

2.20

GENERIC PROVISIONS TREE MANAGEMENT







Contents

Incorporating Amendment No.1

Part 2	Generic Provisions.....	1
2.20	Tree Management.....	1
2.20.2	Activities Requiring Council Approval	1
	2.20.2.1 Tree Works Permits	1
	2.20.2.2 Development Consent	2
2.20.3	Activities Not Requiring Council Approval	4
2.20.4	Removal of Trees	5
2.20.5	Heritage Items or HCAs	5
2.20.6	General Controls.....	6
	Appendix 1 - General information required for arborist reports	8





Part 2 Generic Provisions

2.20 Tree Management

A healthy urban forest provides significant environmental, social and financial benefits to the community. Marrickville Council is committed to the perpetual protection and management of the urban forest as an essential intergenerational community asset.

2.20.1 Objectives

The following objectives guide the protection and management of the tree resources in Marrickville Local Government Area (LGA):

- O1** To establish the framework for the responsibilities and requirements with respect to the protection, retention and replacement of trees.
- O2** To protect trees within and adjacent to development sites.
- O3** To maximise a healthy tree canopy coverage across the LGA.
- O4** To manage the urban landscape so trees continue to make a significant contribution to its quality, character and amenity.
- O5** To ensure an acceptable level of risk with regard to trees so as to protect the safety of the community, private property and public infrastructure assets.
- O6** To provide processes which enable and facilitate compliance with these provisions.
- O7** To ensure all applications are assessed on the basis of best practice tree management principles.

2.20.2 Activities Requiring Council Approval

Tree management work including the removal of a tree requiring assessment will be considered and determined either through:

- 1. A tree works permit application, or
 - 2. A development application.
- C1** Clause 5.9 of the Marrickville Local Environmental Plan 2011 (MLEP 2011) states that a person must not ring bark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which this DCP applies without development consent or a permit issued by Council.

2.20.2.1 Tree Works Permits

A Tree Works Permit is required for works (other than exemptions outlined in 2.20.3) to:

- 1. Any tree with a height equal to or greater than 5 metres above ground level; or that is under 5 metres in height and has a trunk diameter of more than 300mm at ground level; or a canopy spread equal to or greater than 3 metres;
- 2. Any palm tree with a clean stem length of 5 metres or more above ground level;
- 3. Any tree in bushland; or

PART 2: GENERIC PROVISIONS

4. Any tree located within a foreshore building line as marked on the Foreshore Building Line Map of MLEP 2011.
5. Any tree that is a locally endemic species and located within a habitat corridor as shown on the Biodiversity Map in Section 2.13 (Biodiversity) – Appendix 3 of this DCP. A list of native vegetation is provided in Section 2.18 (Landscaping and Open Spaces) of this DCP.

Bushland

State Environmental Planning Policy No.19 – Bushland in Urban Areas (SEPP 19) defines bushland as land with vegetation that is either a remainder of the natural vegetation of the land or, if altered, still representative of the structure and floristics of the natural vegetation.

2.20.2.2 Development Consent

Development Consent is required for works (other than exemptions outlined in 2.20.3) to:

1. Where it is proposed to remove a tree that is a heritage item, forms part of a heritage item, is located within the curtilage of a heritage item, or is within a Heritage Conservation Area (HCA).
2. Where it is proposed to remove a tree that is or forms part of an Aboriginal object or that is within an Aboriginal place of heritage significance.

Difference between tree works permit and development application consent for tree works

The proposed removal of a tree with heritage status as outlined in 2.20.2.2, that is not exempt by virtue of Section 2.20.3, requires a Development Application (DA) which would generally require public exhibition under Council's notification policy (see Development Application Guidelines). An arborist report prepared by an experienced and qualified (AQF Level 5) arborist must be submitted with the DA.

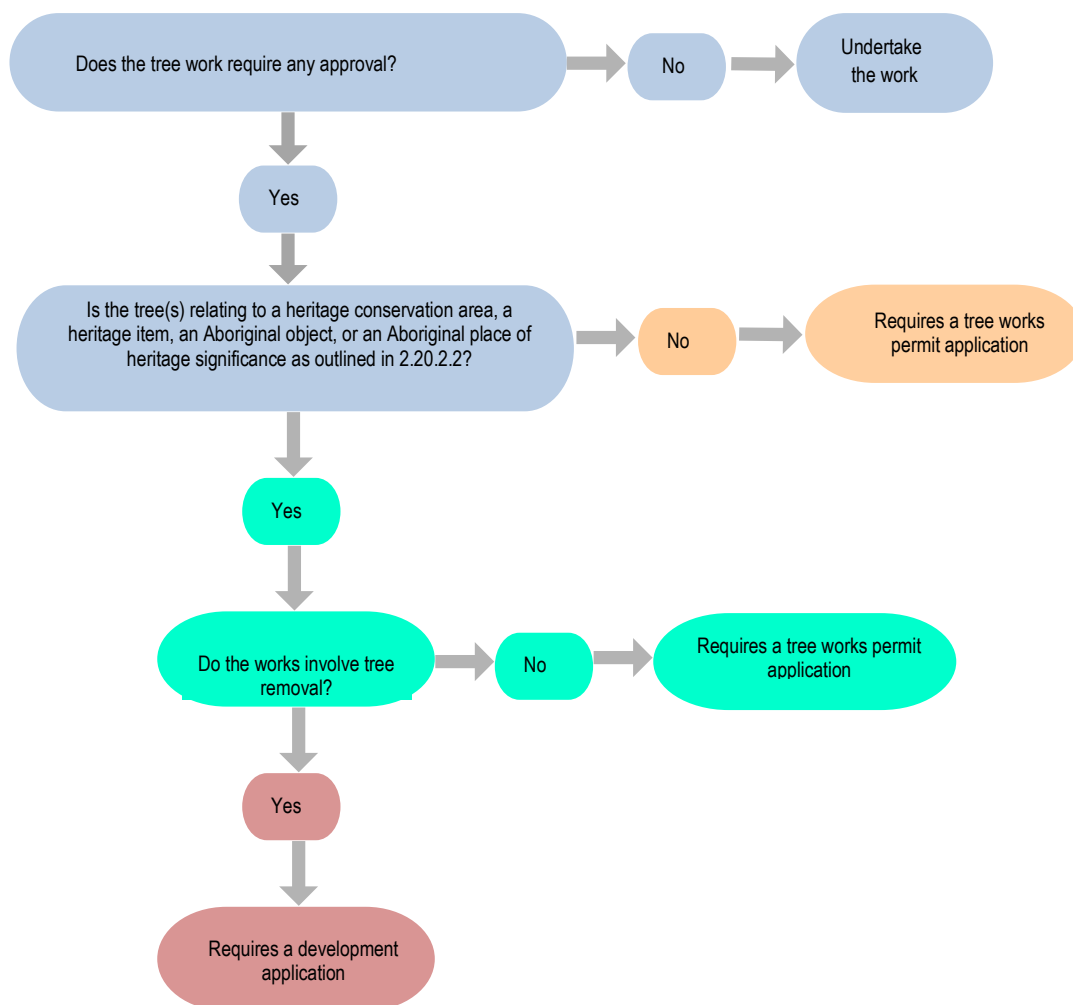
All other proposed tree works that are not exempt by virtue of Section 2.20.3 require an application for a tree works permit to be submitted which does not require public exhibition.

- In addition to Council approval, under the *Threatened Species Conservation Act 1995* (TSC Act), the removal or works to tree species, populations or communities listed under the TSC Act requires an application to the National Parks and Wildlife Service.



Figure 1 identifies the circumstances under which a tree works permit or development application is required:

Figure 1 Tree Management for private land



2.20.3 Activities Not Requiring Council Approval

The following works to trees do not require Council approval:

1. A tree listed as one of the following exempt species:

Species Name	Common name
<i>Ailanthus altissima</i>	Tree of Heaven
<i>Nerium oleander</i>	Oleander
<i>Toxicodendron succedaneum</i>	Rhus or Wax Tree
<i>Ficus elastica</i>	Rubber Tree
<i>Ficus benjamina</i>	Weeping Fig
<i>Ligustrum</i> spp.	Privet
<i>Schefflera actinophylla</i>	Umbrella Tree
<i>Arecastrum romanzoffianum</i>	Cocos/Queen Palm
<i>Morus</i> spp.	Mulberry
<i>Bambusa</i> spp.	Bamboo species
<i>Cotoneaster</i> spp.	Cotoneaster
<i>Eriobotrya japonica</i>	Loquat
<i>Lagunaria patersonia</i>	Norfolk Island Hibiscus
<i>Olea europaea</i> subsp. <i>Cuspidate</i>	African Olive
<i>Salix</i> spp.	Willow
<i>Cupressocyparis X leylandii</i>	Leyland cypress, all cultivars

or;

2. The tree is one of the following species and is 10 metres in height or less, except when the tree is a heritage item, forms part of a heritage item, is located within the curtilage of a heritage item, is within a Heritage Conservation Area (HCA), is or forms part of an Aboriginal object, or is within an Aboriginal place of heritage significance:

Species Name	Common name
<i>Cinnamomum camphora</i>	Camphor Laurel
<i>Erythrina x sykesii</i>	Coral Tree
<i>Liquidambar styraciflua</i>	Liquidambar
<i>Celtis occidentalis</i>	Hackberry

or;

3. **Tree pruning** (other than to those listed above) that complies with the Australian Standard AS 4373 'Pruning of Amenity Trees' and is carried out by a suitably qualified and experienced tree worker/arborist. The exempt pruning is limited to:
 - a. Crown lifting to 2.5 metres above ground level to provide safe pedestrian access to public and private pathways for vehicle clearance on driveways. Pruned branches must not exceed 100mm in diameter at the point of attachment to the tree; or
 - b. Selective pruning to provide a 1 metre clearance of a main building of live branches no greater than 100mm in diameter at the point of attachment to the tree; or
 - c. The pruning of dead wood that does not have hollows or provide habitat for native animals; or
 - d. The selective pruning of live branches to provide no more than 0.5 metre clearance around overhead domestic power lines/wires on private



property. Pruned branches must not exceed 100mm in diameter at its point of attachment to the tree.

4. Removing plants declared to be noxious weeds within the Marrickville Local Government Area under the *Noxious Weeds Act 1993*.
5. Works to street trees, parks and other trees in public spaces owned by, or under care, control and management of Marrickville Council.
6. Removing dead, dying or imminently dangerous trees where it can be proven that pruning or removal is the only reasonable option to avoid an immediate threat of injury or damage to life or property. Council will be satisfied that a tree is dead, dying or imminently dangerous when:
 - i. It can be proven that the pruning or removal works is the only reasonable option to avoid an immediate threat of injury or damage to life or property and the works were undertaken to the minimum extent necessary to manage that threat.
 - ii. The owner has recorded proof of that threat, supported by a report from a qualified arborist (Minimum AQF Level 5 Arboriculture), including photographs of the tree that detail the cause of the danger.
 - iii. In the event of tree removal, the arborist report is forwarded to Council immediately.
 - iv. In the event of pruning, the arborist report is made available to Council on request at any time within three months after the pruning works.

NB *Subclause (6) does not apply where the owner has caused the death or dangerous condition of the tree.*

7. Tree works that are the subject of a current approval, including development consent.

2.20.4 Removal of Trees

C2 Council will base any decision to remove a tree or trees on one or more of the following:

- i. The condition of the tree, where a tree is dead or dying.
- ii. Where the tree presents an unacceptable level of risk that cannot be mitigated through pruning or other risk mitigation measures.
- iii. Public infrastructure damage being caused by the tree, which is considered significant and which cannot be overcome by any other reasonable and practicable means.
- iv. Damage to significant structures on private property where remediation of the damage cannot be achieved by any other reasonable and practicable means.
- v. Any other reason at the discretion of Council's staff, which can be justified either on technical or legal grounds according to particular circumstances.

NB *For works listed in (iii and (iv)), Council may require the applicant to submit a structural engineer's report to Council.*

2.20.5 Heritage Items or HCAs

C3 Any tree removal work must be considered in view of likely impacts on the heritage significance of the item or conservation area.

- C4** An arborist report must be submitted with the development application substantiating the tree works or removal of a tree. The report must be prepared by a suitably qualified and experienced arborist with a minimum qualification of a Diploma of Horticulture (Arboriculture) (Australian Qualification Framework Level 5) or equivalent unless otherwise stated. Guidelines for the preparation of an arborist report are located in Appendix 1.
- C5** A Statement of Heritage Impact prepared in accordance with the guidelines in Part 8 of the DCP may be required.

Arborists Reports

An Arborist report is compulsory for all development applications and may be required to assist in the determination of tree works permits. An Arborist report must:

- i. Meet the minimum requirements for tree reporting to Council as outlined in 2.20 Appendix 1 – General information required for arborist reports and address specifically the reason for the proposed works or removal of a tree/s, providing relevant information that substantiates the recommendation of proposed works or removal.
- ii. Be prepared in accordance with any relevant Australian Standard for the protection of trees on development sites (currently AS 4970);
- iii. Provide an objective, balanced assessment based upon the tree's health, condition, other site considerations and the type of works applied for;
- iv. Provide recommendations as to any mitigation measures, where a loss of landscape amenity will result; and
- v. Be prepared by suitably qualified and experienced arborist with a minimum qualification of a Diploma of Horticulture (Arboriculture) (Australian Qualification Framework Level 5) or equivalent unless otherwise stated.

The need for an arborist report for permits will be determined by the assessing officer.

2.20.6 General Controls

- C6** All development proposals must be designed to maintain or improve the urban forest values of the site, by minimising the impact on good value trees and planting compensatory trees for ones that are removed. This requirement applies to street trees and trees on private and adjoining land.
- C7** Council may require redesign of a development proposal in order to retain or protect a significant tree or vegetation on the site or adjoining the site.
- C8** Where development is proposed that may affect existing trees on the site or on adjoining sites, to ensure the existing trees have adequate protection, a tree protection plan must be prepared by a suitably qualified and experienced arborist and approved by Council. Tree Protection Zones (TPZs) and other tree protection measures should be in accordance with the relevant Australian Standard 'Protection of Trees on Development Sites: AS 4970. The TPZ must be installed before the commencement of all works, including demolition, and must be monitored by the project arborist during the construction period.



- C9** Street trees must be protected during the erection of hoarding and construction works, with additional protective materials wrapped around the trunk and main branches throughout the construction works.
- C10** Development must allow for any existing overhead electrical lines to be converted into aerial bundled cabling (ABC) or redirected underground to reduce the impact upon surrounding trees.
- C11** The design of buildings or alterations and additions to buildings must retain sufficient curtilage around existing vegetation (whether on the subject site or on an adjoining property) to ensure their practical retention and health by not damaging their root system or altering drainage and water table levels.
- C12** A person must not wilfully or deliberately fail to plant, protect or care for a tree which is required to be established as a condition of consent under a permit or development consent issued by Council.
- NB** Failure to protect identified trees may result in Council taking enforcement action to have the tree/s replaced with a tree/s of the same species and to a similar stage of growth it would have attained at the completion of the work.

Appendix 1 - General information required for arborist reports

An arborist report must contain at a minimum, but not be limited to the following information:

1. A site address;
2. Author's contact details and qualifications;
3. Statement detailing who (person/s, organisation, company) commissioned the arborist to prepare the report;
4. Date of inspection;
5. Executive summary (for larger reports);
6. Statement outlining the aims of the report;
7. The methodology of investigation techniques used in the research and preparation of the report;
8. Identification of trees by a numerical value that correlates to a detailed site survey plan;
9. Identification of tree/s by Genus, Species and Common name;
10. The diameter (of tree trunk) at breast height (DBH), measured at 1.4m above ground level;
11. Description of the tree's:
 - i. Height;
 - ii. Spread;
 - iii. Structure; and
 - iv. Health;
12. A discussion of the data collected that is substantiated with current aboriginal literature or factual evidence;
13. An analysis of the tree's retention value, including the tree's useful life expectancy and any contribution the tree/s provide to the site and/or the locality in terms of its significance to the landscape and amenity;
14. All available management options, including tree pruning or site modification to avoid the removal of the entire tree; and
15. Recommendations for the tree's retention, removal or other management options.

Development impact reporting requirements

1. When trees are likely to be directly or indirectly affected by a proposed development, the arborist report must include:
 - i. Numbering or tagging of trees on site based on a detailed survey of trees, on and within 5m of the subject site;
 - ii. A corresponding numbered tree plan;
 - iii. An accurate, comprehensive assessment of the likely impact of the proposed development on trees including the:
 - a. Details of any soil modifications (cut, compacted fill, excavations, etc);
 - b. Impact during building construction (hoardings, site and vehicle access etc);
 - c. Impact of the proposed building, infrastructure and stormwater drainage; and
 - d. Impact of the landscape modifications on site trees;
 - iv. Specific recommendations for tree protection for all trees;



2. Where plan drawings are unavailable, the recommendations must be provided with the notation that:
 - i. The plans were not available; and
 - ii. Further arboricultural impact assessment is required;
3. Where it is proposed to subdivide a site, the report must:
 - i. Reflect any driveway/access and/or infrastructure construction;
 - ii. Show the indicative building footprints of the proposed new lots; and
 - iii. Indicate the extent of all tree constraints; and
 - iv. Present any additional tree loss resulting from the site's development; and
4. Trees on adjoining properties must be assessed if the proposed development could adversely affect any part of that tree.

Refer to Australian Standard AS4970-2009 Protection of trees on development sites for further guidance.

Root mapping reporting requirements

1. In some situations, usually associated with development or utility access, excavation is required to locate the tree's root system and enable an assessment of the impact of the proposed works on the tree roots system, and therefore health and structural stability. Utilising a Ground Penetrating Radar for root mapping purposes is an acceptable alternative.
2. Where excavation associated with the proposed development will impact the tree's root zone, a suitably qualified and experienced arborist (Australian Qualification Framework Level 5) must provide a root mapping assessment.
3. The assessment of the tree roots will require a trench to be excavated to a sufficient depth as indicated by Council or to the maximum depth at which tree roots are likely to grow given the soil type and site conditions.
4. All excavation must be carried out by hand and in a manner that will minimise root damage. Mattocks and crow bars must not be used for excavation. Small hand tools or an air knife must be used to excavate the required area.
5. The root mapping information detailed within the arborist report must include:
 - i. A plan showing the location of all excavation lines in relation to the existing site conditions;
 - ii. Photographs of the completed excavation line including points of reference to determine orientation and location on site;
 - iii. A schedule of findings for each individual excavation line, that at a minimum includes:
 - a. The total linear distance of the excavation line;
 - b. The linear distance along the excavation that the root was located;
 - c. The depth at which the root was encountered; and
 - d. The diameter of the root;
 - iv. Any visual variations in roots observed must be noted (for example, highly visible lenticels); and
 - v. A section plan of the trench with X (depth) and Y (length) axis that shows all material found within the excavated area (for example, roots and pipes).

Tree risk assessment reporting requirements

1. A tree risk assessment may be required when the applicant considers that a tree presents an unacceptable risk.

2. The risk assessment must address both the likelihood of failure and the consequences should failure occur. This will include the specific nature of the identified hazard, for example, the extent of branch decay, propensity for live limb failure, failure at basal cavity or wind throw due to root cutting, and consideration of the use of the target – frequency of occupation, value of structures, etc.
3. Where a trunk or limb defect assessment is undertaken, strength loss calculations and cross section mapping must be included in the risk assessment.
4. The risk assessment must clearly detail an industry accepted methodology used in the assessment and evaluation process. This may include risk identification, risk analysis, risk evaluation and risk treatment, and an additional proforma risk assessment sheet.

Tree valuation reporting requirements

In some situations Council may require a valuation assessment on a tree located in the public domain, or on private property. A valuation is commonly used to determine a bond for the tree's protection during development.

1. Tree valuation information must include:
 - i. A detailed methodology;
 - ii. Site details including photos of the tree, or group of trees; and
 - iii. Information based on a recognised tree valuation method.

Tree monitoring information

1. Tree monitoring information is usually required for the successful establishment of critical new plantings or for ageing or significant trees.
2. This information must detail tree health and structure at the time of assessment, to enable a benchmark for comparison, and include recommended maintenance techniques to improve the tree's health and condition.
3. A tree maintenance report must include, but not be limited to:
 - i. A description of the current site and tree maintenance practices;
 - ii. A photographic record indicating the date the photo was taken;
 - iii. Detailed recommendations for site and/or tree remediation works; and
 - iv. A schedule of works including time line and a concise detail of any recommended product (for example, soil type and supplier) or service.