

TREE PRESERVATION ORDER

ENV0002

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TREE PRESERVATION ORDER POLICY

1. POLICY OBJECTIVES

- 1.1 The objective of these provisions is to preserve and enhance the amenity of the Wollondilly Shire:
- through the preservation of trees by requiring consent for actions likely to adversely affect the health of trees and other vegetation;
 - to ensure the retention and integrity of trees that form part of the natural environment and contribute towards locality character;
 - through discouraging extensive removal of trees, and,
 - by establishing clear guidelines for the submission and assessment of applications for tree removal in Wollondilly Shire, to ensure the proper management, replenishment, and longevity of Wollondilly's tree resources.

2. BACKGROUND

- 2.1 Council first adopted the Tree Preservation Order on 23 September 1991, and most recently on 21 March 2005.
- 2.2 The NSW Native Vegetation Act 2003 and Native Vegetation Regulation 2005 introduced new regulations for the clearing of native vegetation in NSW, which has implications on Council's Tree Preservation Order.
- 2.3 The NSW Threatened Species Conservation Act 1995 has further implications regarding clearing endangered ecological communities and populations.
- 2.4 The Tree Preservation Order has been updated to reflect changes in state legislation and to tighten the controls tree and vegetation clearance in Wollondilly Shire.

3. AREA OF APPLICATION

- 3.1 This tree preservation order applies to the whole of the local government area of Wollondilly.
- 3.2 This order has been made under the provisions of the Environmental Planning and Assessment Act, 1979.

4. WHEN IS CONSENT REQUIRED?

- 4.1 Consent from Council will be required to undertake works to trees protected under this Order.
- 4.2 Applications for multiple tree removal will be subject to a local development application.
- 4.3 In addition to consent from, there may be instances whereby approval under the Native Vegetation Act, 2003 is required in addition to consent from Council for tree removal.

5. DEFINITIONS

- 5.1 **Tree** means:
- A single trunk plant with a girth of 45 cm or more, measured at a distance of 1 metre above ground level, or
 - A multi trunk plant with an individual trunk girth of 8 cm or more, measured at ground level, or,
 - A plant over 4 metres tall, or
 - A plant with a branch spread over 4 metres.

6. GENERAL

6.1 *Council Controls*

- 6.1.1 A person must not ringbark, cut down, top, lop, remove, injure, poison or wilfully destroy any tree identified above without the authority conferred by a Development Consent or a permit granted by the Council, or other relevant consent authority, as defined by the Environmental Planning and Assessment Act, 1979.

- 6.1.2 Any works within the area vertically beneath the foliage of a tree must not be undertaken without the written consent of Council or the relevant control authority. Works include the changing of the natural ground level by filling, excavation or other ground treatments, however do not include works classified as exempt development.
- 6.1.3 Any application for tree removal must be accompanied by an Arborist report prepared by a suitably qualified consultant.
- 6.1.4 Council or the relevant control authority may specify areas of, or, individual trees to be retained in conjunction with applications for tree and other vegetation removal.
- 6.1.5 Council or the relevant control authority may specify measures that must be undertaken to stabilise impact sites to prevent soil erosion or may require treatments such as mulching to prevent weed growth following tree removal.
- 6.1.6 Council may also require fauna specialists to investigate and report on habitat values of trees and may require approved works to be undertaken while a wildlife reserve organisation representative is on site.

6.2 Grounds for Refusal

- 6.2.1 An Arborist report submitted does not demonstrate to the satisfaction of Council that the proposal is compliant with this policy.
- 6.2.2 Significant heritage, ecological, social, cultural or environmental impact shall result from the tree or other vegetation removal.
- 6.2.3 Developments that pose a significant direct impact to an existing tree or other vegetation which have heritage, ecological, social or cultural values.
- 6.2.4 Where the only justification for the proposal is made on the grounds of minor shade, bark, leaf, fruit or flower fall, or blockage of pipes.
- 6.2.5 Where the primary purpose of tree removal is to improve view.
- 6.2.6 Where there are unsubstantiated fears about large trees.

7. EXEMPTIONS FROM THIS POLICY

7.1 Dead trees and branches

Removal of completely dead trees and dead branches.

7.2 Tree branches directly over rooflines

Removal of tree branches which directly overhang the roof of a residence or commercial building, may be pruned back to the nearest branch junction or collar to clear the roofline, provided the owner of the tree is in agreement. Pruning must be consistent with the relevant Australian Standard for Pruning of Amenity Trees, and must not result in a detrimental impact to the future health or stability of the tree or compromise the form of the tree. Detached Garages, all carports and ancillary buildings are not included in this exemption.

7.3 Trees within 3.0 metres of an existing dwelling

This distance is measured from the centre of the trunk of the tree at ground level to the external wall of the building. The trunk of the tree must be located on the same property. Verandas, all carports, detached garages, and ancillary buildings, cantilevered and pier supported structures such as balconies and decks are not included within this exemption.

7.4 Branches and trees near electrical wires

Works consistent with the provisions of section 48 of the Electricity Supply Act 1995. For electrical service lines to properties, this would apply to branches within 0.5m of these lines. This exemption applies to tree branches not trunks.

7.5 Trees on Council Land

Tree works undertaken by Council or Council's authorised agents, on Council owned land, providing these works are consistent with Council's policies and internal guidelines. The removal or trimming of trees in accordance with the Roads Act 1993, when undertaken by Council or Council's authorised agents, Council owned or managed parks or bushland, providing these works are consistent with Council's policies and internal guidelines.

7.6 Exempt Tree Species

Common Name	Scientific Name
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Date first Adopted by Council:
 Most recent adoption by Council:
 Due for next review:

Broad-leaved Privet	Ligustrum lusidum
Narrow-leaved Privet	Ligustrum sinense
Coral Tree	Erythrina x sykesii
Camphor Laurel	Cinnamomum camphora
Cotoneaster	Cotoneaster spp.
Rubber Tree	Ficus elastica
Willow	Salix spp.
Evergreen Alder	Alnus jorulensis
Box Elder	Acer negundo
Sweet Pittosporum	Pittosporum undulatum
Poplar	Populus spp.
Honey Locust	Gleditsia triacanthos
African Olive	Olea europaea
Tree of Heaven	Ailanthus altissima
Rhus	Toxicodendron succedaneum
Gorse	Ulex euro
Wild Tobacco Tree	Solanum mauritianum

NOTE: The above exemptions do not apply to Camphor Laurel or Poplar Trees taller than 20 metres in height or on heritage listed properties or heritage conservation areas

7.7 Rural Fires Act 1997

Tree works for which an order or permit has been issued under the Rural Fires Act 1997.

7.8 Native Vegetation Act 2003 and Native Vegetation Regulation 2005

Vegetation approved for clearing under the Native Vegetation Act and Native Vegetation Regulation are exempt from this policy.

NOTE: Items of Environmental and Indigenous Heritage. The above exemptions do not apply to items of environmental or indigenous heritage, or heritage conservation areas.

8. POINTS OF CONSIDERATION

8.1 In determining a development application, Council must consider:

- 8.1.1 **Visual impact** - the character of a locality is often provided by existing trees and other vegetation. An assessment is made as to the loss of tree or other vegetation within a site and the visual impact upon the locality and surrounding area.
- 8.1.2 **Form and Health** - a healthy tree that is of good form is more highly considered for retention than a tree which is unhealthy or due to its shape considered unsafe to retain.
- 8.1.3 **Function** - trees which provide screening or a softening effect to a structure are highly regarded for retention.
- 8.1.4 **Habitat** - trees provide shelter and nest sites and are an important source of food for many of the Shires fauna. In circumstances where safety is not compromised, habitat trees must be retained.
- 8.1.5 **Historical significance** - some trees are significant in terms of their early European or Aboriginal culture, commemorative, memorial or social significance. In circumstances where safety is not compromised, such trees must remain.
- 8.1.6 **Frequency of Occurrence** - trees which are rare, unusual or at the limit of their natural range are highly regarded for retention.
- 8.1.7 **Development Impact** – the potential adverse effect of a proposed development on a tree must be considered during the assessment process. Council may require a development proposal to be redesigned in order to protect and maintain a tree or other vegetation.
- 8.1.8 **Safety** – the safety value of a tree after the development is completed must be taken into consideration during the assessment process and the safety value of that tree having regard to its growth over the next 5 years.

8.2 Protection measures that may be specified during the construction phase:

- 8.2.1 All Council approved tree pruning must be undertaken in accordance with AS4373-1996 (Australian Standard - Pruning of amenity trees) by a qualified arborist and that arborist is to provide written verification of the process if requested by Council.
- 8.2.2 Exclusion of site sheds, building materials and stockpile materials, fuels and chemicals from within the dripline of the tree(s).
- 8.2.3 Exclusion of all vehicle and machinery from within the dripline of the tree(s) other than for limited periods where there is no practical alternative.
- 8.2.4 The provision of temporary fencing utilising 1 metre high post and wire fence around the dripline of the tree(s).
- 8.2.5 All protected trees must be mulched with organic mulch, 100mm deep extending to the drip zone.
- 8.2.6 All roots damaged as part of the approved development are to be treated with a tree wound dressing compound. Where root damage does occur this treatment may be required to be inspected by Council prior to backfilling.
- 8.2.7 A temporary irrigation system may be required to installed within the fenced exclusion zone and maintained during the works, dependent on the current climatic conditions and the water requirements of the tree(s).
- 8.2.8 The engagement of a suitably qualified Arborist or other approved contractor to carry out the above works is required or recommended.
- 8.2.9 All construction activity, building works and completed structures (including driveways, paths and underground and overhead utilities) must be located so as to not to interfere with the long term health and growth of a tree or other vegetation.

9. RELATED LEGISLATION

- 9.1 Environmental Planning and Assessment, 1979.
- 9.2 NSW Native Vegetation Act, 1993.
- 9.3 NSW Native Vegetation Regulation, 2005.
- 9.4 NSW Threatened Species Conservation Act, 1993.