



## **TREE MANAGEMENT ORDER**

### **1.0 Introduction**

Trees are an essential part of our urban environment. Trees modify climate providing shade, protection from wind, and a reduction in atmospheric dust or pollution including 'greenhouse gas' emissions. Trees provide habitat for native animals and play an important role in natural ecosystems, including reducing outbreaks of pests, protecting fragile soils and preventing salinity problems.

The landscape benefits of trees in screening buildings, reducing heat and glare from built structures, providing privacy, and improving our streetscape are evident everywhere. Aesthetic considerations include an appreciation of the beauty of trees, a connection with the past, and an often-described sense of peace and harmony associated with trees.

Unfortunately, whilst the broad benefits provided by trees are widely acknowledged and understood, the specific benefits of an individual tree or group of trees are not always valued. In addition, overmature, damaged or poorly maintained trees may decline and become potentially hazardous. Healthy trees may conflict with buildings or other structures. Some trees may be classed as weeds, or may simply compete with other design elements in a landscape.

### **2.0 Protection of Trees**

This Order is made under the provision of the Environmental Planning and Assessment Act 1979. It sets out Council policy in managing trees and provides relevant information on the decision-making and appeal processes.

Council has a responsibility to sustainably manage our urban tree resource for the benefit of all current and future residents.

Management tools used by council will include public education and assistance, the use of aerial photographs, establishment of best-practice protocols for assessment, and prosecution of offenders.

### **3.0 Jurisdiction**

This Tree Management Order (TMO) applies to the whole of the City of Holroyd.

For the purposes of this Order a tree is any woody and soft wooded perennial plant with a height of 3.6m or greater. The height of 3.6m (approximately 12ft) is intended to represent the maximum allowable height of the gutters on a single storey residential dwelling.

#### **4.0 Offences under this Order**

This order prohibits the injury, pruning or removal of any tree without the written consent of Council.

Injury, pruning, or removal includes; ringbarking, poisoning, cutting down, lopping, topping, pollarding and transplanting of established trees. It also includes severing of any roots greater than 30mm in diameter, landscape or building work that involves building-up or changing soil levels within the dripline area. The 'dripline' area is the area of ground vertically below or within the spread of the canopy or branches. Large-scale filling within this area is likely to cause damage to tree roots that may in turn cause tree death or instability over time.

**Note:** The dripline of the leaf canopy usually corresponds at least to the limit of roots.

Also prohibited are actions causing damage to the tree's trunk, including drilling or boring, other than for the purpose of pest treatment or hazard assessment by a qualified professional.

#### **5.0 Application Process**

All normal applications made to council under the Tree Management Order shall be made on the form provided.

The form must be signed by the property owner or owner's agent.

Payment shall be made at the time of application in accordance with the fees prescribed by Council.

A Council Officer will usually carry out an inspection and determine an application within four (4) weeks and a formal reply provided in writing. The applicant is invited to seek clarification of the reasons for a refusal and request an on-site meeting with the officer in this regard.

#### **6.0 First Review**

In the event that an applicant is not satisfied with the decision of Council a review of the decision may be requested in writing. An independent Arborist will then be appointed by Council to provide a second opinion and review Council's decision.

Council will then make a determination based on the initial Council Officer's assessment and the further information provided by the independent arborist.

#### **6.1 Second Review**

If the matter is still unresolved, the applicant is able to appeal to the elected members of Council for specific consideration. In this situation the applicant should provide substantial further evidence to support their case in the form of an additional arborist's, structural engineer's, or landscape architect's report. In addition, if it is considered necessary to provide a balance in information for further review, Council may also commission their own further reports.

## 7.0 Works Permissible Without Written Consent

Several types of tree work are permissible under the TMO without written consent. These works are listed in the following sections on exemptions. Consent for all other tree pruning or removal must be granted by Council.

## 8.0 Tree Species Exempt

Because of their specific weed potential, or undesirable species characteristics the following trees are exempt from the Tree Management Order;

|   |                     |
|---|---------------------|
| Ligustrum lucidum                             | (Broad-leaf Privet) |
| Ligustrum sinense                             | (Small-leaf Privet) |
| Salix babylonica                              | (Weeping willow)    |
| Rhus succedanea                               | (Rhus Tree)         |
| Schefflera actinophylla                       | (Umbrella Tree)     |
| Ficus elastica                                | (Rubber Tree)       |
| Bambusa species                               | (Bamboo)            |
| Erythrina species                             | (Coral Tree)        |
| Syagrus romanzoffianum<br>(syn Cocos plumosa) | (Cocos Palm)        |

Trees cultivated specifically for their edible fruit or which are harbouring fruit fly are also exempt. These include;

|                |                                   |
|----------------|-----------------------------------|
| Citrus species | (Oranges, Lemons, grapefruit etc) |
| Diospyros sp.  | (Fruiting persimmons)             |
| Eriobotrya sp. | (Loquats)                         |
| Malus sp.      | (Apples)                          |
| Morus sp.      | (Mulberry)                        |
| Prunus sp.     | (Apricots, peaches, plums etc)    |
| Pyrus sp.      | (Pears)                           |

**Note:** It is important that a tree has been correctly identified for an exemption to be valid.

## 9.0 Specific works exempt

### 9.1 Dead Trees

Removal of dead trees does not require approval under the Tree Management Order. Residents should make certain that any tree removed is not deciduous (looses leaves at certain times of year – usually winter) or is not suffering temporary symptoms from which it may recover. It is also advisable to notify Council of the works as such notification is a record that this Order does not apply.

**Note:** A dead tree is one that has experienced leaf loss, for example has not produced leaves for two successive years; exhibits permanent wilting (i.e., is unable to take up water); or that is shedding bark which is dried out and peeling off to the beginning of sapwood.

## 9.2 Maintenance Pruning

In order to encourage good tree management practices the following works are exempt from the Tree Management Order, when they are carried out in accordance with the guidelines set out in Australian Standard AS 4373 -1996 Pruning of Amenity Trees:

- Pruning of dead wood or dead palm fronds, and vegetation overhanging pedestrian walkways to a height of 2.4m above the walkway.
- Pruning work specifically for the purpose of improving a tree's health such as the removal of dead, diseased, dying, defective (torn, damaged, split or hanging) and conflicting branches as specified under Crown Maintenance, Clause 8.1 General (G) of the Australian Standard, provided this is carried out by an arborist qualified to at least Australian Qualifications Framework (AQF) Certificate Level 3.
- Other pruning works such as those listed below are not exempt and application is required for Council to assess the works intended:
  - thinning out a tree's canopy (Clause 8.2 General (G) of the Australian Standard AS4373)
  - removing a specific overhanging branch (Clause 8.4 General (G) of the Australian Standard AS 4373)
  - reducing a tree's vigour, spread or its height (Clause 9.1 of the Australian Standard As 4373)

The intention of this exemption is to permit a qualified tradesperson who knows and understands AS 4373 (The Australian Pruning Standard) to carry out work to maintain or improve a tree's health in specific circumstances, without unnecessary additional application cost or processing delay.

This exemption does not apply to pruning designed to remove a specific overhanging branch, thin a tree's canopy or reduce the vigour, spread or height of a tree.

## 10.0 Natural Disasters

The Council reserves the right to temporarily suspend the normal application process in the case of a declared natural disaster, such as may be declared for cleaning up after a severe storm event. If the Council does suspend the application process residents will be notified through various channels including the media. In the case of damaged trees or branches removed following a natural disaster, affected parties will be required to forward both a written and photographic record of works carried out to Council.

## 11.0 Hazardous Trees

In order to avoid illegal removal of trees that are not hazardous, any trees that an applicant considers to be potentially hazardous, must be assessed by Council under the normal tree management process.

## **12.0 Emergency Works and Public Safety**

In the case of an emergency situation, where a real and ongoing threat to life and property exists, an application to Council may be made by telephone.

If a Council Officer is not immediately available to provide an emergency assessment of a tree an independent Consulting Arborist, previously approved by council or qualified to AQF Certificate Level 4, preferably Level 5, may be asked by a concerned resident to assess the immediate hazard to life or property.

If such an independent arborist makes an assessment and recommends emergency work that would otherwise constitute an offence under this order, the council shall not hold the resident or property owner to be in breach of the Tree Management Order. In this case the Council will require a TMO application, with the appropriate fee, to be retrospectively lodged along with both written and photographic evidence from the arborist that has been employed to assess the emergency situation.

## **13.0 Tree Removal or Pruning Works After Council Approval**

Tree removal work can be difficult and dangerous. Council encourages residents to use a company that it is able to show that it meets the requirements of current Occupational Health and Safety legislation and abides by the WorkCover NSW Code of Practice for the Amenity Tree Industry. Council also recommends that tree removal work is carried out by a tree-worker qualified to at least AQF Certificate Level 2 (Tree worker), is able to provide proof of insurance including Workers Compensation, and has agreed to abide by an industry code of ethics. The National Arborists Association of Australia (Tel 02 98635301) is able to recommend such tree-workers from its Directory of Approved Contractors.

## **14.0 Pruning Works**

Specifications for approved pruning will be given in accordance with the procedures and guidelines of Australian Standard AS 4373 -1996 Pruning of Amenity Trees.

Lopping or topping as defined by AS 4373 is the cutting of branches or stems between branch unions or at internodes on young trees. This is an unacceptable practice for the following reasons;

- It increases the rate of shoot production and elongation.
- The resulting regrowth is weakly attached and becomes prone to failure or collapse.
- The stubs may decay.
- The natural habit of the tree is destroyed.
- It may reduce the lifespan of the tree.
- It predisposes the tree to fungal infections and insect attack.

For pruning work Council provides guidelines with each tree approval for appropriate pruning techniques. For large trees it is recommended that an arborist qualified to at least AQF Certificate Level 3 (Trade level) is employed. Trees that are poorly pruned or pruned by inexperienced workers may suffer as a result of such work and become hazardous over time.

Council recommends the use of arborists, who are up-to-date with tree care techniques, are properly insured and abide by an industry code of ethics, usually members of professional associations.

## 15.0 Council Assessment Criteria

Council officers will assess each application on its merits, having regard to the reasons for which the application has been made. Factors considered will include the following:

### 15.1 Potential Hazard

Where concern exists regarding the potential hazard presented by a tree Council will assess;

- Tree form and structural integrity.
- Species characteristics and individual history.
- The size of any tree part that is deemed likely to fail.
- The presence of a 'target' such as a footpath, or proximity to structures.
- Whether the tree is otherwise injurious to health.

Sometimes, for reasons of access, expertise, or suspected non-visible defects a council officer may not be able to make a determination on hazardous trees. In that case, the applicant will be asked to provide additional expert evidence in the form of an Arborist's Report/Hazard Assessment that addresses the tree's current conditions and any potential hazards it may present.

Even if a tree is deemed not be hazardous a council officer will often grant permission to prune or remove on alternative grounds. The basis for such a decision might include property damage, amenity, or conflict with existing or proposed landscaping or development.

### 15.2 Property Damage

Some tree roots have the potential to cause property damage, particularly to poorly built or lightweight structures. The risk of such damage may be increased because of the proximity of trees to buildings or underground services.

Where such concerns exist the council may ask for expert evidence of damage occurring or likely to occur.

Because of the vigour of their growth several species of trees are not considered suitable for location next to buildings. These include;

|                         |                  |
|-------------------------|------------------|
| Liquidambar styraciflua | (Liquidambar)    |
| Cinnamomum camphora     | (Camphor Laurel) |
| Jacaranda mimosifolia   | (Jacaranda)      |
| Populus species         | (Poplars)        |
| Alnus species           | (Alders)         |

Council will usually grant permission to remove these trees without supporting expert evidence where such trees are growing within five metres of a dwelling or underground service.

### **15.3 Poor Amenity**

Where it is suggested that poor amenity exists due to, for example, excessive shading, substantial limbs overhanging roofs or pools, poor landscape design or ongoing high maintenance costs, council will consider applications to prune or remove trees. Poor amenity may be considered a suitable reason to prune or remove a tree only where other trees have been planted and cared for on the same block.

The presence, condition and size of other trees will be an important part of Council's consideration in this case and will allow the overall quality and continuity of local tree cover to be given weight in the assessment.

A tree's natural processes such as shedding leaves, bark or seeds will not, on their own, be considered as a sign of poor amenity for the majority of tree species.

### **16.0 Replacement Trees**

Where consent to remove trees is granted, Council will usually require the planting of replacement trees as a condition of the TMO consent.

Special consideration will be given to applicants who can demonstrate that they have already made provision for replacement plantings within their property.

Council will give consideration to the implementation of a voluntary bond system to allow replacement of trees in circumstances where a tree needs to be removed before a replacement can be planted.

### **17.0 Neighbour's Trees**

Council requires permission from the owner of the tree for each application under the TMO. If a resident wishes to prune limbs from a neighbour's tree including those that overhang a property boundary, Council will usually give permission only once the owner's consent has been received. This consent shall take the form of the owner's signature on the application form or a separate signed letter.

Council has limited powers to authorize pruning or removal of a tree without the owner's consent or to compel a neighbour to carry out tree work.

Disputes between neighbours about trees, including those about nuisance, damage, and maintenance costs are a private matter between residents. If disputes cannot be resolved amicably, parties are advised to contact the Community Justice Centre (Tel 02 9262 7844), a Chamber Magistrate or a Solicitor.

### **18.0 Trees on Public Land**

Council has an obligation to maintain and manage trees on its own land or land under its control.

Residents are encouraged to contact Council where concern exists regarding trees on Public Land. Council trees will be assessed at no charge using the same criteria used for trees on private property. Application should be made on the standard TMO form. (No owner's signature or fee will be required).

Council will enter into negotiations regarding the costs of specific tree work with individuals who wish to have work carried out on Council trees for their localised benefit.

Council will usually require that Council's own approved contractor carry out specified works. Where residents request the removal of a council tree for reasons other than hazard, and this is approved, Council will seek a contribution based on the value of the tree as well as the costs of planting and maintaining a replacement tree.

## **19.0 Trees on Development Sites**

### **19.1 Extension to existing residential dwellings**

Where an existing tree limits the size of a reasonable extension to a residential dwellings, Council will give consideration to its removal or pruning. In this regard Council will consider:

- Extent of development proposed within the tree's dripline
- Level of pruning proposed
- Suitable tree replacement
- Other existing trees on the site to be retained.

Applicants should endeavour to retain trees on their site – Council will encourage DA's that show consideration for existing trees.

### **19.2 General Development Applications**

Applications to remove trees on proposed development sites will be considered where the applicant meets Council guidelines for the number of replacement or retained trees, and a suitable area is set aside for those trees. Council will require a report from an independent arborist to satisfy tree-related conditions of development consent.

Applicants are encouraged to seek Council's Pre-Development Application advice prior to preparation of a Development Application. In this regard a site survey showing the trees should be attached to the pre Development Application advice form and lodged with the adopted fee to Council. Council will then undertake an inspection of the trees and provide written advice as to which trees should be retained and the required setbacks from these trees to any works. This information should then be used to prepare a DA.

In the absence of pre-lodgement advice being obtained or used Council will usually require a report from an independent arborist to accompany a DA. Upon approval Council may also require an Arborist to supervise works adjacent to trees required to be retained. Contact details for suitably qualified arborists may be obtained from the National Arborists Association of Australia (NAAA) (Tel 02 98635302).



## 20.0 Tree Bonds and Illegal Tree Removal

Council will review its system of Tree Bonds to encourage protection of trees on construction sites.

If trees are illegally removed or damaged, all or part of any applicable bond may be retained by Council. Since trees are also protected under several different aspects of legislation, separate legal action for damages and the costs of reinstating damaged trees is also likely.

In the case of an undeveloped site Council may require the replacement of tree(s) in the same space, creating similar site development constraints.

To ensure that there is no financial gain for illegal action Council may also impose more severe sanctions, including the planting of super-advanced replacement tree(s) and/or increase in the period tree/landscape bonds will be held.

## 21.0 Tree Maintenance Assistance

Council will consider providing tree maintenance assistance to the aged or those with special needs or subject to financial hardship, on a case by case basis. Assistance may be by way of direct financial or in-kind support. Applications will be assessed by Council after a request is received, and will be determined with regard to available finances and the benefits of improved tree care to the broader community.

## 22.0 Review Process

Council reserves the right, to review this Tree Management Order from time to time. In this regard, submissions by residents are encouraged and will be considered in updating or improving Council's Tree Management Policy.

**Note:** The Guidelines "Tree Canopy/Crown Pruning" accompanies this Tree Management Order. Council will be developing further guidelines for the assistance of residents during 2003.