



## **Tree Preservation Order 2009 Procedures Manual**

The City of Canterbury resolved to adopt a Tree Preservation Order (TPO) in August 1995. The order was published in the Government Gazette No: 119 dated 29 September 1995. The order was reviewed and amended in February 2009. The Tree Preservation Order is made pursuant to Clause 40 of the Canterbury Planning Scheme Ordinance and clause 13 of Local Environmental Plan (LEP) 138 (Canterbury Precinct), LEP 148 (Campsie Precinct) and LEP 178 (Belmore/Lakemba Precinct). It applies to all land within the City of Canterbury.

### **1. Why do we have a Tree Preservation Order (TPO)?**

Although trees may be privately owned, they provide benefits to the whole community. The Tree Preservation Order serves to prevent the indiscriminate and inappropriate lopping or removal of our urban forest, whether on private or public land, while balancing the reasonable expectations of landowners to protect and maintain their property.

### **2. Why are trees important?**

Collectively and individually trees contribute to the appeal and quality of our lives. Trees are a highly valued element of the City of Canterbury. Whether privately owned or street and park trees, they provide important environmental and aesthetic benefits to our City. In addition:

- They absorb greenhouse gases and produce oxygen.
- They improve air quality by absorbing toxins and particulate pollutants.
- They aid in preservation of urban biodiversity by providing habitat for native fauna.
- They greatly enhance property values.
- They make neighbourhoods more pleasant by conferring a distinct local character that is valued by residents and visitors alike.
- They improve the local microclimate, produce shade and reduce energy costs by warming the atmosphere in winter and cooling it in summer.

### **3. The Aims**

- To maintain the physical and visual appeal and amenity of the local area by preserving a healthy urban tree canopy. It is in recognition of the value and importance our community places on trees and the environment.
- 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.



#### 4. The Order

The Tree Preservation Order applies to all lands within our City. All trees and palms, exotic or native, with a height equal to or exceeding 5m in height, and/or with a trunk diameter of 15cm at 1.4m above ground level are protected unless specifically exempted. Protection under the TPO applies to all aboveground and belowground parts of a tree.

A person must not ringbark, lop, prune, remove, cut down, poison, transplant, injure or deliberately destroy any tree without written Council consent. Soil levels around trees must not be raised within the drip line of a tree without written Council consent.

A person must not wilfully fail to plant, protect or care for a tree which, under TPO conditions is required to be planted, protected and cared for as a condition of consent under this TPO.

#### 5. Penalties

Any person or corporation who contravenes, or causes or permits this Tree Preservation Order to be contravened, shall be guilty of an offence and will be liable to prosecution. It is the responsibility of the tree owner to ensure that all prescribed tree works are carried out in accordance with the permit issued. Failure to observe or comply with the stated conditions, or works undertaken outside those authorised by the permit, constitutes an offence. A person or corporation found guilty of such an offence can be liable for a fine of up to 1000 Penalty Units (currently \$110.00/Unit) in the Local Court or 10,000 Penalty Units in the Land & Environment Court.

#### 6. Exempt Activities

Council consent under the TPO is not required in the following circumstances:

- The removal of dead, dying or hazardous trees that have been certified as such by a qualified horticulturist/arborist.
- The control, removal or eradication of a declared noxious weed.
- Where trees have been approved for pruning or removal under a current Development Consent issued by the City of Canterbury.
- Where trees are grown as and are clearly identifiable as a hedge.

#### 7. What species are exempt from TPO?

All species listed on the City of Canterbury's [Noxious Weeds List](#) are exempt. In addition to those, the following species are exempt also:

Botanical Name	Common Name
Ailanthus altissima	Tree of Heaven



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

#### **8. What is the application/inspection process?**

In order for us to assess trees on private property we require the property owner, their authorised agent or other interested party to lodge a [Tree Inspection Application form \(107KB\)](#). These forms are available from our website [www.canterbury.nsw.gov.au](http://www.canterbury.nsw.gov.au) or from our Customer Service desk at **137 Beamish Street, Campsie**. All applications must be in writing.

We assess trees that are individually specified in the application. We do not carry out wholesale tree or vegetation surveys. Should you require this kind of service you need to consult an arborist /horticulturist at your cost.

Our Tree Preservation Officer, who has arboricultural qualifications, assesses all trees on private property. Assessments are made during office hours unless otherwise arranged. Due to the large number of applications we receive, inspections are carried out without appointments or prior notifications to residents. Where we are unable to gain access to a property to carry out an assessment, we will contact the applicant to arrange an appointment.



We aim to carry out all inspections and process written determinations within 14 days of the date of receipt of the application. Written determinations are returned to the owner of the tree or their agent, by mail. Where the applicant is not the owner, we sent a brief notification, quoting a reference number and the outcome of the assessment, to the applicant. A twelve (12) month expiry date applies to consents issued.

**9. Is there a fee involved?**

Yes. A fee of \$50 must be paid by the applicant on submission of the application form. Multiple trees at one property can be applied for under the one fee.

**10. Is there an appeals process?**

If the applicant disagrees with our determination, they have the option to appeal the decision we have made. An appeal must be lodged within three (3) months from the date of the original determination. To support the appeal, we require additional documents or information that has **not** been previously presented. We may further require an arborist's report, plumber's report or a structural engineer's report. **To ensure only quality arboricultural reports are submitted, the City of Canterbury will only accept reports from authors with minimum qualifications equivalent to the Australian Qualifications Framework (AQF) Level 4 or higher (NSW TAFE) .Reports from persons holding Certificates in Tree Surgery will not be accepted. Under the national qualifications system, Certificate holders are rated as Tree Workers only.** Reports need to provide adequate, relevant and factual information that creates a case for the particular report.

If an appeal is requested, an independent, qualified officer carries out a second inspection and evaluation. On rare occasions, where an appeal outcome is not accepted by the resident, the Director of City Works will make a 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.

**11. Who can apply for a Tree Inspection?**

A property owner or their authorised agent must lodge a Tree Inspection Application form for assessment of trees on their property. Approval to prune or remove a tree will only be issued to the owner of the tree or their authorised agent. Where trees are located on common land of a block of units, the consent of the owner's corporation must be obtained before lodging an application. Where the applicant is not the owner, we sent a brief notification, quoting a TPO reference number and the outcome of the assessment, to the applicant.

**12. What to do about trees on neighbouring properties?**

The City of Canterbury has no authority to compel an owner to prune or remove a tree on their own land unless it is a declared noxious weed. If a tree on your neighbour's property causes you concern, you must discuss the issue with the owner of the tree. If the tree's owner is unwilling to co-operate, you should consider consulting your nearest Community



Justice Centre who may be able to mediate on your behalf. In extreme cases, if you are unable to reach a satisfactory outcome, or where a tree causes major damage to your property or where a tree is dead or deemed hazardous, you may be able to take your claim to the New South Wales Land & Environment Court for determination under the Trees (Disputes Between Neighbours) Act 2006.

### **13. Tree Assessment Criteria**

When assessing a tree for pruning or removal we consider a number of issues 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 fail.
- Its contribution to the amenity of the property and streetscape.
- Its habitat value.
- Its prominence in the landscape.
- 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.
- Endemicity and/or rarity of species i.e. whether the tree is protected under the Threatened Species Conservation Act.

### **14. When will we approve pruning of a tree?**

Approval for the pruning of any tree 5m or greater in height and/or with a trunk diameter of 15cm at 1.4m above ground level is required unless the species is exempt from the TPO. A genuine need for pruning must be established. We will not approve the pruning of a tree based on a perceived hazard or fear of a large tree in the absence of any scientific basis. Where branches overhang a property boundary, we make a judgement based on current scientific knowledge and with the pruning Standard in mind, to reduce the amount of canopy overhang. We will not approve canopy pruning to the fence line unless, in the judgement of the assessing officer, this is acceptable practice. Generally an upper pruning limit of 20% of any tree's canopy area will be set by our officer. The actual amount to be pruned will be set by the officer and is dependant on the species tolerance to pruning and its potential impact on the aesthetic appeal of the tree post pruning.

### **15. Canopy pruning**

All trees, if so approved by us, must be pruned to the Australian Standard AS 4373-2007 'Pruning of Amenity Trees'. This Standard was prepared by the Standards Australia Committee CS/90 on Horticulture to provide guidelines for the pruning of trees. Its intention is to encourage pruning practices and procedures that reduce the risk of hazard development, branch failure, pathogen infections and premature tree death. Under this Standard, the lopping, topping and flush cutting are unacceptable practices.



Pruning should only be carried out by tree workers, who through qualifications, training and experience are familiar with the principles, techniques and hazards of this work. Pruning can leave large wounds that stress the tree and allow the entry of decay funguses and other pathogens. This can lead to formation of hazardous epicormic growth, decline in health and possibly the death of the tree. Tree species differ in their tolerance to pruning. For this reason no more than 20% of the total canopy shall ever be pruned in any 12 month period. The amount of pruning to be carried out will be specified by the assessing officer at the time of inspection. Pruning a tree to a height below 5m will not be approved as this will remove TPO protection for the tree.

#### **16. Root Pruning**

Roots allow the uptake of water and nutrients. They anchor and support the tree in the ground. The pruning of roots may place the tree under stress, allow entry of pathogens, particularly root-rotting fungi and may destabilise the tree. Approval must be sought before any root pruning is carried out.

#### **17. When will we approve removal of a tree?**

The City of Canterbury has an obligation to its residents to maintain an urban tree canopy in order to preserve the benefits that trees provide. Under this obligation we approve the removal of trees in the following circumstances:

- An arborist assessment deems the tree to be in poor condition.
- The tree is diseased and its life expectancy is low.
- The tree represents an unacceptable risk to public or private safety.
- The tree displays structural defects that cannot be mitigated by judicious pruning and presents a hazard to residents and/or property.
- The tree is an inappropriate species for the location. This may be due to its size or potential size and where, in our judgement, the tree adversely dominates a property in such a way as to greatly diminish the quality of life to the occupant.
- The tree is shown to be causing or threatening to cause substantial damage to a substantial structure of value and all other reasonable remedial treatments and measures have been determined to be ineffective.
- When, in our judgment, the tree is young or insignificant and where its amenity can be restored relatively quickly by planting a suitable replacement tree.

#### **18. When will we NOT approve removal of a tree?**

It is our City's and indeed the Community's expectation that a certain amount of inconvenience must be tolerated for the greater good that trees provide. Approval to remove a tree will generally not be given, (unless other significant factors as mentioned above apply):

- If it makes an important contribution to the character or amenity of the local area.



- If it forms a notable visual element to the landscape of the local area.
- If it contributes to the habitat value of an area individually, or provides links to other vegetation which forms a wildlife corridor.
- If it is a species that is protected under the Threatened Species Conservation Act.
- If it is shedding leaves, fruit, bark, cones and twigs and this is considered a natural process.
- If the tree attracts seasonal insect e.g. bees.
- If it causes or is likely to cause minor damage to infrastructure. Minor damage is defined as cracking or displacement of footpaths, driveways, small retaining walls (under 1m in height), fences and garden edgings.
- If it contributes to minor and irregular blocking of sewer and stormwater pipes and it can be shown that existing pipes are defective and therefore allowed tree roots to penetrate.
- Where internal lining of terracotta pipes or replacement with PVC pipes is a viable and cost-effective option.
- Where the perception exists that a tree is hazardous in the absence of any scientific basis.
- To improve views.
- Where it can be shown that alternatives to tree removal exist.
- If it causes, in our judgement, an acceptable amount of overshadowing of a property.
- If there is no other reason for removal other than that the tree has become too tall.

To maintain an effective Tree Preservation Order, removal of trees must always be the last option. We acknowledge that in specific circumstances, removal of a tree may be the only option. It is not possible to say a tree is 'absolutely' safe. It is accepted that a reasonable and controlled risk is inherent to many human activities. We will not approve pruning or removal of trees based on perceived fears brought about by the size of a tree. Any claim that a tree is damaging major structures such as footings or drainage pipes must be substantiated by providing engineers' reports and plumber's reports, unless the damage is obvious.

**19. Will I need to plant a replacement tree?**

Where we approve the removal of a tree, it is generally subject to a suitable replacement tree being planted for each tree that is removed. We do take into consideration the number and quality of established trees already on the property. Our Tree Preservation Officer makes a judgement as to how many replacement trees ought to be planted. Replacement trees must be planted within 30 days of removal of the existing trees unless specified otherwise by the Tree Preservation Officer. Trees must be cared for and maintained to maturity. When selecting replacement trees, only suitable trees appropriate to the circumstances should be chosen. Our definition of a suitable tree is one of high aesthetic value that provides good amenity without adversely impacting the property. It should also provide habitat for native fauna. Citrus, mango and stone fruit trees (*Prunus* sp.) are not acceptable replacement trees because these species are not protected under





the TPO and because of their susceptibility to fruit fly. Fruit fly is a serious pest in New South Wales and Queensland. To assist residents with their choice of tree species, we have published a list of [Suitable Tree Species for Urban Gardens](#) on our website.

#### **20. Trees on development sites**

The objective of tree protection on development sites is to reduce the negative impacts of construction on trees to a less than significant level. Because 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.

For further information please consult the [Development Control Plan 45](#) on our website.

#### **21. Guidelines for Arborists**

Our City's arborists carry out visual tree inspections from ground level only. Where a tree requires a more extensive aerial assessment or if the tree is located on a proposed development site, we may require that you submit an arborist's report with your application.

To expedite the process, we require that all tree assessments are conducted and recorded in accordance with industry best practice. All information shall be presented objectively and not biased to achieve any particular outcome. All information shall be based upon evidence attained at the site and on current available research. Artificial enhancements or padding of reports, by the addition of irrelevant information, will not be considered. References not used in the report should not be added to the annex.

To ensure only quality reports are submitted, the City of Canterbury will only accept arboricultural reports from authors with a minimum qualifications equivalent to the Australian Qualifications Framework (AQF) Level 4 or higher (NSW TAFE). It is not acceptable for persons holding Certificates in Tree Surgery to prepare reports. Under the national qualifications system, Certificate holders are rated as Tree Workers only.

A copy of **Guidelines for Arborist's** is attached as Appendix 1 and can be accessed below.

#### **22. Definitions**

*Arborist* - a person with a minimum qualification level in Arboriculture of the Australian Qualification Framework (AQF) 4.





***City of Canterbury***  

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*Lopping* - the practice of cutting branches or stem 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 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'.

#### **Appendix 1**

 [Guidelines for Arborist Reports \(36KB\)](#)