



SECTION 16 TREE & VEGETATION MANAGEMENT

16.1 INTRODUCTION

Vegetation, particularly mature trees, can contribute significantly to an area's character. In particular they have exceptional value visually, culturally, economically and intrinsically. North Sydney has a leafy character, established through the interconnection of many canopy trees distributed across road reserves, parks, bushland areas and private property.

The quality of the vegetation has an enormous impact on the quality of life of all those who live or work in North Sydney. The obvious aspects of aesthetics, oxygen production and pollution reduction are supported by many other more subtle functions, such as traffic calming, privacy, reduced energy consumption, recreation, habitat and shade.

New development provides opportunities to reinforce this leafy character and embellish North Sydney's strong "sense of place" by planting appropriate trees as part of a development. It is the responsibility of the developer to provide appropriate landscaping to achieve these objectives.

Council also enforces a long established policy regarding the unlawful damage to or removal of existing trees within the LGA, whether they are located on public or private land.

16.1.1 General objectives

The objectives of this Section of the DCP are to:

- O1 Prescribe trees and vegetation for the purposes of cl.5.9 of NSLEP 2013.
- O2 Maintain the visual, social and environmental amenity of the area through the preservation of trees and other vegetation.
- O3 Maintain and increase the totality of trees and vegetation across the North Sydney area by embracing the principles of Urban Forest Management, green (habitat) corridors and Continuous Cover Arboriculture.
- O4 Ensure the planting of adequate numbers of appropriate trees in association with new development in the North Sydney area.
- O5 Promote the value of and the need for the protection of trees and vegetation to the community, developers and Council staff and encourage the reporting of tree vandalism.
- O6 Protect existing trees and vegetation during construction of development.
- O7 Minimise the risk of injury to people or damage to property from trees and vegetation.
- O8 To recognise the financial value of trees and vegetation.
- O9 Ensure that vegetation does not result in the unreasonable reduction in amenity of adjoining properties in terms of access to sunlight and views.

16.1.2 When does this section of the DCP apply?

This Section of the DCP applies when intending to prune, remove or replace trees or vegetation on their own or as part of undertaking a development or action that will impact on trees and vegetation, when Development Consent or a Tree Management Permit is required. These controls apply to trees and vegetation on all land within the LGA whether it is in public or private ownership.

This Section also provides advice with respect to maintaining of vegetation on adjoining properties where existing vegetation has unreasonably reduced the amenity of a property through the reduction of access to sunlight or views.



16.1.3 Relationships to other sections

This section of the DCP needs to be read in conjunction the following Sections of the DCP:

- (a) Part A: Section 3 – Submitting an Application;
- (b) Part B: Section 1 – Residential Development;
- (c) Part B: Section 2 – Commercial and Mixed Use Development;
- (d) Part B: Section 3 – Non-residential Development in Residential Zones;
- (e) Part B: Section 4 – Child Care Centres; and
- (f) Part B: Section 15 – Bushland Areas.

16.1.4 Relationship to other documents and planning policies

Where relevant, this section of the DCP should be read in conjunction with the following:

(a) **NSLEP 2013**

In particular, consideration should be given to:

- (i) Clause 3.1 – Exempt development (also refer to Schedule 2 – Exempt Development); and
- (ii) Clause 5.9 – Preservation of trees and vegetation.
- (iii) Clause 5.9AA – Trees or Vegetation not prescribed by development controlplan

(b) **North Sydney Council Street Tree Strategy**

A management document that provides the framework and guidelines to ensure that all street trees are managed in accordance with industry best practice, such that they maximise their benefits to the North Sydney community.

(c) **Council's Infrastructure Specification Manual for Roadworks, Drainage & Miscellaneous Works**

This document provides technical specifications regarding the supply, installation and establishment of trees and vegetation in the North Sydney Council area.

(d) **North Sydney Council Urban Forest Strategy**

A strategic document developed to maintain and increase the level of canopy cover across the North Sydney area to maximise all of the known benefits that trees provide to the wider community.

(e) **North Sydney Tree Vandalism Policy**

A policy document that sets out the procedures to be followed when an instance of tree vandalism is identified, including such things as investigations, letterbox drops, signage, rehabilitation and prosecutions.

(f) **North Sydney Natural Area Survey 2010**

A survey undertaken to identify all significant vegetation types located on public and private land throughout the LGA and their quality. The survey data has been subsequently mapped and is available on Council's website (www.northsydney.nsw.gov.au).

(g) **Australian Standard AS4373-2007 - Pruning of amenity trees**

This Standard provides arborists, tree workers, government departments, property owners, and contractors with a guide defining uniform tree pruning procedures and practices in order to minimize the adverse or negative impact of pruning on trees.

(h) **Australian Standard AS4970-2009 – Protection of trees on development sites**

This Standard provides guidance for arborists, architects, builders, engineers, land managers, landscape architects and contractors, planners, building surveyors, those

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concerned with the care and protection of trees, and all others interested in integration between trees and construction. It describes the best practices for the planning and protection of trees on development sites. The procedures described are based on plant biology and current best practices as covered in recently published literature.

16.1.5 Additional permits

Where an applicant seeks to plant trees on public property, they may also be required to obtain additional permits under s.68 of the [Local Government Act 1993](#) and/or s.138 of the [Roads Act 1993](#). Inquire with Council to ascertain if the permits are required.

Council does not encourage the ad-hoc planting of trees on public land by individuals however a "Streets Alive" community greening program is in place. This program allows residents to plant and maintain vegetation on public land under the approval and guidance of specialist Council officers. The residents are provided free of charge with horticultural expertise, plants, soils, mulch and any other necessary materials in return for their labour to install and maintain the vegetation. Planting of shrubs and trees in and around public bushland areas is a regular activity under Council's "Bushcare" program, where over 50Ha of remnant bushland and buffering habitat is under active rehabilitation.

16.2 CONTROLS FOR THE MANAGEMENT OF TREES AND VEGETATION

North Sydney Council has adopted a tree and vegetation management policy which aims to prevent the unlawful removal, pruning or destruction of trees and vegetation in the North Sydney LGA. This policy is enforced through clause 5.9 of NSLEP 2013 and this section of the DCP.

The policy requires a property owner to first obtain *Development Consent* or a *Tree Management Permit* prior to the removal or pruning of prescribed trees or vegetation. However, the requirement to obtain Development Consent will normally only be required where works, other than the removal or pruning of prescribed trees or vegetation is proposed (e.g. construction works). Some trees and vegetation may be removed or pruned without the need for Development Consent or a Tree Management Permit (i.e. those works permitted as exempt development under cl.3.1 of NSLEP 2013 or without consent under cl.5.9AA of NSLEP 2013).

Before removing, pruning or proposing development within 5m of a tree in North Sydney, residents and/or contractors are advised to contact Council to determine whether they need to obtain a Tree Management Permit or Development Consent.

Where a Tree Management Permit is required, once Council has received a completed application form an appointment will be made for an on-site tree inspection of the relevant tree(s) or vegetation by one of Council's Tree Preservation Officers. If the application is approved a Tree Management Permit will be sent to the applicant. Inspections and permits are free of charge.

Where a Development Consent is required, the applicant will be advised by one of Council's Planning Officers as to what information will be required.

16.2.1 Objectives

- O1 To maintain the visual, social and environmental amenity of the area through the preservation of trees and other vegetation.
- O2 To identify when Council approval is required under the provisions of NSLEP 2013 to prune, remove or replace trees or vegetation.
- O3 To identify prescribed trees and vegetation for the purposes of clause 5.9(2) of NSLEP 2013.
- O4 To make the community aware of the implications for the unlawful removal, pruning or wilful destruction of trees and vegetation within the local government area.



16.2.2 Provisions

Approvals General

- P1 Pursuant to Clauses 3.1, 5.9(2) and 5.9AA of NSLEP 2013, Development Consent or a Tree Management Permit **is not required** for removal or pruning any of the following:
- (a) non-prescribed trees or vegetation;
 - (b) trees that are declared to be dead or dying as confirmed by Council in writing;
 - (c) pruning of deadwood from a tree;
 - (d) noxious weeds as prescribed by the [*Noxious Weeds Act, 1993*](#), other than mature canopy trees;
 - (e) trees or vegetation that are being maintained or removed by North Sydney Council staff (or their sub-contractors) on land under Council's ownership or care and control;
 - (f) trees that have been authorised to be removed or pruned pursuant to a Development Consent issued under the Act, but not prior to the issue of a Construction Certificate relating to that Development Consent;
 - (g) Cocos Palms (*Syagrus romanzoffiana*); or
 - (h) African Olive Trees (*Olea Africana*);
 - (i) trees or vegetation located on public land, but only if work is carried out by a person engaged by Council to do such work.
- P2 Development Consent or a Tree Management Permit **is required** in accordance with Clause 5.9 of NSLEP 2013 for the removal or pruning of a prescribed tree or vegetation. The **following trees and vegetation are prescribed for the purposes of this DCP**:
- (a) Any tree or vegetation on public land, regardless of size;
 - (b) Any tree or vegetation with a height of 10m, or a crown width of 10m, or a trunk circumference of 1.5m measured at 1m above ground level (existing); or
 - (c) Any tree that is declared a noxious weed and comprises a mature canopy tree;
 - (d) Any tree or vegetation more than 5 metre tall on land identified as a heritage item;
 - (e) Any tree or vegetation that is declared a noxious weed on land identified as a heritage item under cl.5.10 of NSLEP 2013 regardless of size;
- P3 Council in determining an application for development consent or a Tree Management Permit under clause 5.9(3) of NSLEP 2013 must have regard to:
- (a) the health or condition of the tree or trees, whether the tree is dead or dangerous, proximity to existing or proposed structures, interference with utility services, interference the amenity of any person or property;
 - (b) necessity for action in order to construct improvements to the property the subject of the application to achieve reasonable development;
 - (c) effects in the nature of erosion, soil retention or diversion or increases to overland flow;
 - (d) the number of trees in the surrounding area and the effect on the amenity of that area;
 - (e) the number of healthy trees that a given parcel of land will support; and
 - (f) whether the trees or vegetation in question provide habitat for fauna and/or canopy connectivity.



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- P4 In determining its approval under P2 and P3 Council may request the applicant to submit additional supporting documentation (e.g. an arborist or engineering report) to justify the removal of the tree or vegetation.
- P5 Council does not support the removal of trees or vegetation as a result of:
- (a) leaf, fruit, flower, bark, cone or twig drop; or
 - (b) blocked water, sewer or stormwater drainage pipes; or
 - (c) cracking of driveways, footpaths, paving or fences.
- P6 Despite P5 above, Council may consider on merit the removal of trees or vegetation which result in the blocking of water, sewer or stormwater pipes or the cracking of driveways, footpaths and paving if there are no permanent repair solutions available (e.g. where tunnelling or re-sleeving of pipes, or removal of roots is not feasible). Council must not determine an application to which this clause applies, unless it has considered additional supporting documentation (e.g. an arborist or engineering report) supplied by the applicant to justify the removal of the tree or vegetation.
- P7 Branches of trees and vegetation located on private property that overhang public footpaths and roadways should be pruned back to the property boundary to a height of 2.4m (8ft) above ground level (existing). Pruning of these trees is the responsibility of the property owner. Where the tree or vegetation to be pruned comprises a prescribed tree or vegetation, Council consent must be obtained prior to pruning.
- P8 Where Council approves a development application or a Tree Management Permit in accordance with this Section and cl.5.9 of NSLEP 2013, Council may impose a condition which requires:
- (a) the replanting of replacement trees or vegetation on the land the subject of the application; or
 - (b) where there is insufficient space on the development site:
 - (i) the replanting of replacement trees or vegetation in a specified location on public land; or
 - (ii) payment of a fee from the applicant to fund Council's planting of such trees on public land.
- Replacement tree species will be specified by Council and will be of a type suitable for the site.
- P9 All work must be carried out in accordance with Australian Standard *AS4373-2007: Pruning of Amenity Trees* and Council may condition that the work be carried out by a suitably qualified arborist.
- P10 Any development consent or approval issued by Council will be valid for the described work only, provided it is carried out within a 12 month period from the date of issue and may be subject to such conditions as required by Council.
- P11 Where a development application is lodged after a Tree Maintenance Permit has been issued but prior to approved tree work taking place, that Permit becomes null and void and application for pruning/removal of the tree(s) or vegetation must be made through the development assessment process.

Approvals for non-essential pruning work

- P12 Council may approve a request from the public to prune trees located on private or public land for 'cosmetic' or non-essential pruning for such purposes as aesthetics, increased sunlight or views, but only where such pruning:
- (a) will not affect the health or integrity of the tree; or
 - (b) will not have an adverse impact on the streetscape; or
 - (c) will not have an adverse impact on general safety of the public.



- P13 Non-essential pruning work will not be permitted on any vegetation growing on land zoned E2 Environmental Conservation or other public land managed by Council as bushland.
- P14 Council will not support applications for tree or vegetation removal for the sole purpose of facilitating solar access to new solar photovoltaic or hot water systems. However, Council may consider applications for pruning trees or vegetation to enable solar access to existing solar photovoltaic or hot water systems to be maintained on a case by case basis, provided the proposed works are carried out in accordance with Australian Standard AS4373-2007 - *Pruning of Amenity Trees*.

Penalties

- P15 Pursuant to s.629 of the [Local Government Act 1993](#), an on-the-spot fine may be imposed for the injury or unnecessary disturbance of trees and vegetation on public land including road reserves without a lawful Development Consent or Tree Management Permit. This specifically relates to street trees, foreshore reserves, bushland and public open spaces.
- P16 Pursuant to s.125 and s.126 of the [EP&A Act](#), an on-the-spot fine or court proceedings may be imposed for the injury, unnecessary disturbance or removal of trees and vegetation on private land without a lawful Development Consent or Tree Management Permit.
- P17 Breaches of the requirements to P15 and P16 above, may result in prosecution with maximum penalties of \$1.1million. Fines may be imposed on the resident, property owner, anyone ordering the work or contractors employed to undertake the works if they do not have a lawful Development Consent or Tree Management Permit.
- P18 The resident, applicant, property owner and any contractor involved in the cutting down or pruning of any tree protected by this DCP, must have a copy of the current and valid Tree Management Permit or Development Consent displayed in a publicly accessible location of the site during the undertaking of those works.
- P19 Rehabilitation and maintenance of tree vandalism sites is to be carried out in accordance with Council's Tree Vandalism Policy.

Note: The extent of the penalty that may be imposed is set out within Council's Tree Vandalism Policy.

16.3 MANAGEMENT OF TREES AND VEGETATION ON ADJOINING PROPERTIES

Property owners generally have the ability to plant any type of trees or vegetation they like upon their property. Most species of trees and vegetation can be planted without development consent.

Whilst this is not normally a problem in itself, trees and vegetation on adjoining properties have the ability to result in damage to property or have the potential to cause damage to property or injury of persons utilising adjoining land. In addition, some property owners have been known to plant trees or vegetation to purposely obstruct sunlight or views to adjacent properties, often known as "hedge rage" or "spite hedges".

Provisions under the [Tree \(Disputes Between Neighbours\) Act 2006](#) provide adjoining land owners in certain circumstances the ability to commence proceedings at the Land and Environment Court to have the subject trees or vegetations removed or lopped, amongst other remedies.

Affected persons are advised to consult the [Tree \(Disputes Between Neighbours\) Act 2006](#) to determine the most current criteria as to when proceedings can be commenced or what matters need to be considered.

16.3.1 Trees that cause or are likely to cause damage or injury

Part 2 of the [Tree \(Disputes Between Neighbours\) Act 2006](#) generally enables proceedings to commence. The Court must be satisfied that the subject tree has caused, is causing, or is

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likely in the near future to cause, damage to the applicant's property, or is likely to cause injury to any person.

Prior to the Court determining whether to issue orders or not, it must consider:

- If the applicant has made a "reasonable effort" to reach agreement with the owner of the land on which the trees are situated; and
- 13 individual matters for consideration under s.12 of the [Tree \(Disputes Between Neighbours\) Act 2006](#), including but not limited to issues pertaining to location, biodiversity, heritage, social value, impacts from pruning and contribution to amenity.

The Court has broad remedial powers ranging from remedying any damage, payment of compensation for damage or injury, requiring actions to prevent injury to persons, requiring the tree (or parts of it) to be removed entirely, to having it lopped and maintained, to replacement of the tree/s, and includes the payment of costs for carrying out such works.

16.3.2 High hedges that obstruct sunlight or views (spite hedges)

Part 2B of the [Tree \(Disputes Between Neighbours\) Act 2006](#) generally enables proceedings to commence, but only where:

- It applies to two or more trees that are planted so as to form a hedge (i.e. does not apply to a single tree);
- The hedge has a minimum height of 2.5 metres above ground level (existing);
- The hedge does or will result in a "severe obstruction" of:
 - o sunlight to a window of a dwelling situated on adjoining land, or
 - o any view from a dwelling situated on adjoining land,

Prior to the Court determining whether to issue orders or not it must consider:

- If the applicant has made a "reasonable effort" to reach agreement with the owner of the land on which the trees are situated; and
- 19 individual matters for consideration under s.14F of the [Tree \(Disputes Between Neighbours\) Act 2006](#), including issues pertaining to biodiversity, heritage, sunlight, views, privacy, location and length of time the hedge has existed.

The Court has broad remedial powers ranging from requiring the hedge (or parts of it) to be removed entirely, to having it lopped and maintained at a certain height, to replacement of the trees with another specified species, and includes the payment of costs for carrying out such works. These potential solutions should be kept in mind when making "a reasonable effort" to reach agreement with a neighbour, because in some instances it may not be "reasonable" to insist on full removal of trees/hedges if other solutions are available which are more appropriate and equally effective.

16.4 PROTECTION OF TREES DURING CONSTRUCTION

16.4.1 Objective

- O1 To ensure that all trees in the public domain and on private property (both the site of development and neighbouring properties) are adequately protected during construction of developments.

16.4.2 Provisions

Where applicable, development applications are required to detail the location and type of any tree or vegetation to be removed and any effect on the landscape and streetscape the development may have. Refer to the development application form for further information.



General

- P1 Existing trees should be retained and incorporated into proposed developments wherever the existing trees are of appropriate species and have an adequate life expectancy.
- P2 Where trees are identified to be retained, they must be protected during construction in accordance with Australian Standard *AS4970 - Protection of trees on development sites* and best practice.
- P3 An arborists report is required to be submitted with any development application where works are proposed within the structural root zone of a tree or where Council deems the vegetation on site is significant enough to warrant such a report.
- P4 Where an existing tree(s) are approved for removal as part of a development, adequate space in the landscaped area is to be provided for an equivalent replacement canopy tree(s) appropriate to the site and scale of development.
- P5 Where insufficient space is available on the development site and significant canopy has been removed as part of the development, Council may require the planting of equivalent canopy replacement trees on public land or require payment of a fee to enable Council to undertake equivalent canopy replacement planting on public land.

Bonds

- P6 A tree bond may be required if street trees are located in close proximity to a proposed development.
- P7 The bond shall be lodged with the Council for each street tree likely to be affected by the development, the bond amount to be forfeited if the identified tree is removed, destroyed or damaged. A minimum bond of \$1,000.00 per tree will be applicable.
- P8 Bonds must be lodged prior to any work commencing on site and will generally be held for a period of 12 months after completion of the development.
- P9 Bonds will be refunded upon receipt of a tree condition report from a suitably qualified arborist confirming that the tree is in good health, prior to issuing an Occupation Certificate.

Construction Hoardings

- P10 When giving consideration to the issue of a Permit for the erection of a hoarding on Council property, Council will consider the likelihood of damage to trees, both on public and private property.
- P11 Hoarding applications are to be accompanied by a plan(s) accurately locating any adjacent trees within 10m of the proposed hoarding.
- P12 A tree bond may be required, if a tree(s) is located in close proximity of a proposed hoarding, the bond amount to be forfeited if the tree is removed, destroyed or damaged.
- P13 Hoardings should be designed and erected to protect existing trees to clearances approved by Council and/or any conditions imposed by Council.

Works in Association

- P14 Works in association are Council funded tree works on public property that may be combined with developer funded tree works for the purpose of integrating the streetscape. Council may contribute money to the developer to build works in association subject to it being in the public interest.
- P15 Where two or more adjoining developments are under construction simultaneously, Council may offer to plant trees and/or install protection works for all developments in the interests of achieving an integrated and coordinated streetscape subject to the developer contributing money to Council to build these works. This is seen as adding value to the community dollars spent.



16.5 NEW TREE PLANTING

16.5.1 Objectives

- O1 To ensure that the current level of canopy cover in North Sydney is maintained and enhanced over the long term.
- O2 To ensure that sustained amenity is achieved by establishing a range of age classes within the urban tree population.
- O3 To ensure a species diversity that maintains or enhances the current urban character of North Sydney.
- O4 To enhance biodiversity through the strategic connectivity of canopy and habitat plantings between areas of bushland remnants (i.e. wildlife corridor creation).

16.5.2 Provisions

Species Selection

- P1 Species should be chosen after carefully evaluating the site constraints and the desired function of the tree (e.g. habitat, shade, safety, privacy or aesthetics).
- P2 When planting is to take place on public land, Council's arborists will advise the appropriate species in accordance with the **North Sydney Street Tree Strategy**.
- P3 When planting is to take place in bushland or bushland habitat areas, Council's Bushland Management Staff will determine appropriate species in accordance with the *North Sydney Natural Area Survey 2010* and relevant Bushland Rehabilitation Plans.
- P4 When planting on private property Council strongly recommends the use of a qualified arborist when selecting species.
- P5 When selecting a species, the physical, ecological and horticultural characteristics should be considered.
 - (a) Physical characteristics include: mature dimensions (height, spread, trunk diameter) foliage density, evergreen or deciduous, tree shape or form.
 - (b) Ecological characteristics include: climatic durability, water efficiency, fauna habitat, invasivity in bushland.
 - (c) Horticultural considerations include: fruit/flower/seed drop, suitability to the site growing conditions, poisonous or allergic qualities, weed potential, suckering, root vigour, structural soundness, and longevity in the urban environment.

Planting Locations

- P6 New trees should be located where there is adequate space for the chosen species to grow to its natural mature dimensions, survive in the long term and make a positive contribution to the amenity of an area.
- P7 Any new street trees should be located in accordance with the *North Sydney Council Street Tree Strategy*.
- P8 Any new trees on private property should be located in accordance with the objectives of the landscaping provisions throughout this DCP and the *North Sydney Urban Forest Strategy*.

Planting techniques

- P9 All planting must be carried out in accordance with the detailed specifications appropriate to the site as set out in Council's *Infrastructure Specification Manual for Roadworks, Drainage & Miscellaneous Works*.
- P10 Planting trees in footpaths adjacent to heavily trafficked streets may need:
 - (a) To be undertaken outside of peak hour traffic times.



- (b) The approval of the RMS if it involves a state or arterial road.
- (c) A Traffic Management Plan and/ traffic control depending on the road.

Plant Establishment and Maintenance

To ensure the long term survival of any new vegetation a condition may be imposed on a Development Consent outlining a minimum landscape maintenance period. The length of the landscape maintenance period shall vary according to the specific works carried out and will be generally a minimum of 13 weeks.

- P11 Erosion and sedimentation controls may need to be provided subject to the scale of the planting work proposed and the potential of causing pollution. These devices must be maintained regularly. Failure to install and maintain these devices may result in a fine and/or legal action.
- P12 It is the responsibility of the developer/applicant to comply with the terms of any Development Consent issued by the Council in respect of maintenance requirements of trees or vegetation within the time stated in the consent.