

Inner West Council

Tree Management DCP

Adopted 11 February 2020



Generic Provisions

1. Purpose

This section has been made in accordance with the *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* (the Vegetation SEPP) and prescribes the vegetation to which the Vegetation SEPP and /or Clause 5.10 of the LLEP, MLEP and ALEP applies and the applicable consent process.

Council has established canopy targets for the Inner West LGA based on the zoning of the land. Those canopy targets are derived from the *Greater Sydney Commission - District Plans* and are as follows:

Zone	Canopy Target
R1 General Residential	40%
R2 Low Density Residential	
R3 Medium Density Residential	
R4 High Density Residential	25%
Business zones (B1 Neighbourhood Centre, B2 Local Centre)	25%
B4 Mixed Use	15%
B5 Business Development	
B6 Enterprise Corridor	
B7 Business Park	
IN1 General Industrial	25%
IN2 Light Industrial	

2. Objectives

The following objectives guide the protection and management of trees within the Inner West LGA:

- 01 To establish a coordinated approach to the assessment and management of trees
- 02 To ensure the safety of the community, private property and public infrastructure assets.
- 03 To protect trees within and adjacent to development sites and to ensure that all new development provides an opportunity for existing and new trees to grow.
- 04 To manage the urban landscape so trees continue to make a significant contribution to its quality, character and amenity.
- 05 To maintain and enhance the amenity of the Inner West Local Government Area through the preservation of appropriate trees and vegetation.
- 06 To ensure the cost burden of meeting tree canopy targets does not fall unreasonably on property owners and lower income residents in particular.
- 07 Encourage private property owners to plant new trees and replace inappropriate trees in order to meet Council's tree canopy targets.



Outline of the Processes for Tree Removal or Pruning

The process for tree removal or pruning is via one of four means:

1. *Tree work that does not require Council consent is outlined in Section 3 Tree work that does not require Council Consent.*
2. *Tree work that requires an application via Development Consent is outlined in Control C5. This applies to a minority of trees.*
3. *Tree work that requires an application via a Tree Works Permit is outlined in Control C6. This is a simplified approval process.*
4. *Tree work that requires an application via minor works request is outlined in Control C7. This applies to only undesirable tree species.*

3. Tree work that does not require Council Consent

C1 The following works do not require Council consent, provided the work is carried out in accordance with AS 4373 - 2007 – *Pruning of amenity trees* and the Safe Work Australia Code of Practice ‘*Guide to Managing Risks of Tree Trimming and Removal Work*’ 2016:

- a. Canopy lifting to 2.5 metres above ground level;
- b. Selective pruning to a 3 metre clearance above the roof or from the face of all *structures*; and
- c. The pruning of deadwood that does not have hollows or provide habitat for native fauna.
- d. Works to trees owned by, or under the care, control and management of Inner West Council and undertaken by delegated Council staff or their authorised contractors.

Neighbouring trees

A person may prune the branches of a tree overhanging their property in accordance with AS4373-2007 – Pruning of Amenity Trees provided that the pruning is consistent with section 3 Tree work that does not require Council Consent but must not prune a tree beyond the property boundary. You must consult with your neighbour before you undertake the work.



4. Trees to be protected

C2 The exemptions in C1 (a to b) and C7 do not apply to:

- i. Work that is contrary to a development consent that requires trees to be retained; or
- ii. Tree(s) required to be planted as a condition of development consent or as a compensatory planting condition in a permit; or
- iii. Trees or bushland to which *State Environmental Planning Policy No. 19 – Bushland in Urban Areas* applies; or
- iv. Threatened species or land that contains native vegetation (including dead trees) which is habitat for threatened species, populations or ecological communities listed in Schedule 1 and 2 of the *Biodiversity Conservation Act 2016* and protected matters listed under the *Commonwealth Environment Protection Biodiversity Conservation Act 1999*; or
- v. Land that is a declared area of outstanding biodiversity value under the *Biodiversity Conservation Act 2016*; or
- vi. Land identified on the Sensitive Biodiversity Values (SBV) Map and Coastal Environment Map (refer to Office of Environment and Heritage website); or
- vii. Land declared critical habitat under Part 7A of the *Fisheries Management Act 1994*; or
- viii. Any native tree located within a wildlife corridor as shown on the Biodiversity Map in Part 2.13 - Biodiversity of Marrickville DCP 2011 – Appendix 3; or
- ix. Any tree that is a heritage item, forms part of a heritage item, or is listed in the heritage trees list.
- x. Any tree that is within a heritage conservation area or item where the works are:
 1. Not of a minor nature; or
 2. Likely to have an adverse impact on a Heritage Conservation Area or Heritage Item.

Clear Vegetation

Clear vegetation, includes

- a) *Cut down, fell, uproot, kill poison, ring bark, burn or otherwise destroy the vegetation, or*
- b) *Lop or otherwise remove a substantial part of the vegetation (including roots).*

(State Environmental Planning Policy (Vegetation in Non- Rural Areas) 2017



Biodiversity and Land Management

Biodiversity and Land Management reforms commenced on 25 August 2017. *The SEPP and Biodiversity Conservation Act 2016 (BC Act)* were introduced as part of those reforms. The BC Act establishes the *Biodiversity Offsets Scheme (BOS)* thresholds, comprised of the *Biodiversity Values Map (BVM)* and an Area Clearing Threshold. If you are proposing works to trees on land mapped on the BVM or the extent of the works exceed the relevant area threshold, the proposal will exceed the BOS threshold. Council cannot issue a permit for tree works which exceed the BOS threshold and the application must be provided to the Native Vegetation Panel.

See Department of Planning Industry and Environment website for more information.

5. Protected (prescribed) trees

- C3** For the purposes of this DCP, a prescribed tree is:
- i. any tree with a height equal to or greater than 6 metres above ground level (existing); or
 - ii. any tree that is under 6 metres in height that has a trunk diameter of more than 300mm at ground level (existing);
 - iii. any tree with a canopy spread equal to or greater than 3 metres;
 - iv. any palm tree or tree fern with a stem length equal to or greater than 4 metres above ground level (existing);
 - v. any tree that is required as the habitat of native animals.

Under the provisions of Clause 7 of the Vegetation SEPP a person must not *clear vegetation* without the consent of Council.

Trees that are considered an imminent risk to human life or property

If a tree on your property is suspected to be an *imminent risk to human life or property* you should first contact Council and detail why the tree is considered to be a risk. Council may require a brief statement and or photos to demonstrate that the tree requires immediate removal. Council will issue expedited consent in writing to allow removal of an imminently dangerous tree under the provisions of *Part 2, Clause 8 (3) of Vegetation SEPP 2017*.

If Council is not satisfied that the tree is a risk to human life or property you will be advised to lodge the relevant application.



5.1. Types of Tree Applications

C4 Council consent is required before any clearing of vegetation (removal or pruning or tree/s) other than the activities referred to in Control C1 and C2. Applications for consent will be assessed and determined either through:

- i. Development Application (as set out in Control C5); or
- ii. Tree Works Permit Application(as set out in Control C6); or
- iii. Tree Minor Works Request (as set out in Control C7)

C5 **Development consent** is to be required for works or removal of trees only in the following circumstances:

- i. Removal of trees identified on the Inner West Council heritage trees list.
- ii. The tree forms part of an Aboriginal object or is located within an Aboriginal place of heritage significance or is located within a Heritage Conservation Area or Heritage Item item where the works are determined to be not of a minor nature; or likely to have an adverse impact on a Heritage Conservation Area or Heritage Item.

C6 **Tree Works Permit** is required, except where the tree or the works to the tree/s are an exempt activity under C1 *Tree work that does not require Council Consent*, to:

- i. Prune a tree; and/or
- ii. Remove a tree other than those trees which require Development Consent under Control C5

C7 **Tree Minor Works request** is required for the removal of tree species listed below or *dead* trees. Council approval is not required to prune any of these species provided the work is carried out in accordance with AS 4373—*Pruning of amenity trees* and the Safe Work Australia Code of Practice *Guide to Managing Risks of Tree Trimming and Removal Work* 2016.

Species Name	Common Name
<i>Acer negundo</i>	Box Elder
<i>Ailanthus altissima</i>	Tree of Heaven
<i>Albizia lophantha</i>	Silk Tree
<i>Alnus jorrullensis</i>	Evergreen Alder



<i>Araucaria bidwillii</i>	Bunya Pine
<i>Araucaria cunninghamii</i>	Hoop Pine
<i>Araucaria heterophylla</i>	Norfolk Island Pine
<i>Archontophoenix alexandrae</i>	Alexandra Palm
<i>Archontophoenix cunninghamiana</i>	Bangalow Palm
<i>Bambusa spp. Phyllostachys spp.</i>	Bamboo species
<i>Celtis australis</i>	Hackberry
<i>Celtis sinensis</i>	Chinese Hackberry
<i>Cinnamomum camphora</i>	Camphor Laurel
<i>Citharexylum spinosum</i>	Fiddlewood
<i>Cotoneaster spp.</i>	Cotoneaster
<i>Cupressus sempervirens 'Stricta'</i>	Pencil Pine
<i>Cupressus marocarpa</i>	Monterey Cypress
<i>Eriobotrya japonica</i>	Loquat
<i>Erythrina x sykesii</i>	Coral Tree
<i>Ficus benjamina</i>	Weeping Fig
<i>Ficus elastica</i>	Indian Rubber Tree
<i>Gleditsia triacanthos</i>	Honey Locust
<i>Harpephyllum caffrum</i>	Kaffir Plum
<i>Lagunaria patersonia</i>	Norfolk Island Hibiscus
<i>Ligustrum lucidum</i>	Broad Leaved Privet
<i>Ligustrum sinense</i>	Small Leaved Privet
<i>Liquidambar styraciflua</i>	Liquidambar
<i>Melia azedarach</i>	White Cedar
<i>Morus spp</i>	Mulberry
<i>Nerium oleander</i>	Oleander
<i>Olea europaea var. africana</i>	Wild Olive/ African Olive
<i>Pinus radiata</i>	Monterey Pine/ Radiata Pine
<i>Pittosporum undulatum</i>	Sweet Pittosporum
<i>Populus nigra 'italica'</i>	Lombardy Poplar
<i>Robinia pseudoacacia</i>	False Acacia/Black Locust
<i>Salix spp.</i>	Willow
<i>Schefflera actinophylla</i>	Umbrella Tree
<i>Schinus terebinthifolius</i>	Broadleaf Pepper Tree
<i>Syagrus romanzoffianum</i>	Cocos Palm
<i>Tamarix aphylla</i>	Athel Tree
<i>Toxicodendron succedaneum</i>	Rhus Tree
<i>x Cupressocyparis leylandii</i>	Leyland Cypress
A fruit tree grown for the purpose of fruit production, excluding naturally grown native fruiting species.	



5.2. Application Assessment Criteria

Council will use the following assessment criteria when considering an application to remove a tree/s:

i. Distance

Approval will be granted for any tree located within two (2) metres of a dwelling house or garage located within the same lot as the tree, unless the tree is protected under section 4 of this part. The distance is measured horizontally from the closest point of the trunk at one (1) metre from ground level to the closest point of the vertical alignment of the building wall. The issued permit will identify the type of any replacement tree required with a preference for advanced species. As a condition of the permit, verification of the planting of any replacement tree is also required.

ii. Danger

Danger is assessed based on a number of factors including;

- The potential/likelihood of a tree or tree part to fail;
- A history of previous branch failure;
- The size of the defective part of the tree;
- The use and occupancy of the area that may be struck by a defective part; and
- The tree exceeds 15m in height and is within the strike zone of a habitable dwelling.

Meeting the danger criteria gives significant determinative weight to the application to approve the removal and/or pruning of a tree.

Dangerous tree assessments are to be based on the safety risk in all weather conditions, not “normal” conditions.

iii. Property Damage

The likelihood of the tree having an adverse effect on property including trees renowned for having extensive root systems, which cause damage to footings of houses or, trees that cause blockages to domestic sewer and drainage lines.

iv. Condition of the tree

The structural integrity of the tree is assessed for any visible signs of decay or deterioration, this is usually indicated by a lack of foliage, dead branches evident in the canopy, presence of fungal fruiting bodies, excessive sap being exuded from the trunk and/or evidence of insect attack, particularly borer damage. Further, the likelihood the species displays toward branch failure and subsequent limb fall.

v. Health of the tree

The species' susceptibility to environmental changes, which may affect the longevity of the



species' survival in its current location. This would include, changes in soil level, excessive root damage caused during construction works, changes in water availability, competition for other vegetation (particularly climbing vines), and compaction of soil (particularly in high usage areas such as car parking areas).

vi. Significance to Streetscape

An assessment of the visual environment and the significance the specimen plays within the streetscape. Other criteria would include if the tree is an endangered or rare species, is of historical significance or, the link the tree provides between bushland and reserves (the connectivity of habitat).

vii. Termites

Each case of termite infestation will be investigated on its merit.

viii. Potential Future Damage

The potential for the tree to cause damage in the future is also considered in an assessment for removal.

ix. Extenuating circumstances

Circumstances, such as the owner's capacity to undertake required maintenance of a tree and surrounds, whether the landowner planted the tree, or solar access for renewable energy systems and other like considerations.

Criteria not considered

The following criteria are generally not considered justification for tree removal or pruning:

1. The dropping of leaves, flowers, fruit, sap, seeds or small elements of deadwood (or other natural processes);
2. Insect/animal nuisance;
3. Solar access to solar panel or data receivers;
4. Increase general natural light or reduce shade created by a tree;
5. Enhance view corridors;
6. Minor lifting of driveways, paths and paving or minor damage to outbuildings, garden structures, walls or landscape structures;
7. Damage to underground services (such as sewer lines, water services) and where there are feasible alternatives to mitigate or solve problems and retain the tree;
8. The tree is large or overhanging neighbouring property or roof line;
9. Pruning to reduce height, except pruning to reduce the height of hedge/s



5.3 Right of Appeal

In accordance with the Vegetation SEPP you may, within three (3) months from the date of original determination, appeal to the NSW Land and Environment Court if you are dissatisfied with the Council's determination.

If you wish Council to review the decision you may request a review of tree permit application. Reviews must be lodged within six (6) months of the original determination date. With your submission you will need to include additional information to support your appeal application that was not available as part of the original application. Where tree works are determined by way of a Development Application, the same legal right of appeal applies, as applies for Development Applications.

5.4 Tree Planting Requirements

- C8** Council will require replacement tree/s to be planted as a condition of any consent to remove a tree to effectively maintain the urban forest canopy across the LGA. Where replacement of trees is approved, Council prefers that trees that are removed are replaced on the site with a suitable replacement canopy tree and in a suitable location onsite. However, there may be circumstances when there is no suitable location on site (for example, in the case of small backyards); a financial contribution will be required to be paid to support public tree planting. Fees are set out in Council's fees and charges.
- C9** Replacement tree/s must be maintained in a healthy and vigorous condition until they are protected by this Part.
- C10** A person must not fail to plant, protect or care for a replacement tree which is required to be established as a condition of consent issued by Council.
- C11** The following minimum tree planting requirements are required for any new development sites:

Property Size:	Number of trees to be planted
Less than 300m ²	minimum of one (1) tree.
exceed 300m ²	minimum of two (2) trees

Tree container size and mature tree height will be determined by Council and will generally be based on available land space and land zoning canopy targets, a preference is placed on advanced container sizes.



6. Trees on Development Sites

- C12** All development proposals must be designed to maintain or improve the urban forest values of the site by minimising the impact on tree/s and planting compensatory tree/s for tree/s that are proposed for removal. This requirement applies to Council owned trees and trees on private or other property and adjoining land.
- C13** The design of buildings or alterations and additions to buildings must provide sufficient distance from existing trees (whether on the site or on adjoining land), in accordance with AS4970—*Protection of trees on development sites*, to ensure the tree/s' practical retention.
- C14** Trees on public land must be protected during demolition, excavation, the erection of hoarding and construction works as set out in Section 4 of the AS4970. Council will require the payment of a security deposit in relation to a tree on public land if:
- i. Development is proposed within the Tree Protection Zone of that tree or;
 - ii. Council determines that the development may adversely affect the roots or crown of the tree.
- C15** 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.

7. Definitions

In this Part:

AS4373 means Australian Standard 4373—*Pruning of amenity trees*.

AS4970 means Australian Standard 4970—*Protection of trees on development sites*.

Clear Vegetation includes: (a) cut down, fell, uproot, kill, poison, ringbark, burn or otherwise destroy the vegetation, or (b) lop or otherwise remove a substantial part of the vegetation.

Dead means no green cambium (tissue) and no green foliage and that the tree is no longer capable of performing any living functions.

Dwelling house means a building containing only one dwelling

Dying means a tree in a state of decline where it is unlikely to recover. Generally, this may be represented by only ≤ 20% live canopy.



Foreseeable future means the next 12 months.

Garage a building for housing vehicles which is enclosed on all sides.

Imminently dangerous includes but is not restricted to obvious instability of the root system, evidence of soil heave or cracking, loss of structural roots, root decay, storm damage and structural defects that are imminently hazardous, such as splitting branches.

Risk to human life or property is where a tree presents an unacceptable level of risk to life or property.

LGA means the Inner West Local Government Area.

Project Arborist means the arborist appointed to monitor the vitality and condition, throughout the construction process, of trees being retained on the site (and any trees on adjoining private land and trees on public land where the development encroaches into the TPZ of those trees).

Structure is a building or other fixed object constructed from several parts.

Tree Protection Zone (TPZ) means the area around a tree required to protect the tree's crown and roots during the construction process. The tree protection zone must be calculated in accordance with AS4970

Urban Forest means all trees and vegetation (both naturally occurring and planted) that occur within or near urban areas.

NB *All references to Acts, Australian Standards, Policies, and Strategies, are to those documents as amended from time to time.*

