



## **POLICY DES005**

# **TREE PRESERVATION POLICY (Trees on Public Land)**



## **1.0 PRELIMINARY**

### **1.1 Objectives**

The main objective of the Tree Preservation Policy (TPP) is the protection of valuable trees against unwarranted destruction by removal or damage. The policy binds the general community and Council staff. It is hoped that such an objective can be realised by promoting an awareness of the values of trees in our urban landscapes. In essence, the TPP aims to:

1. Promote an awareness of the value of trees;
2. Indicate the need for correct procedures for approval in removing, lopping or topping protected trees;
3. Prevent unwarranted and wilful destruction of protected trees due to non-compliance with the Policy;
4. Maintain the Environmental protection and amenity of trees throughout the urban and rural residential localities; and
5. Provide guidelines for planting of trees.

### **1.2 Trees an Important Resource**

In the urban environment, trees provide valuable shade and soften the general appearance of a sometimes harsh and hard urban landscape or streetscape. They make our urban environment a pleasant place to live and visit through the array of heights, shapes, colours and general form they offer. Trees help define and give an identity to residential area, streets and other urban precincts.

### **1.3 Information and Advice**

For guidance on choice of plants or most suitable locations, you are advised to contact Councils' Parks and Garden staff or State Forests of NSW. Guidance on selection of tree species and planting is provided in publications released by this Department.

Further advice on the requirements of the Tree Preservation Policy can be obtained by contacting Council.

## **2.0 REQUIREMENTS OF THE TPP - PROTECTED TREES**

### **2.1 When is Approval Needed?**

Under the provision of the TPP, approval is required for the removal, ring barking, lopping, topping or injuring of any trees in public places including road reserves, parks and other community land.

Trees must also not be planted on public land without the approval of Council.

### **2.2 Land to which the Policy Applies**

The TPP applies to all public land under the control of Council including road reserves, parks and gardens and other community land located within the Township of Nyngan and the villages of Hermidale, Girilambone and Coolabah as identified in zones provided under the Bogan LEP 2011:

NYNGAN and VILLAGES Zones/areas

- Zone RU5 Village
- Zone R1 General Residential
- Zone R5 Large Lot Residential
- Zone B2 Local Centre
- Zone B6 Enterprise Corridor
- Zone IN1 General Industrial
- Zone SP2 Infrastructure
- Zone RE1 Public Recreation
- Zone RE2 Private Recreation
- Zone E1 National Parks and Nature Reserves
- Zone W2 Recreational Waterways
- Public land within 200 metres of all above zones

### **2.3 Legal Status**

This Policy is prepared pursuant to Section 158 of the Local Government Act 1993. This policy binds the general community and Council staff.

### **2.4 Situations in which pruning or removal is permitted.**

Minor pruning of trees or removal for the following purposes is permitted subject to Council approval:

1. Removal of dead branches. Trees which are apparently dying and suffering some form of stress should not be removed without assessment of the possibility of plant rehabilitation. Appropriate treatment may return the plant to a state of health.
2. Pruning for ornamental purposes where such pruning is a normal and accepted practice.

3. Removal of noxious or undesirable trees or shrubs identified in the Noxious Weeds Act, 1993.
4. Any tree which has a trunk less than 3 metres from the outmost projection of a building.
5. Removal of trees to give effect to a Council approved development. Tree removal or pruning is restricted to those specific areas where it is necessary to carry out earthworks, building works, service installation and pavement construction. Tree removal or pruning is to be restricted to an area which is no greater than 3 metres from construction works. Unnecessary clearing or damage to trees is to be avoided.
6. In accordance with Section 88 of the Roads Act 1993, a roads authority may remove or lop any tree or other vegetation that is on or overhanging a public road where this is necessary for the purpose of roadworks and traffic hazard reduction.
7. Where Council is the roads authority, consultation with the Parks and Garden Supervisor is required prior to tree removal or pruning within any road reserve. Unnecessary clearing, pruning or disturbance of vegetation is to be avoided and clearing confined to those activities necessary for roadworks and hazard reduction.
8. Trees which pose a real risk to public safety or which significantly increase the risk of damage to property. All reasonable measures must be taken to address the risk prior to removal.
9. The provisions of this Policy do not apply to trees required to be trimmed in accordance with Section 48 of the Electricity Supply Act, 1995, however Council requires Essential Energy and / or its contractors to liaise with Council prior to any trimming being done.

All work must be carried out by Council or a Council approved contractor under the direct supervision of Council staff.

## **2.5 Dangerous Trees**

It is the responsibility of Council's Parks and Gardens Supervisor to determine the health of a tree, or the danger that such a plant poses, is such that it warrants removal or pruning. A report from Tree Surgeon or Arborculturalist may be required where significant uncertainty exists as to the integrity or safety of a tree and the tree is considered by the Council officer and the community to warrant preservation.

Where a tree is considered dangerous, all reasonable measures are to be made to seek the approval and/or advice of Council's Parks and Gardens Supervisor prior to removal or pruning.

## **2.6 Selection and Location of Trees**

*Remember*, when selecting any trees and determining where they will be planted:-

- Make yourself aware of the estimated mature height and width of the plant. The correct choice of plant species and its location will minimise unwanted difficulties in the future.
- Estimate the extent of shadow cast from the fully grown tree and the possible impacts on neighbours. Avoid overshadowing of neighbours particularly in the winter months.
- Determine if the mature tree will interfere with overhead power lines. Where planting under powerlines is the only option, choose trees with appropriate heights.
- Avoid leaves falling into gutters. Avoid overhanging branches which will directly affect neighbours.
- Determine if the tree will affect underground services, foundations of buildings, fences or pavements. The location of underground services should be determined prior to planting. Council, telephone and electrical providers should be able to advise on service locations including water, sewer, electricity, and telecommunications lines.
- Setback of trees from buildings, other structures and services should be in accordance with the expected height, spread and root system of the plant. The Forestry Commission recommends that small trees/shrubs be at least 2m from buildings with larger species set back at least 10m. Trees such as poplars, willows, camphor laurels and figs should not be planted close to buildings since they have particularly penetrating or invasive and damaging root systems.
- Trees should be located following consideration of site drainage, access to sunlight and soil type.

## **2.7 Reasons for Removal or Pruning Trees**

Circumstances where there is reason for removal or pruning of trees include:

1. Risk of personal injury;
2. Risk of damage to buildings, structures or service lines;
3. Creation of a traffic hazard by obstruction of vision; and
4. Other circumstances where it is evident that the adverse impact of the tree clearly outweighs its value and contribution to the amenity of the locality.

In many circumstances the unwanted effects of the tree can be eliminated or significantly reduced by appropriate pruning. Correct pruning requires knowledge of tree growth, risk of damage including infection and requires expert guidance. In all cases attempts must be made to maintain the natural shape of the tree.

## **2.8 Reasons for Protecting Against Removal or Pruning**

Particular importance will be placed on the preservation of a tree where it is considered that it:

- a) has historical or commemorative significance;
- b) makes a significant contribution to the landscape/streetscape and amenity of the area;
- c) is exceptionally old, large or rare;
- d) has notable aesthetic qualities; and/or
- e) has horticultural or scientific value.

## **2.9 Approval Process**

Prior to removal or pruning of any tree on public land, Council's Parks and Gardens Supervisor must be contacted to allow inspection of the tree/s.

The person requesting the removal or pruning of tree/s must provide a written request specifying the location, type and size of the tree/s to be pruned or removed and the reasons for such work.

Approval will be granted or refused on the circumstances of the case. In granting approval to prune or remove a tree by Council staff, the following steps are implemented when deciding whether to retain or remove the tree/s:

1. Is the tree unsafe? – If so, arrange lopping or removal.
2. Determine individual and streetscape significance of the tree.
3. If the tree is in poor condition or is a poor specimen - remove and replace.
4. If the cost of the repairs is less than \$2,000 and the tree is significant then retain the tree.
5. If the repairs are greater than \$2,000 – survey the immediate residents.
6. If 100% of the residents want the tree retained then retain the tree and repair the damage.
7. If less than 100% consensus, report the matter to Council.

Should approval be granted, advice as to the removal or pruning procedure will be given.

All work will be carried out by Council staff or a Council approved contractor who must follow WH&S principles. Potentially affected neighbours will be advised of the nature of the work and times at which the work will be carried out.

## **2.10 Tree Replacement**

Where tree removal is proposed, a general condition of any removal will be the replacement with an equivalent number of trees to be located at appropriate sites. Where appropriate, the use of indigenous Australian native trees is encouraged for the purpose of tree replacement.

Options such as the following can be considered for replacement:

### Suitable beneath powerlines:

- Weeping Bottlebrush, *Callistemon viminalis* (and similar cultivars)
- Wilga, *Geijera parviflora*
- Willow Myrtle, *Agonis flexuosa*
- Carob, *Ceratonia siliqua*
- 'Swan Hill' Olive (fruitless), *Olea europaea*
- Golden Glow *Acacia Cultiformis*

### Suitable away from powerlines:

- Lightwood, *Acacia implexa*
- Willow Myrtle, *Agonis flexuosa*
- Kurrajong, *Brachychiton populneus*
- Red Spotted Gum, *Eucalyptus mannifera* ssp. *Maculosa*
- Red Ironbark, *Eucalyptus sideroxylon* 'Rosea'
- Stone Pine, *Pinus pinea*
- Cork Oak, *Quercus suber*

## **2.11 Qualifications and insurance**

Council's Officers may insist that tree removal or pruning be carried out by a qualified Tree Surgeon or Arborculturalist. This requirement will depend upon the nature and extent of work to be carried out and the significance of the tree/s.

Council will insist that the contractor has appropriate qualifications and appropriate personal injury, public liability and property insurance prior to commencing works.

The need for an experienced and approved workman in tree removal or pruning assists in;

1. Survival of the tree;
2. Minimising risk of personal injury or damage to property; and
3. Minimising exposure of Council to claims for damage.

## **2.12 Clearing for Bushfire Risk Reduction**

Clearing in those zones to which this policy applies may be carried out where removal of vegetation is necessary to reduce the risk of injury or damage from bushfires. Where there is an immediate risk of bushfire damage, and circumstances do not permit Council notification and approval, a reasonable degree of risk will be considered in a defence against the provision of this Policy noting that this policy does not apply to private land. Consideration to Ecological Endangered Communities and Threatened Species must be undertaken when undertaking the removal of vegetation to reduce risks from a bushfire.

## **2.13 Penalties for Unlawful Removal or Trimming of Trees**

Any person who contravenes, or causes or permits the contravention of this policy is guilty of an offence pursuant to s.629 of the *Local Government Act 1993*. An on-the-spot fine may be imposed for the injury or unnecessary disturbance of trees and vegetation on public land including road reserves without approval from Council. Prosecution may also follow or other remedies in accordance with s.690 of the *Local Government Act*.

## **3.0 DEVELOPMENT AND BUILDING APPROVAL**

Council may specify in a Development Consent that certain trees may be removed or must be retained. Landscaping requirements may also be provided for as a condition of approval when Development consent is granted by Council.

### **Authority**

Council Resolution ##### – ##### 2016

### **Policy Owner**

Manager, Development and Environmental Services

### **Consultation**

Public Exhibition for 28 days

### **Review Date**

August 2019

### **Revision History**

<b>Date</b>	<b>Description of Change</b>	<b>Sections Affected</b>
25 March 2004	Adopted by Council.	
25 August 2016	Updated Policy from March 2004	All