



Title: Tree Preservation Order 2009

Category: Operational

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File number: T-37-1 Tree Preservation Order

Policy owner: Director of City Works

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Review date: 2013

Modification history: 1995, 2002, 2007

Related legislation: Environmental Planning and Assessment Model Provisions 1980 (Preservation of Trees), Trees (Disputes Between Neighbours) Act 2006, Noxious weeds Act 1993.

Related policies: Nil

Related forms: Tree Preservation Order 2009 Procedures Manual, Tree Inspection Application Form, TPO Evaluation Form, Determination for Pruning/Removal of Trees, Suitable Tree Species for Urban Gardens, Guidelines for Arborist Reports, Notification Card.

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1. Purpose

The purpose of this policy is to prevent the indiscriminate and inappropriate lopping or removal of trees on private land within the City of Canterbury. The provisions of the Tree Preservation Order and our Street Tree Management Plan identify the criteria we take into consideration when managing our own street tree and park planting resources.

Background

The Tree Preservation Order has been in place since 1995 and was reviewed in 2002 prior to this review in 2009.

2. Objectives

The aims of the policy are:

- To maintain the physical and visual appeal and amenity of the local area by preserving a healthy urban tree canopy.
- The preservation and management of suitable existing trees in a safe and healthy condition.
- The planting and management of suitable replacement trees in a safe and healthy condition.
- The management and/or removal of dangerous and unsuitable trees.

3. Scope

The Tree Preservation Order applies to all trees on private land within the City of Canterbury.

- a. The Tree Preservation Order does not allow any person to ringbark, lop, prune, remove, injure or deliberately destroy any trees five (5) metres high and/or with a trunk diameter of 150mm measured 1.4 metres above the ground without a Council permit.
- b. The Following species are exempt from the Tree Preservation Order:

Botanical Name	Common Name
<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>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 & cvs.</i>	Black Locust
<i>Salix babylonica</i>	Weeping Willow
<i>Schefflera actinophylla</i>	Umbrella Tree

Syagrus romanzoffianum

Cocos Palm

- c. Applications to prune or remove a tree are to be on the approved form
- d. Dead, dying and dangerous trees are exempt from the Tree Preservation Order. Trees need to be certified as such by a qualified arborist/horticulturist and the certification must be forwarded to Council's Tree Preservation Officer. 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. 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 & 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*.

4. Definitions

The following defined terms are used in the Policy

- **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.

5. Principles

- Council recognizes trees as a highly valued asset to maintain the visual appeal and amenity of the local area.
- Council will strive to preserve and manage trees in a healthy and safe condition.
- Council will manage the removal of dead, dangerous and unsuitable trees.

6. Responsibilities

The Director of City Works is charged with the overall responsibility of administering the Tree Preservation Order in most instances. Day to day tree issues are dealt with by the Tree Preservation Officer who is attached to the City Works Division.

The Landscape Architect considers tree issues that are affected by Development Applications (DA) or for small building renovation or extension projects. The Landscape Architect is attached to the City Planning Division and reports to the Director of City Planning.

7. Procedures

We have in place a procedure for dealing with TPO inspections which is objective, documented and administered by suitably qualified officers. When assessing a tree for pruning or removal we 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 i.e. 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 i.e. whether the tree is protected under the *Threatened Species Conservation Act*.

An Evaluation Form is used by the Tree Preservation Officer (or Appeals Officer) to facilitate a uniform and documented assessment method for all inspections and appeals. Assessments are made from ground level only. **No aerial inspections are carried out by our officers.** The applicant receives written notification of the assessment outcome. If the applicant is dissatisfied with the outcome of a determination, the matter may be appealed by the applicant. The process involves an independent officer carrying out a second inspection and evaluation. On rare occasions, if the outcome of the appeal is not accepted, the Director of City Works makes the final determination. An opportunity still exists for the matter to go before Council or for the applicant to appeal the decision in the Land & Environment Court.

Council has a duty of care to carry out proper and fair assessments of the condition and stability of trees and to authorise removal or pruning where appropriate. Additional measures are appropriate to ensure that the risk potential is addressed. Each application that requests tree removal or significant pruning, must be accompanied by an arborist report. We are aware that reports can be a costly addition to the application process. For this reason we request arborist or structural engineers' reports only where a resident disputes a determination made.

The application and response process is as follows:

- Request for TPO inspection is received by written application on our approved Tree Inspection Application Form, email, regular mail or councillor request
- Application form is completed by tree's owner or interested party
- A field assessment is undertaken, assessments being made from ground level
- Written determination of the inspection outcome is sent to the tree's owner
- If determination is accepted, the owner can act on the determination
- If determination is not accepted, applicant can appeal the decision
- Independent officer re-inspects the tree and makes determination
- If appeal is accepted the owner can act on the determination
- If appeal is rejected, applicant can appeal to Director of City works, Council or Land & Environment Court for a final determination.

Trees on Development Sites

The objective of tree protection on development sites is to minimise the negative impacts of construction. As trees are an important component of the built environment, the City of Canterbury aims to preserve and protect trees to enhance our environmental, economic and social character with a mature urban tree canopy. Good planning maximises the positive benefits trees provide by siting buildings, structures and car parks appropriately in relation to trees. Superior site analysis/planning and development practices prevent indiscriminate removal or destruction of trees and vegetation and avoids needless disturbance to our urban forest. Trees on development sites are assessed under DCP 45.