

CITY OF SYDNEY

TREE PRESERVATION ORDER 2004

Introduction

The Council of the City of Sydney resolved to make this Tree Preservation Order (TPO) on 1st of June 2004 and to vary and rescind other tree preservation orders (to the extent that any other tree preservation order applied within any part of the Local Government Area on that date), with the effect that the Tree Preservation Order applies uniformly throughout the Local Government Area. Notice of the making of this order was published in the Government Gazette on [4 June 2004], and on [4 June 2004] in the following newspaper: [Sydney Morning Herald].

This TPO is made pursuant to clause 8 *Environmental Planning and Assessment Model Provisions 1980*, (Preservation of trees) as adopted in clause 16 of the City of Sydney Local Environmental Plan 1996, clause 32 of the South Sydney Local Environmental Plan 1998 and clause 9 of the Leichhardt Town Plan 2000.

1. Aims

The aims of this Tree Preservation Order ("TPO") are:

- a. Preservation and management of existing suitable trees in a safe and healthy condition;
- b. Planting and management of new suitable trees that will be safe, healthy and beneficial;
- c. Management and/or removal of dangerous and unsuitable trees.

2. Land to which this order applies

This order applies to all land within the Local Government Area of the City of Sydney for which either the City of Sydney Council or the Central Sydney Planning Committee (as defined in the *City of Sydney Act 1987*) is the relevant consent authority under the *Environmental Planning and Assessment Act 1979*

3. Order

- a. This Order applies to any tree (whether exotic, endemic or indigenous) with:
 - (i) a height equal to or exceeding five (5) metres **OR**
 - (ii) for a single trunk species, a trunk circumference of 300mm at a height of one metre above ground level; **OR**
 - (iii) for a multi-trunk species, a trunk circumference exceeding 100mm at a height of one (1) metre above ground level.
- b. A person must not cut down, remove, wilfully destroy, transplant, lop, prune, ring bark, injure or poison any tree above or below ground, without the written consent of Council.
- c. A person must not wilfully or deliberately fail to plant, protect or care for a tree, which is required to be planted, protected or cared for as a condition of consent under this TPO, or fail to carry out any other activities required as a condition of consent under this TPO.

4. Exempt Activities

Consent is not required in the following circumstances:

- a. **Emergency Works.** Any work carried out by the Council, the State Emergency Services, or a person authorised by either of them for safety reasons in response to an emergency.
- b. **Electricity Supply.** Removal or pruning in accordance with Australian Standard AS 4373 *Pruning of Amenity Trees* of trees under section 48 of the *Electricity Supply Act 1995*.
- c. **Insulated Electricity Supply.** Removal or pruning in accordance with Australian Standard AS 4373 *Pruning of Amenity Trees* of trees to provide 0.5 metre clearance of insulated electricity supply cables.
- d. **Development Consent.** Tree pruning or tree removal approved by a current Development Consent issued by the City.
- e. **Dead/dying or dangerous tree .** The TPO does not apply to a tree where it can be demonstrated to Council that the tree is dying, dead or has become dangerous.
- f. **Pruning, maintenance removal and replacement** of street trees, park trees and other trees in public spaces owned by, or under the care, control and management of Council in accordance with clause 4 of this TPO.
- g. **Noxious Weeds.** Control, removal and eradication of any species declared a noxious plant within the City under the *Noxious Weeds Act, 1993*. Those species include:

Botanical Name	Common Name
<i>Ricinus communis</i>	Castor Oil Plant
<i>Salix spp.</i>	Willows
<i>Toxicodendron succedaneum</i>	Rhus Tree

- h. **Exempt Species:** Removal, transplanting or pruning in accordance with Australian Standard AS 4373 *Pruning of Amenity Trees* of the following species, except where listed on the City's Significant Tree Register:

Botanical Name (*Restriction)	Common Name	Botanical Name (*Restriction)	Common Name
<i>Acacia baileyana</i>	Cootamundra Wattle	<i>Ficus elastica</i>	Rubber Tree
<i>Ailanthus altissima</i>	Tree of Heaven	<i>Gleditsia triacanthos</i> (not cvs)	Wild Honey Locust
<i>Alnus jorullensis</i>	Evergreen Alder	<i>Lagunaria Patersonia</i>	Norfolk Island Hibiscus
<i>Bamboo</i>	All species and cvs	<i>Ligustrum spp</i>	Privet
<i>Schefflera actinophylla</i>	Umbrella Tree	<i>Liquidambar styraciflua</i>*	Liquidambar
<i>Cinnamomum camphora</i> *	Camphor Laurel	<i>Morus Spp</i>	Mulberry
<i>Citrus species</i>	All varieties	<i>Musa Spp</i>	Banana
<i>Cotoneaster spp</i>	Cotoneaster	<i>Nerium oleander</i>	Oleander

<i>Celtis spp.*</i>	Celtis/ Hackberry	<i>Olea europaea var. Africana</i>	African Olive
<i>Eriobotrya japonica</i>	Loquat	<i>Robinia pseudacacia</i>	False Acacia - (not cvs)
<i>Erythrina x sykesii*</i>	Coral Tree	<i>Syagrus romanzoffianum</i>	Cocos Palm

***Only if height is less than 10.0 metres and diameter at 1.0 m less than 300mm.**

- i. **Street Trees.** Pruning, maintenance, removal and replacement of street trees, undertaken by persons authorised by the City of Sydney representatives, in accordance with the City of Sydney Street Tree Management Plan and Australian Standard AS 4373-1996 "Pruning of Amenity Trees".
- j. **Park Trees and Trees on Community Land.** Pruning, maintenance, removal and replacement of trees in parks and Community Land undertaken by persons authorised by the City of Sydney representatives, in accordance with the Plan of Management for that land and Australian Standard AS 4373-1996 "Pruning of Amenity Trees".
- k. **Domain, Botanic Gardens, Centennial Park and Moore Park.** Pruning, maintenance, removal and replacement of trees, undertaken by each of the Royal Botanic Gardens and Domain Trust and Centennial Park and Moore Park Trust, on land vested in each of them respectively.
- l. **Administration by authorised persons.** Without limiting any other authority at law, the Council may delegate to any authority, organisation, or body charged with the care, control and management of public places the responsibility of performing pruning, maintenance, removal and replacement of trees in accordance with this TPO.

Please Note:

- An application form will need to be completed for all works required on trees that are not included in the above exemptions.
- The administration fee charged for inspection of trees is detailed on the relevant application form. This fee is non-refundable.
- A twelve (12) month expiry date applies to consents contained within Tree Preservation Order permits.

5. Applications

- a. Written applications must be made on the current application form provided by the City.
- b. A fee may apply to written applications. The fee is intended to cover the costs of administration, site visit, assessment, determination and is non-refundable.

6. Conditions of Consent

- a. Any consent given by the City may be subject to conditions.
- b. Where replanting is a condition of consent, replacement plantings are to be protected and cared for, for a minimum period of twelve months, so that they remain in good health and are likely to reach natural size and maturity.

- c. Any consent given by the City to an application in writing is to be displayed by the applicant at the front fence of the property for at least two (2) days prior to carrying out, during and two (2) days after the work for which consent was given.
- d. The consent is to be available for viewing at the property by an officer of the City during the carrying out of any activities permitted under that consent.
- e. The consent remains valid for one (1) year from the date of issue

7. 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 liable to prosecution. A person or corporation found guilty of contravention, or causing or permitting the contravention of this Order shall be liable to a fine of up to 10,000 Penalty Units*. In addition the Court may also require the person or corporation to repair or replace the damaged or destroyed tree/s and to maintain such tree/s to maturity.

(* At the date of making of this policy a Penalty Unit = \$110)

8. Definition of Terms

“cutting down” means the removal of a tree.

'dead tree' means a tree which is no longer capable of performing any processes or exhibits symptoms as described in the Tree Preservation Order.

'height' means the distance measured vertically between the horizontal plane of the lowest point of the base of the tree which is immediately above ground and the horizontal plane of the uppermost point of the tree.

'injury' and **'wilful destruction'** includes the administering of a chemical or artificial substance to a tree or any part of a tree or, the mechanical or physical wounding of a tree or any part of a tree (including without limitation physical injury by machinery on construction sites) or the material alteration of ground level within 3 metres of the trunk or water table which causes damage to the tree or any part of the tree..

'pruning' includes **'top lopping'** means the removal of any stem/s back to the intersection of another stem/s to a swollen area at the intersection called the branch collar, and any act or acts of severing any part of a tree so as to cause reduction of the air space occupied by the branches and foliage of a tree.

'removal' and **'cutting down'** means the cutting down of the whole or material part of a tree so that the tree,(including its branches and foliage, trunk, stump and root system) will not regrow. This includes the poisoning of the stump and/or grinding out of its remains to prevent regrowth.

'topping' or **'top lopping'** means any act or acts of severing any part of a tree so as to cause the reduction of the height of a tree other than removal or cutting down.