

Chapter E3 Tree Management

Part E ► General Controls for All Development

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E3.1 Introduction

The Woollahra Municipality is well known for its leafy character. This character is valued and identified by the extensive tree canopies that exist throughout the area, and many people are attracted to live in Woollahra as a result of these trees and landscapes.

Trees and vegetation play important roles in the preservation of wildlife habitat, the establishment of community identity and in the quality of streetscapes. Landscaped open space areas and vegetated deep soil contribute to the amenity of individual dwellings and are important in stormwater management and the energy efficiency of developments.

Our community recognises and values trees for their range of contributions including aesthetic environmental, ecological, social, psychological and economic wealth. Council's approach to tree management and this DCP reflects these values.

Development should seek to retain existing trees and vegetation, where possible.

This chapter has been prepared in accordance with Chapter 2 (Vegetation in Non-Rural Areas), of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity and Conservation SEPP) which outlines additional provisions relating to the protection and preservation of trees and vegetation.

Part 2.3 of the Biodiversity and Conservation SEPP identifies that Council, through a DCP, can require a permit or development consent for tree works (i.e. to prune or remove a tree) where the species, size, location or other criteria are prescribed in a DCP.

This chapter of the DCP establishes the list of prescribed trees, and works to those trees that require Council's approval. This chapter also identifies trees and works that do not require approval.

E3.1.1 Land where this chapter applies

This chapter applies to all land within the Woollahra Municipality.

E3.1.2 Development to which this chapter applies

This chapter applies to tree works proposed to be carried out on or near a prescribed tree. Tree works include pruning any tree part, removing, injuring or willfully destroying a tree, and the like.

If a tree is not identified in this chapter as a prescribed tree, approval for the tree works is not required. Section E3.4 of this chapter also identifies types of trees and works that do not require approval.

E3.1.3 Objectives

The objectives of this chapter are:

- O1 To identify trees which are prescribed for the purpose of Part 2.3 of the Biodiversity and Conservation SEPP.
- O2 To define the different circumstances under which a development consent or permit application is required for works to a prescribed tree.
- O3 To promote, maintain and conserve the leafy character of the Woollahra Municipality.
- O4 To conserve significant trees of historic, cultural, commemorative, scientific, visual or aesthetic importance.
- O5 To sustain and enhance Woollahra's tree canopy cover whilst providing opportunities for development on private land.

E3.1.4 Relationship to other parts of the DCP

This chapter is to be read in conjunction with the other parts of the DCP that are relevant to the development proposal, including:

- ▶ If located in a residential area—the controls in Part B: General Residential, or Part C: Heritage Conservation Areas that apply to the land.
- ▶ If located in a business centre—the controls in Part D: Business Centres that apply to the land.
- ▶ Part E: General Controls for All Development - this part contains chapters on Parking and Access, Stormwater and Flood Risk Management, Tree Management, Contaminated Land, Waste Management, Sustainability, Signage and Adaptable Housing.
- ▶ Part F: Land Use Specific Controls - this part contains chapters on Child Care Centres, Educational Establishments, Licensed Premises and Telecommunications.

E3.1.5 Relationship to other documents

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

Under the Exempt and Complying Development Codes SEPP, a complying development certificate can be issued for the removal or pruning of a tree or other vegetation under the General Housing Code (Part 3) and the Commercial and Industrial (New Buildings and Additions) Code (Part 5A), subject to compliance with the specified development standards. Refer to the Codes SEPP for details.

Biodiversity Conservation Act 2016

The Biodiversity Conservation Act 2016 (Biodiversity Act) sets out the NSW Government's framework for biodiversity assessment and management in conjunction with the Local Land Services Act 2013 (as amended by the Local Land Services Amendment Act 2016 (LLSA)).

The Biodiversity and Conservation SEPP and Biodiversity Act require that clearing of native vegetation that:

- a) does not form part of a development assessment and
- b) that is above the Biodiversity Offset Scheme (BOS) threshold;

requires assessment and approval from the Native Vegetation Panel. The Native Vegetation Panel is constituted under the LLSA.

For clearing that is below the BOS threshold, the Biodiversity and Conservation SEPP enables councils to regulate clearing of vegetation as set out in the DCP.

Note: Due to the nature of the thresholds, it is unlikely that the BOS threshold will be exceeded in our LGA.

Register of Significant Trees (1991)

The register establishes a list of trees located on private property and public land that are identified as significant to the surrounding area. The register is available on the Council website.

Tree Management Policy (2011)

The Woollahra Tree Management Policy (TMP) covers public and private trees in the Municipality. The policy defines the key principles and processes Council uses for maintaining public and private tree collections in a safe, healthy and environmentally sensitive way.

The policy aims to improve the safety and wellbeing of the public, and of staff and contractors working on trees. It is also used as a reference by staff, Councillors, residents and tree workers who need to make or understand decisions about managing and maintaining public and private trees. The TMP also outlines the management principles and guidelines for matters such as road and pedestrian path clearances and view pruning. The TMP is available on the Council website.

Woollahra Street Tree Master Plan (2014)

The Woollahra Street Tree Master Plan is a guide to aid in the maintenance and provision of street trees across the municipality. The objective of the Master Plan is to provide a sustainable and strategic framework that is used for the management of Woollahra's street tree canopy.

The Master Plan contributes to the collective urban forest for the benefit of all through good planning, maintenance, enhancement and reinforcing Council's ongoing commitment to the protection of trees. The Master Plan is available on the Council website.

Australian Standard AS 4373 Pruning of Amenity Trees

This standard is used as a guide when assessing applications and defines uniform tree pruning procedures and practices in order to minimize the adverse or negative impact of pruning on trees.

Australian Standard 4970 Protection of trees on development sites

This standard is used to provide guidance for the protection of trees in the planning and development processes.

Development Application (DA) Guide

The DA Guide explains how to prepare a development application. In particular, it includes several detailed specifications on how to present arboricultural information.

The guide provides a step-by-step guide to all the things needed before submitting an application, and should be used as a checklist for completing plans and other supporting documentation. The DA Guide is available on the Council website.

E3.2 Trees and works that require approval

A person must not undertake works to a prescribed tree without development consent or a permit granted by Council.

This section identifies what trees are “prescribed”, and sets out the approval mechanism that applies.

E3.2.1 Prescribed trees

For the purpose of Part 2.3 of the Biodiversity and Conservation SEPP, the following vegetation is declared to be vegetation to which the Biodiversity and Conservation SEPP applies:

1. Any vegetation, whether of indigenous, endemic, exotic or introduced species with a diameter spread of branches greater than 3m or with a height greater than 5m, irrespective of the spread of branches, and that is not identified in this chapter as exempt.¹
2. Any vegetation, whether of indigenous, endemic, exotic or introduced species with roots greater than 50mm diameter, but only if root pruning is proposed.
3. Any tree or palm identified in Council's Significant Tree Register.
4. Any tree or palm identified in Schedule 5 Environmental Heritage of Woollahra LEP, or located on land identified in Schedule 5 including:
 - c) a tree listed as a heritage item;
 - d) a tree located on land identified as containing a heritage item; or
 - e) a tree on land within a heritage conservation area.
5. Any bushland as defined in *State Environmental Planning Policy 19 - Bushland in Urban Areas*.

E3.2.2 Works that requires a development application

A development application (DA) is required for the tree works if the tree is a type prescribed in Section 3.2.1 above, and any of the following apply:

1. the proposed works to the tree are part of an application for other building work or development that requires a DA;
2. the tree is identified in Council's Significant Tree Register and the tree works involve the removal of the tree; or
3. the tree is identified in Schedule 5 Environmental Heritage of Woollahra LEP 2014, or located on land identified in Schedule 5, and the tree works are not minor (i.e. may have an impact on heritage significance and amenity).

¹ Certain types of tree or works are exempt, for example, noxious weeds. Refer to Section E3.4 below for the list of exempt trees and works.

E3.2.3 Works that requires a tree permit

A permit application is required for the tree works to a prescribed tree whenever development consent does not apply, as required in Section 3.2.2 above.

For example, a permit is required if:

1. the tree is identified on Council's Significant Tree Register and the proposed work is to prune the tree; or
2. the tree is located on land identified as a heritage item in Schedule 5 of Woollahra LEP 2014 and the proposed works are minor (e.g. will not have an impact on heritage significance or amenity).

E3.3 Assessing a development application or a tree permit

This section identifies the matters that Council will consider when determining an application for works in or near prescribed trees.

These matters are to be addressed by the applicant when describing the proposed works.

Council may request additional information in the form of an Arboricultural Assessment (refer to the DA Guide) to assist in the determination. However, providing this assessment report does not guarantee that the work will be approved.

Note, Council does not undertake a comprehensive assessment of the tree as part of the application process, and staff are unable to provide advice on the health or structural condition of trees on private land.

Arboricultural assessment requirements

The arboricultural assessment report will only be accepted when prepared by an arborist with a minimum qualification of Level 5 under the Australian Qualification Framework.

The company preparing the report must not be financially affiliated or have a business relationship with a tree removal/pruning company.

(Refer to the DA Guide for more information).

E3.3.1 Matters to be considered—all applications

The following matters will be considered when assessing development applications and permit applications:

1. The species, health, structural condition, age, growing environment and landscape significance.
2. Where view pruning is proposed, the view pruning guidelines in the Woollahra Tree Management Policy 2011 will apply.
3. Where pruning for solar access is proposed, this will be considered making allowances for the tree's health, growth habit, structural stability and growing environment.
4. Where tree removal is proposed, the following matters will also be considered:
 - a) the surrounding canopy cover;
 - b) amenity issues; and
 - c) the opportunity for replacement planting.

E3.3.2 Additional matters to be considered—works requiring a DA

The following additional matters will be considered when assessing development applications:

1. The impact of the proposed works, as assessed against the guidelines in *Australian Standard 4970 Protection of Trees on Development Sites*.
Note: Where removal of the tree is approved, suitable replacement planting will form part of the conditions of development consent.
2. The contribution the tree provides to the canopy cover, amenity, environment and landscape of the immediate and surrounding area.
3. The visual prominence of the tree and its proximity to ridgelines, prominent places, the harbour and public open space.
4. For a tree on the Significant Tree Register—the impact of the proposed works on the amenity and landscape setting of the surrounding area.
5. For a heritage listed tree or a tree located in the grounds of a heritage listed property—the impact of the proposed works on the heritage significance of the item and its curtilage, and the amenity and landscape setting of the surrounding area. A heritage impact assessment may be required.
6. For a tree in heritage conservation areas—the impact of the proposed works on the heritage significance of the conservation area and the amenity and landscape setting of the surrounding area. A heritage impact assessment may be required.
7. Whether the proposal is to be sympathetic to the cultural and historical garden setting. The original garden layout and design should be retained where possible, particularly where the tree is located in an historic grand estate.
8. If the tree is proposed for removal, what replacement tree or trees will be provided? Well established gardens and trees should generally be retained. Replacement trees should be positioned and be of a species that reflect the original garden as much as possible.

E3.3.3 Matters that do not justify tree removal or pruning

Generally approval will not be given where the proposed work is for the following:

1. Removal or pruning a tree for leaf, fruit or bark drop.
2. Removal of a tree for minor shading.
3. Removal of a tree for minor damage to infrastructure, such as retaining walls and pipes, where the damage can be repaired or the infrastructure restored with the retention of the tree.

Note: Limited space in the urban environment means tree roots can come into conflict with buildings. Tree removal will only be considered after alternative options that reduce conflict and accommodate tree growth have been explored. Removal is warranted where a tree is causing damage to a building or major damage to a retaining wall that forms a common boundary between two properties, which cannot be ameliorated through other means such as root pruning.

E3.4 Exempt trees and works

Section 3.2.1 identifies that “any tree or palm, whether of indigenous, endemic, exotic or introduced species with a diameter spread of branches greater than 3m or with a height greater than 5m, irrespective of the spread of branches” is a prescribed tree for the purpose of Part 2.3 of the Biodiversity and Conservation SEPP.

Despite this, a permit or development application is not required for work to certain types of trees or works. These exemptions are identified below.

E3.4.1 Exempt species

The following species of trees can be removed without a permit or development consent:

1. **Biosecurity species:** Removal of a species declared under the *Biosecurity Act 2015* as prescribed for the Woollahra Municipality; and
2. **Exempt species:** Tree removal or pruning of a species identified in Groups A and B, only where the prescribed tree:
 - a) is not identified in the Significant Tree Register;
 - b) is not identified as a heritage item in Schedule 5 of Woollahra LEP 2014; and
 - c) is not located on land identified as containing a heritage item in Schedule 5 of Woollahra LEP 2014, where the description of the heritage item includes the ‘grounds and garden’ or the like, and
 - d) is replaced with a tree (minimum pot size 100 litre at time of planting) suitable to the site and which has the potential to reach similar mature dimensions to the tree removed by provision of this clause.

Group A: Trees in this group can be removed irrespective of height

| Botanical name | Common name | Botanical name | Common name |
|----------------------------------|------------------|-------------------------------------|------------------------|
| <i>Ailanthus altissima</i> | Tree of Heaven | <i>Nerium oleander</i> | Oleander |
| <i>Cupressocyparis leylandii</i> | Leyland Cypress | <i>Olea europea var. africana</i> | African Olive |
| <i>Erythrina spp</i> | Coral Trees | <i>Salix spp</i> | Willow |
| <i>Ficus elastica</i> | Rubber Tree | <i>Rhizomatous (running) bamboo</i> | Bamboo |
| <i>Gleditsia triacanthos</i> | Honey Locust | <i>Schefflera actinophylla</i> | Umbrella Tree |
| <i>Lagunana patersonii</i> | Norfolk Hibiscus | <i>Strelitzia nicolai</i> | Giant Bird of Paradise |
| <i>Musa cavendishii</i> | Banana | <i>Syagrus romanzoffianum</i> | Cocos Palm |
| <i>Ligustrum spp.</i> | Privet | | |

Group B: Trees in this group can be removed if less than 10m in height

| Botanical name | Common name |
|----------------------------|----------------|
| <i>Cinnamomum camphora</i> | Camphor Laurel |
| <i>Celtis spp.</i> | Hackberry |
| <i>Populus spp</i> | Poplar |

Note: Although approval to remove the tree is not required, notice of the work is required. The owner of the land where the tree is located must give Council written notice of the work at least seven days prior to the work commencing.

E3.4.2 Exempt works

The following works can be undertaken without a permit or development consent:

1. **Dead trees:** Removal of dead trees or dead branches of a tree.
Note: Ensure the tree is not leafless because it is a deciduous tree.
2. **Building clearance:** Pruning to remove branches no larger than 50mm in diameter at the nearest branch collar or junction to provide a maximum of 2m clearance to:
 - a) a roof;
 - b) an external face of a building; or
 - c) powerlines as set out under section 48 of the *Electricity Supply Act 1995*.
3. **Parasitic plants:** Removal of parasitic plants from a tree.
4. **Dangerous trees:** Removal or pruning where the tree poses an imminent danger to property or life. Documentary evidence demonstrating that the works are necessary to eliminate an immediate hazard is to be provided to Council by an arborist who holds a minimum Level 5 qualification under the Australian Qualification Framework.
5. **Council works:** Tree removal, pruning, maintenance and replacement by Council or its duly authorised servants or agents, on land owned by, or under the care, control and management of Council.

Work must be undertaken in accordance with the WorkCover NSW Code of Practice for the Amenity Tree Industry and the guidelines in Australian Standard AS 4373 Pruning of Amenity Trees.