND VEGETATION**

This part provides controls and guidelines for any development that involves the lopping or removal of trees and applies to all trees in Canterbury. This part applies where the only development proposed is the lopping or removal of trees and where the lopping or removal of trees is proposed in conjunction with another development proposal.

**ABOUT PRESERVATION OF TREES AND VEGETATION**

Trees and vegetation are an important part of the natural and built environment. Native trees contribute to biodiversity and provide habitat for native birds and animals. Trees provide shade and assist in the regulation of climate. Trees provide visual amenity, help to reduce the visual impact of buildings and create the green streetscapes and canopy that are characteristic of Canterbury.

**OBJECTIVES FOR PRESERVATION OF TREES AND VEGETATION**

- O1. Prevent the indiscriminate and inappropriate lopping or removal of trees on all land within Canterbury.
- O2. Maintain the physical and visual appeal and amenity of the local area by preserving a healthy urban tree canopy.

- O3. Preservation and management of suitable existing trees, and the planting and management of suitable replacement trees, in a safe and healthy condition.
- O4. Management and/or removal of dangerous and unsuitable trees.
- O5. To minimise the negative impacts of construction on trees on and near development sites.

**6.7.1 Consent requirements**

- i. A person must not ring bark, lop, prune, remove, injure or deliberately destroy any trees 5m in height *or greater* and/or with a trunk diameter of 150mm *or greater* measured 1.4m above ground level without a permit or development consent granted by the Council, except as otherwise stated in clause 5.9 *Preservation of Trees or Vegetation* of the CLEP or this part.
- ii. If the tree or other vegetation is, or forms part of, a Heritage Item, or is within a Heritage Conservation Area, then development consent is required.

**Exempt species**

- iii. The following species are exempt from the prohibition in 6.7.1(i) (*provided the tree is not listed as a Heritage Item in an environmental planning instrument in which case the prohibition applies*).

<b>Botanical Name</b>	<b>Common Name</b>
<i>Ailanthus altissima</i>	Tree of Heaven
<i>Bamboo</i>	All species
<i>Citrus sp.</i>	Grapefruit, lemon, mandarin, orange
<i>Cotoneaster sp.</i>	All species
<i>Eriobotrya japonica</i>	Loquat
<i>Erythrina x sykesii</i>	Common Coral Tree
<i>Ficus elastica</i>	Rubber Tree
<i>Ligustrum spp.</i>	Privet
<i>Mangifera indica</i>	Mango Tree
<i>Morus nigra</i>	Mulberry
<i>Musa sp</i>	Banana
<i>Olea europaea var. africana</i>	African olive
<i>Populus nigra 'Italica'</i>	Lombardy Poplar
<i>Prunus sp.</i>	Apricots, cherries, peaches & plums
<i>Robina pseudoacacia &amp; cvs.</i>	Black Locust
<i>Salix babylonica</i>	Weeping Willow
<i>Schefflera actinophylla</i>	Umbrella Tree
<i>Syagrus romanzoffianum</i>	Cocos Palm

### 6.7.2 General requirements and exemptions

- i. Dead, dying and dangerous trees are exempt from the prohibition. Trees need to be certified as such by a qualified arborist/horticulturist who is not employed to remove the tree. The certification must be forwarded to Council's Tree Preservation Officer a minimum of seven working days prior to the proposed commencement of works
- ii. Where a tree is deemed inherently hazardous and is in imminent danger of causing harm, particularly during inclement weather conditions, the owner can remove the tree without a formal assessment on the condition that photographic evidence is provided and forwarded to the Tree Preservation Officer after the event.
- iii. Where a resident is concerned about a hazardous tree on a neighbouring property, the resident should first discuss the issue with the tree's owner. If the owner fails to address the matter once it has been brought to his/her attention, the neighbour can make an application to the New South Wales Land and Environment Court to have the tree removed. The Court may then order the removal of the tree under the Trees (Disputes between Neighbours) Act 2006.
- iv. The prohibition does not apply to with respect to the following works:
  - 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,
  - Works carried out by State and Federal Government departments or Authorities under current legislative requirements,
  - 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 CDCP.

### 6.7.3 Definitions

- i. The following defined terms are used in Part 6.7 of the DCP:
  - **Arborist** - a person with minimum qualification level of Australian Qualification Framework (AQF) 4.
  - **Lopping** - the practice of cutting branches or stems between branch unions or internodes,
  - **Topping** - reducing the height of a tree through the practice of lopping,
  - **Tree** - a long-lived, woody perennial plant with usually a single or relatively few main stems or

trunks and a more or less distinctly elevated crown, the main criterion being 'form' rather than 'size',

- **AS 4373-2007 'Pruning of amenity trees'** - the Standard that specifies methods of pruning and gives guidance on correct and uniform practices,
- **AS 4970-2009 'Protection of trees on development sites'** – the Standard that specifies principles for protecting trees on land subject to development.

### 6.7.4 Principles

- i. Council recognises trees as a highly valued asset to maintain the visual appeal and amenity of the local area.
- ii. Council will strive to preserve and manage trees in a healthy and safe condition.

### 6.7.5 Procedures

- i. Applications to prune or remove a tree are to be made on the approved form.
- ii. An inspection fee applies and must be paid by the applicant on submission of the application. Multiple trees at one property can be applied for under the one fee.
- iii. The tree inspection procedure is objective, documented and administered by suitably qualified officers. When assessing a tree for pruning or removal the officer will consider a number of criteria including but not limited to the following:
  - The health and structure of the tree,
  - Defects of trunk and canopy,
  - Target - what damage is likely should the tree or part of it fail,
  - Its contribution to the streetscape,
  - Its habitat value,
  - How, on the balance of probabilities, the tree may impact in the future on major structures, land and neighbouring properties,
  - The number of existing established trees on the property,
  - Its prominence in the landscape,
  - Endemicity and/or rarity of species, that is, whether the tree is protected under the *Threatened Species Conservation Act 2005*.
- iv. The Tree Preservation Officer uses an evaluation form to facilitate a uniform and documented assessment method for all inspections.
- v. Assessments are made from ground level only – officers do not carry out aerial inspections.

- vi. Written notification is given to the applicant of the assessment outcome.

**Note:** An applicant may appeal a decision in the Land and Environment Court in accordance with the Environmental Planning and Assessment Act 1979.

**Note:** In some circumstances it may be necessary for the applicants to supply at their cost, an independent arborist, structural, plumbing 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 Preservation Officer will determine if such reports are necessary.

#### **6.7.6 Trees on development sites**

- i. Good planning maximises the positive benefits trees provide by siting buildings, structures and car parks appropriately in relation to trees:
- ii. Superior site analysis/planning and development practices prevent indiscriminate removal or destruction of trees and vegetation and avoids needless disturbance to the urban forest:
- iii. Trees on development sites are currently assessed under Part 6.7. The *Australian Standard for the protection of trees on development sites AS 4970-2009* provides guidance on how to decide which trees are appropriate for retention and on the means of protecting those trees during the construction process.

#### **6.7.7 Penalties**

- i. A person(s) who contravenes or causes or permits clause 5.9 of the CLEP to be contravened shall be guilty of an offence and liable to prosecution.