



*Burwood
Council*

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TREE PRESERVATION ORDER (TPO)

PART B: QUESTIONS & ANSWERS AND APPLICATION FORM

PO Box 240, BURWOOD NSW 1805
Suite1, Level 2, 1-17 Elsie Street, BURWOOD NSW 2134
Phone: (02) 9911 9911 Fax: (02) 9911 9900
Email: council@burwood.nsw.gov.au
Website: www.burwood.nsw.gov.au

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PART B: QUESTIONS & ANSWERS AND APPLICATION FORM

Introduction

Part B of the Burwood Council Tree Preservation Order (TPO) has been prepared to assist people in making a TPO application and to inform people of the consequences of breaching the TPO.

In this document, cutting down, pruning, ringbarking, topping, lopping or removing a tree are referred to generally as "tree works".

Frequently Asked Questions

1. When must a person make an application under the TPO for consent to remove or prune a tree?

Any person who wishes to perform tree works to which the TPO applies (as set out in the TPO) and which is not expressly made exempt by the TPO, must apply to Council using the TPO Application Form.

If relying on the TPO not applying to a tree or trees due to the species of the tree or trees, the species must be correctly identified prior to performing any tree works. If there is a breach of Council's TPO, it will not be a defence that the species of the tree was not correctly identified.

2. Do I need to apply under Council's TPO to perform tree works if the proposed tree works are ancillary to proposed building works or other development?

No, any proposed tree works which are ancillary to proposed building works or other development which require development consent must be specified in a landscape plan and submitted to Council with the development application. Council will assess the proposed tree works as part of the development application process.

3. What criteria will Council use to determine a TPO application?

Without limiting Council's discretion, Council will generally only grant approval for the tree works where:

- 3.1 the tree is causing or is likely to cause structural damage to a building or Council infrastructure. Council may require that such an application be accompanied by a report from a practising structural engineer; or
- 3.2 a doctor's certificate (from a registered medical practitioner) is produced to the effect that the tree in question is injurious to the health and well being of the resident or residents; or
- 3.3 the tree is dead, dying, dangerous or diseased. Council may require that such an application be accompanied by a report from a qualified Consulting Arborist outlining the condition of the tree (see Council's requirements for Arborist's Reports at question 4); or

- 3.4 the trunk of the tree is located within three (3) metres of a building or five (5) metres in the case of the following species:
- i) Camphor Laurel (*Cinnamomum camphora*)
 - ii) Poplar (*Populus* species)
 - iii) Willow (*Salix* species)
 - iv) Liquidambar (*Liquidambar styraciflua*)
 - v) Broad-leaf Paper Bark (*Melaleuca quinquenervia*);
 - vi) River She-Oak (*Casuarina cunninghamiana*);
 - vii) Chinese Tallow Tree (*Sapium sebiferum*); or
- 3.5 the tree has caused extensive damage to fences, kerb and guttering, sewer or stormwater drains, where there are no permanent repair alternatives. Council may require that such an application be accompanied by a licensed plumber's report; or
- 3.6 pruning is necessary because the tree canopy:
- a) overhangs a roof of a building or a swimming pool; or
 - b) interferes with overhead electricity service wires; or
 - c) impedes access for pedestrians; or
- 3.7 Council considers that other environmental and/or social factors relevant to securing amenity or preserving existing amenity warrant approval of the works.

4. What requirements are there for Arborists' Reports that are submitted to Council?

To assist assessment and determination of applications under Council's TPO, Council requires that all Arborists' reports accompanying an application under Council's TPO be prepared by a consulting Arborist who holds a minimum qualification of Diploma, (Australian Qualifications Framework AQF Level 5) in Arboriculture.

All Arborists' reports submitted to Council in relation to a TPO application must contain the following information:

- 4.1 the name, address and telephone number of the qualified consulting arborist who prepared the report (and the company, where applicable);
- 4.2 the qualifications of the Arborist;
- 4.3 who commissioned the report;
- 4.4 why the report was commissioned;
- 4.5 what the report examines;
- 4.6 the address of the site containing the tree or trees;

- 4.7 the date the Arborist conducted the inspection;
- 4.8 the methods or techniques used by the Arborist to inspect the tree or trees;
- 4.9 an abstract or synopsis of the findings from the Arborist's inspection;
- 4.10 a map of the site showing the location of the tree or trees, with the tree or trees numbered to correspond with the text in the Arborist's report;
- 4.11 the scientific name, common name, height, canopy spread, trunk diameter at breast height and form of each tree inspected;
- 4.12 a discussion of the data collected – this may include, for example, detailed information regarding wounds, cavities, cracks, splits, forking, rootzone, pests and diseases;
- 4.13 supporting evidence where appropriate, such as photographs;
- 4.14 references used must be those referred to in the report;
- 4.15 data included in the report should be relevant to the TPO application;
- 4.16 a discussion of all the options available – why they are recommended or why they are not recommended e.g., whether the building structure should be repaired and the tree retained;
- 4.17 a recommendation as to the preferred option and the reasons for this recommendation.

The above list is not exhaustive. The Arborist may choose to include further information or Council may require further information to properly assess and determine the TPO application.

A list of qualified Arborists and their contact details can be obtained from the Institute of Australian Consulting Arboriculturalists (**IACA**) on (02) 9682 7033 or at the IACA website at www.iaca.org.au

The National Arborists Association of Australia (NAAA) may also be able to supply the details of a suitably qualified Arborist. For more information call (02) 4739 4339 or visit www.naaa.net.au

5. How will Council determine a TPO application?

On receipt of an application under the TPO, a Council officer will inspect the tree in order to assess the application.

If the Council officer requires further information to assess the application, for example, in the form of a report from a structural engineer, consulting arborist and/or licensed plumber, then the applicant is to commission the required report or reports at the applicant's expense.

If, in the Council officer's opinion, a tree that is the subject of a TPO application is regionally significant, or its removal is likely to have a significant adverse impact on the Burwood Local Government Area, the application will be referred to Council for determination.

For applications where Council considers the tree(s) proposed for removal or pruning are significant, or for any other application for which Council considers community consultation is required, Council will conduct community consultation in accordance with Council's "Community Consultation Protocol".

All applications are to be determined by either refusing the application, approving the application without conditions or approving the application subject to conditions.

6. What if the tree stands in my neighbour's property and my neighbour does not consent to the TPO application?

Council cannot order that a neighbouring resident remove a tree. However, in certain circumstances Council may consider applications made by a neighbour on an adjoining property to where the tree stands for the pruning of branches back to the boundary. For such applications to be considered, Council requires that the applicant obtain the written consent of the owner of the property where the tree stands (**Tree Owner**) to the pruning of the tree (a space for the Tree Owner's signature has been provided on the TPO Application Form).

If the Tree Owner does not reply to an applicant's written request for consent to the pruning (**Notification**) within a reasonable time of the Owner being provided with the Notification, Council will consider the application.

Alternatively, if the Tree Owner refuses to consent to the application, the applicant must write to the Tree Owner and request that the parties attend mediation at the Community Justice Centre (Attorney General's Department of NSW) (**CJC**). If the Tree Owner refuses to attend the mediation or fails to reply to the request within a reasonable time or the CJC issues a certificate stating that a mediation regarding the TPO application between the applicant and the Tree Owner has failed, Council will consider the application. The Community Justice Centre can be contacted on (02) 9790 0656.

Council retains the discretion to determine what constitutes a "reasonable time" to reply to a request for consent or to a request to attend mediation. Such determinations will be made on a case by case basis. A reasonable period will not constitute less than fourteen (14) days from the time the request is provided to the Tree Owner.

Any approval given by Council does not authorise a person to enter the Tree Owner's land (or anyone else's land) and such approval only extends to pruning branches back to the boundary.

7. What procedure will Council follow on report of a breach of the TPO?

On receiving a report of a breach of the TPO, Council may adopt the following procedure:

- 7.1 a Council officer may attend the site and order that any works in contravention of the TPO cease immediately;
- 7.2 the Council officer may gather any necessary information including:
- 7.3 the name and address of the person carrying out the work;
- 7.4 the name and address of the person who authorised the work; and
- 7.5 photographs of the illegal works;
- 7.6 the person carrying out work in contravention of the TPO and/or the Tree Owner (or the person who authorised the work) will be asked to show cause in writing as to why they should not be prosecuted in relation to the breach of the TPO; and
- 7.7 the Director of Technical Services & Operations will determine whether the matter will proceed to prosecution.



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Office Use - Code: 37
Receipt: _____
Date: _____
Amount: _____
CSO: _____

TREE PRESERVATION ORDER (TPO) TREE REMOVAL/PRUNING APPLICATION FORM

SECTION A – APPLICANT DETAILS

Name of Applicant: _____

Address of Applicant: _____

Telephone: (H): _____ (M): _____

SECTION B – TREE (PROPERTY) OWNER DETAILS

The following section MUST BE completed by the tree (property) owner(s):

Name of Property Owner: _____

Address where tree(s) stand: _____

What is your relationship to the applicant (eg Landlord, Neighbour etc)?

I am the owner of the property where the tree(s) stand, and consent to the tree(s) being pruned or removed, as set out in this Application:

Signature: _____ Date: _____

If the property has more than one owner, written consent to the application is required from all owners. If the subject property is a strata title property, an application may be lodged by the strata manager, secretary or chair of the body corporate. If the subject property is a hospital, school, church, company etc, the application must be signed by the appropriate authorised person.

SECTION C – TREE DETAILS

i) Number of trees proposed to be pruned/removed? _____

ii) Which of the following works are proposed?

- Complete Removal
- Selective Pruning
- Prune overhanging branches
- Prune by third (1/3)
- Under prune
- Root Pruning
- Other (please specify)

iii) Approximate size of the tree(s)? _____

iv) Species of the tree(s) (if known)? _____

v) Condition of the tree(s)? _____

v) Has a Development Application been lodged for the property? YES / NO
If YES, Development Application number, if known? D_____

vi) Please State the Reasons for your Application:

vii) Please provide a plan diagram below showing location of trees and any buildings:

SECTION D – EXPERT REPORTS

(Please specify details of any expert report(s) attached to the application e.g. Arborist, structural engineer, licensed plumber, registered medical practitioner):

SECTION E – APPLICATION FEE

Please tick appropriate option:

- | | | |
|-----------------------|-------------------------------|------------------|
| <input type="radio"/> | Remove/Prune 1-5 trees: | \$ 85.00 |
| <input type="radio"/> | Remove/Prune 6 or more trees: | \$ 108.00 |
| <input type="radio"/> | Pensioner Concession | Free |

Please note that Fees are current as of 1st July 2010 and are subject to change.

SECTION F – YOUR PRIVACY

- In completing and submitting this TPO Application Form and in providing Council with any other related information or documentation, a person may be providing Council with "personal information" within the meaning of the *Privacy and Personal Information Protection Act 1998* (PPIP Act) or "health information" within the meaning of the *Health Records and Information Privacy Act 2002* (HRIP Act).
- If such personal and/or health information as requested by Council is not provided by the person submitting the application, Council may be unable to process the application.
- The purpose of Council collecting personal and/or health information under its TPO is to identify, process, consider and determine the application.
- The intended recipients of the personal and/or health information are members of Council's staff, any consultants engaged by Council in relation to the TPO and persons entitled to inspect Council's files following a request under the *Local Government Act 1993* or the *Government Information (Public Access) Act 1989*.
- A person may make application for access or amendment to the personal and/or health information Council holds about them.
- A person may make a request that Council suppress their personal information from being made publicly available.
- Enquiries concerning this matter can be addressed to the Tree Management Officer on (02) 9911 9888.

SECTION G – APPLICANT DECLARATION

I acknowledge that submission of this application form does not constitute approval for any work proposed to be performed on a tree, nor does it imply approval. I also acknowledge that I **MUST NOT** undertake any removal or pruning work related to this application until such time as approval is granted by Council in writing.

Signature: _____

Date: _____