

THE HILLS SHIRE COUNCIL

TREE MANAGEMENT GUIDELINES FOR TREES ON PRIVATE LAND

FORWARD

These Tree Management Guidelines have been written to clarify the existing legislative mechanisms available, and the general practices of Council in managing trees on private land.

Under the provisions of Council's Local Environmental Plan, private land owners require the written consent of Council to ringbark, cut down, lop branches, remove or injure a tree. Upon receipt of an application, certain identified and measurable criteria are applied in reaching a decision to permit action upon a tree. These criteria are identified and included in this document.

GLOSSARY

AQF	Australian Qualification Framework
Council	The Hills Shire Council as represented by its employees
Consent	Includes a Development Consent or a Tree Management Application Approval
EP&A Act	Environmental Planning and Assessment Act 1979, as amended
LEP	Local Environmental Plan
TBMP	Tree and Bushland Management Provisions

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1. INTRODUCTION

Trees are an essential component of the environment, whether urban or natural. In the urban environment they serve many purposes ranging from aesthetic considerations to climatic influences. In natural environments they perform even more functions including those of reducing soil erosion and providing habitats for wildlife. Moreover we retain psychological links with trees from our past and in our highly urbanised society they help reduce our sense of alienation from the natural environment.

Since European settlement Australia has lost approximately 70% of its original tree cover and this reduction is continuing. There are many good reasons for removing trees which include safety, the need to protect houses, develop areas for residences, businesses and industries. In rural areas many consider it necessary to clear trees before agricultural use can be pursued or identify the need to protect housing from the threat of bushfire.

All of these reasons can be valid but need to be weighed carefully against broader social and environmental interests.

1.1 Purpose

The purpose of this guideline is to establish Council's work practices toward tree management on private lands. It is primarily concerned with trees as distinct from bushland, which is managed under separate provisions of the Local Environmental Plan and Environmental Planning & Assessment Act.

1.2 Objectives

The objectives of the Tree Management Guidelines are to:-

- Improve the wellbeing of our community through a well managed urban forest
- Manage the urban treescape through appropriate species selection, re-planting and care
- Develop efficient work practices within Council to assist the community with the provision of a diverse and healthy tree environment
- Preserve and management of existing suitable trees in a safe and health condition
- Provide advice for the planting and management of new suitable trees that will be safe, healthy and beneficial to the environment
- Provide guidance for the management of dangerous and unsuitable trees.

2. THE PRESERVATION OF TREES OR VEGETATION

For the purpose of preserving the existing amenity of the Shire, Council has included in its Local Environmental Plan provisions requiring the preservation of trees and bushland.

The provisions apply to all trees and other vegetation which are of a species or kind prescribed in this guideline. This Provision applies to all land within the Hills Shire local government boundary. Its requirements are as follows:

1. The aim of this Provision is to maintain and enhance the visual amenity of the local government area of The Hills, through the effective control and management of actions likely to affect the health of trees and bushland.
2. The provisions applies to any tree (including a habitat tree) or bushland, except as otherwise provided by the LEP.
3. Except in accordance with a development consent or permit granted by the Council, a person must not ring-bark, cut down, top, lop, remove, injure or wilfully destroy any tree or bushland.
4. Except in accordance with development consent, the carrying out of any filling or excavating (excluding top dressing, gardening, paving on a sand base and the like) within the area vertically beneath the canopy of a tree or bushland is prohibited.

2.1 Guidelines

The guidelines are as follows:

- The ringbarking, cutting down, topping, lopping, removal, injuring or wilful destruction of any tree or bushland is prohibited except with the approval of Council unless an exemption criteria applies.
- Any person or persons acting contrary to the Provision shall be liable to prosecution.
- Consent is required for the removal of a habitat tree, including dead trees with hollows that provide, or could provide, habitat for wildlife.

Council's Tree Management Provision provides a regulatory frame work for the management of trees to secure and enhance the Shire's urban forest and the benefits provided by our urban trees. Penalties apply for a person found guilty of committing a breach, with a possible maximum fine of \$1,100,00.00.

2.2 Definition of a Tree

A tree for the purposes of the Guideline is a perennial plant with a self supporting woody stem that has a spread of more than 3 metres or a height of more than 5 metres and measures more than 150 millimetres in diameter measured 1 metre from the ground.

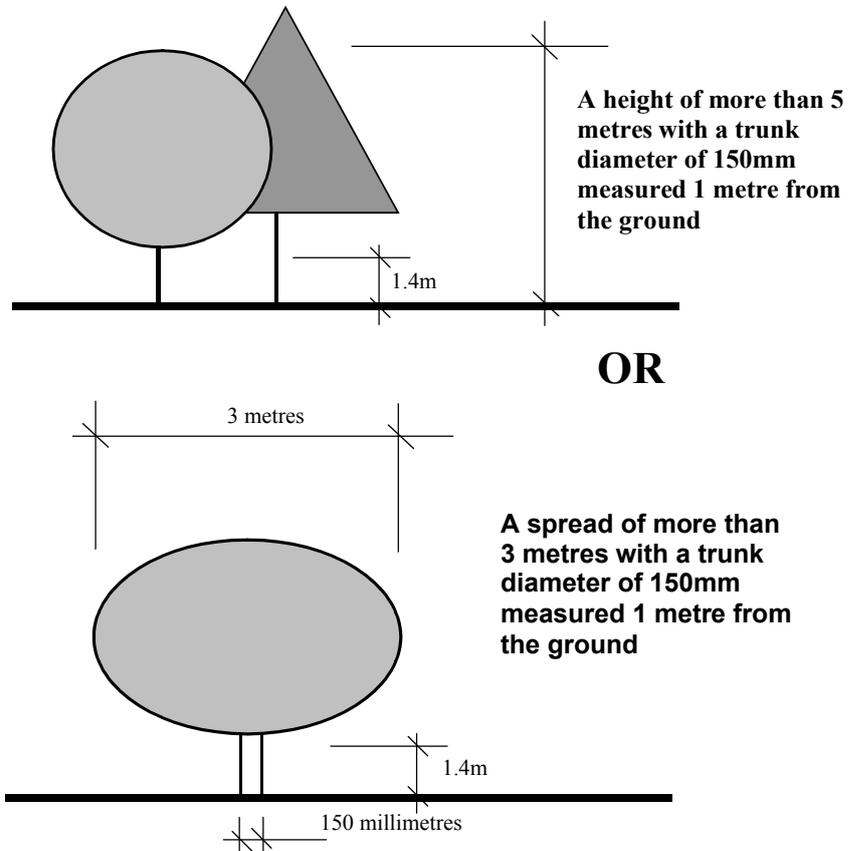


FIGURE 1: Definition of a tree

2.3 Clearing of Bushland

Despite any other provisions of the LEP, clearing of bushland in land zoned 1 (a), 1 (b), 1 (c), 1 (d) or 7 (a) may only be carried out with development consent, unless the clearing consists of:

- a) An activity required or allowed to be carried out by or under the Rural Fires Act 1997 without development consent, or
- b) Bush fire hazard reduction works a landowner has otherwise been lawfully directed to carry out by a member of the NSW Rural Fire Service or the State Emergency Service.

2.3.1 Definition of Bushland

Bushland is defined by Council's LEP in accordance with the following;

"bushland means vegetation that is either a remainder of the natural vegetation on the land or, if altered, is still representative of the structure and/or floristics of the natural vegetation"

2.4 Exemptions to the Tree & Bushland Management Provision

2.4.1 Exempt Species

In the urban environment some tree species are considered to be inappropriate based upon their adverse affect toward their surrounds. The following species of trees are exempt from Council's TBMP and Council permission is not required for the removal of trees contained within this list.

- *Alnus jorrullensis* (Evergreen Alder)
- *Populus nigra* "Italica" (Lombardy Poplar)
- *Pittosporum undulatum* (Sweet Pittosporum)
- *Schefflera actinophylla* (Umbrella Tree)
- *Ficus elastica* (Indian Rubber Tree)
- *Acer negundo* (Box Elder)
- *Salix babylonica* (Weeping Willow)
- *Gleditsia triacanthus* (Honey Locust)
- *Ligustrum lucidum* (Broad Leaved Privet)
- *Ligustrum sinense* (Small Leaved Privet)
- *Olea europaea* var. *africana* (Wild Olive/ African Olive)
- *Robinia pseudoacacia* (False Acacia/Black Locust)
- *Syagrus romanzoffianum* (Cocos Palm)
- *Toxicodendron ouccedaneum* (Rhus Tree)

It is the responsibility of the property owner to assure that tree species are identified correctly. It shall not be a sufficient defence against potential regulatory action, that the species was not appropriately identified prior to the removal of the tree.

2.4.2 Dead or Dangerous Trees

A permit is not required to ring bark, cut down, top, lop, remove, injure or wilfully destroy a tree or bushland under the following circumstances:

- a) if the tree is not a habitat tree and the tree was, dead or dangerous **AND**:
 - i) the tree poses an imminent danger to property or life, or
 - ii) the action is necessary to protect human life, buildings or other property from imminent danger from a bush fire burning in the vicinity of the tree or,
- b) if the action is required or allowed to be carried out by or under the Rural Fires Act 1997 without development consent, or
- c) if an application for a permit to allow the action was made to Council and the Council did not within 21 days serve the person who made the application with notice that it opposed the action being taken.

2.4.3 Evidence required to substantiate an exemption

In regard to 2.4.2 a) Evidence is required to be collected prior to the removal of the tree to demonstrate that the exemption criteria apply. Evidence should be provided in accordance with the following;

- 1. Dead Tree that is not a habitat tree:**
Photographs of the tree. An Arborist Report from an AQF Level 3 Arborist confirming the condition of the tree may be required if the evidence submitted is unclear.
- 2. Dying:**
A detailed report prepared by an AQF Level 5 Arborist demonstrating that the tree is dying and the likely cause.
- 3. Dangerous Tree:**
Photographs of the tree demonstrating the imminent danger to property or life.

2.4.5 Arborist Report Requirements

Arborist reports are to be provided and prepared in accordance with the Guidelines for Arborists reports in Appendix 2 of this Guideline.

3. THE APPLICATION PROCESS

3.1 Application to Remove or Prune a Tree

An application is not required to prune up to 10% of the foliage of a tree per growing season.

Applications shall be made in writing through the Tree Management Application form for works to be undertaken on trees. A Development Application is required to be lodged for clearing of bushland.

An inspection of the site is made by Council's tree management staff and in assessing each application, the criteria as stated in these guidelines will be used in determining the application.

3.2 Development Process and Trees

The retention of mature trees in new developments provide a range of benefits such as spatial definition, climate modification, and local character that cannot be obtained in the short term through new planting. The marketability and attractiveness of the development is reinforced through the retention and protection of these trees, at little cost to the developer.

To avoid indiscriminate clearing and to ensure the long-term viability of this asset all trees to be retained shall have a root protection zone established prior to any works commencing on the site.

The root protection zone is to consist of a 1.8m high chain wire fence, which is to be erected at least three (3) metres from the base of each tree, or group of trees. During construction the following activities are forbidden within the root protection zone:

- Stockpiling of materials,
- Placement of fill,
- Parking of vehicles,
- Compaction of soil.

All areas within the root protection zone are to be mulched with composted leaf mulch to a depth of not less than 100mm and the trees regularly watered.

A sign is to be erected indicating the trees are protected.

The installation of services on private land within the root protection zone is not to be undertaken. Where roots are damaged, a qualified AQF Level 5 Arborist is to repair the damaged roots.

3.2.1 Landscape Plan

A plan (to scale) for the landscaping of the site in accordance with Development Control Plan No.15 (Landscaping) is to be submitted to, and approved by, Council's Tree Management Co-Ordinator prior to the issue of construction certificate. Details shall include:

- a) all existing trees, landscape features and prominent structures;
- b) a schedule of proposed planting, including botanic name, common name, expected mature height and staking requirements;
- c) details indicating a minimum of 300mm of good quality topsoil to all garden beds;
- d) details indicating a minimum of 150mm of good quality topsoil to all lawn areas;
- e) all garden bed areas to be clearly defined by brick, concrete or timber edging with its top edge finishing flush with the surface of adjacent grass areas

3.2.2 Arborist Report Requirements

Arborist reports should be completed and provided to Council in accordance with the Guideline found in Appendix 2 of his guideline.

3.3 Development Process and Bushland Clearing

In instances where a development proposes the clearing of bushland the landowner must provide a development application accompanied by a flora and fauna assessment and tree survey.

Justification of the bushland clearing will also need to be provided. The application will then be assessed on the documentation provided.

4. ASSESSMENT CRITERIA

Upon receipt of an application to undertake work on a tree the following criteria will be applied in determining the application.

4.1.1 Health of the tree

The present condition of the tree is assessed for any visible signs of decay or deterioration, this is usually indicated by a lack of foliage, dead branches evident in the canopy, presence of fungal fruiting bodies, excessive sap being exuded from the trunk and/or evidence of insect attack, particularly borer damage.

4.1.2 Species genetics

The species susceptibility to environmental changes, which may affect the longevity of the species survival in its current location. This would include, changes in soil level, excessive root damage caused during construction works, changes in water availability, competition for other vegetation (particularly climbing vines), and compaction of soil (particularly in high usage areas such as car parking areas). Further, the likelihood the species displays toward branch failure and subsequent limb fall.

4.1.3 Affection to property

The likelihood of the tree having an adverse affect upon its environment with particular emphasis to life and property damage. This will include trees renowned for having intrusive root systems, which cause damage to footings of houses or, trees that cause blockages to domestic sewer and drainage lines.

4.1.4 Significance to Streetscape

An assessment of the visual environment and the significance the specimen plays within the streetscape. Other criteria would include if the tree is an endangered or rare species, is of historical significance or, the link the tree provides between bushland and reserves (the connectivity of habitat).

4.1.5 Termites

Each case of termite infestation will be investigated on its merit.

4.1.6 Potential Future Damage

The potential for the tree to cause damage in the future is also considered in an assessment for removal.

Council ensures that only appropriately qualified officers undertake the assessment of trees subject to application for removal.

4.2 Insufficient Justification for tree Removal

4.2.1 Solar Access

Complaints are often received regarding shade in adjoining properties from trees.

Increasing solar access will not be considered sufficient reason to remove a tree. Council will consider applications for selective thinning of the canopy to improve sunshine for private property.

4.2.2 Improve Views

Permission to remove a tree will generally not be granted if the applicant solely seeks to improve views.

4.2.3 Leaf/Bark or small twig dropping

Permission will generally not be granted to remove trees due to nuisance caused by trees shedding leaves, fruit, bark, cones or twigs.

4.2.4 Minor Property Damage

Permission will generally not be granted to remove trees due to minor property damage such as minor lifting of driveways and paths by tree roots.

5. TREE REPLACEMENT

Applications to remove trees may be granted approval subject to the condition that the applicant undertake suitable replacement planting. Replacement planting may not be required in all cases, such as when approval is granted for tree removal on properties which may remain densely vegetated even after the approved removal.

In the interest of maintaining the natural environment of the Shire, it is a condition of approval that for every tree removed, a replacement tree is provided of a species listed in Appendix 1.

5.1 Replacement Tree Selection and Allergies

The selection of appropriate trees will be critical for the successful establishment of a quality and easily maintained tree canopy. It is important to select trees based upon the positive contribution they make toward the environmental amenity and aesthetics of a location. Other criteria such as allergies, particularly asthma, in the community may effect the decision when choosing appropriate species.

Tree selection should be made based upon suitability for the site, aesthetics, functionality and biological attributes.

Many people in the community have allergic reactions to plant pollen resulting in seasonal hay fever. It is more often the case that the pollen of the grasses that surround us are the cause of the symptoms but many trees get blamed.

The following is a list of trees known to, in some instances, cause irritation to people who suffer allergic reactions to pollen.

5.1.1 Potential Allergy Trees

Acacia spp.	Wattles
Alnus spp	Alder
Betula pendula	Silver Birch
Ulmus parvifolia	Chinese Elm
Liquidambar styraciflora	Liquidambar
Melia azedarach	White Cedar
Platanus x hybrida	London Plane Tree
Populus deltoides	Poplar
Salix babylonica	Weeping Willow

6. TREES - (DISPUTES BETWEEN NEIGHBOURS) ACT 2006

Trees are often a reason for neighbour's disputes when branches overhang the common boundary or if tree roots spread into a neighbouring yard. Often property owners will approach Council to express their concerns about an impact a neighbour's tree is having on their property with the hope Council will resolve the matter.

The Tree and Bushland Management Provision and legislative controls do not give the Council authority to direct a neighbour to prune or remove tree/s that are growing in their property. Council also is unable to negotiate or intervene between neighbourhood tree disputes, as this is considered a civil matter and must be resolved between the parties involved.

If a neighbour's tree is affecting your property, it is advisable that, in the interest of good neighbourly relations, you contact your neighbour and discuss the matter with a view toward negotiating a mutually satisfactory outcome.

If negotiations are unsuccessful or no agreement can be made with your neighbour, you could consider the following options available to help resolve the matter:

The property owner's permission is not required for the pruning of branches that are overhanging your property. You may only prune 10% of the canopy. You are not simply permitted to prune a tree back to the boundary line. Pruning must be carried out in accordance with the Australian Standard for the Pruning of Amenity Trees (AS4373). The Standard provides guidance on cut location to assure the least impact on the health of the tree.

All pruning works must be undertaken from within your own property unless you have the owner's consent to enter onto their property.

Council will not issue removal permits to non tree owners. Applications to remove a tree without the tree owners consent will not be accepted by the Council.

6.1 Community Justice Centre

Contact the [Community Justice Centre](#) and seek mediation. Mediation is an alternative dispute resolution method which involves you, your neighbours and a trained mediator discussing the problem in an effort to determine an outcome which is agreed to by all parties. The service is free, confidential, voluntary, timely and easy to use.

Community Justice Centre

Tel: 1800 990 777

Email: cjc_info@agd.nsw.gov.au

Website: [Community Justice Centres](#)

6.2 Land and Environment Court

If all mediation attempts between neighbours have failed, an opportunity exists for property owners to apply to the NSW Land and Environment Court, to rectify the problem under the provisions of the *Tree (Disputes Between Neighbours) Act 2006*. The Act allows a property owner to apply to the court for an order to remedy, restrain or prevent damage to the owner's property or injury as a consequence of a tree situated on adjoining land. The court may also order compensation for damage already caused by such a tree.

The Court requires individuals make a reasonable attempt to resolve the situation before approaching the Court.

The [Land & Environment Court's website](#) provides a range of helpful guidance notes and information on things you should consider when making an application.

Please note that the Act does not apply to trees on land owned or managed by Council.

6.3 Education

In response to applications, Council will provide advice on the correct arboricultural methods and definitions of trimming, pruning, lopping, thinning of canopy, topping and root pruning through diagrammatic inclusions.

Council will also provide a brief outline of common problems and diseases suffered by trees and how to overcome them, and particular species that are not suitable for planting adjacent to the house, sewer and drainage lines.

7. APPEDICES

APPENDIX 1: Replacement Tree Species

Low Allergy Trees

<i>Acmena smithii</i>	Lilly Pilly
<i>Agonis flexuosa</i>	Willow Myrtle
<i>Araucaria heterophylla</i>	Norfolk Is. Pine
<i>Bauhinia blakeana</i>	Butterfly Tree
<i>Eucalyptus</i> spp.	Eucalyptus Trees
<i>Grevillea robusta</i>	Silky Oak
<i>Hakea laurina</i>	Pincushion Plant
<i>H. salicifolia</i>	Willow Leaved Hakea
<i>Magnolia grandiflora</i>	Bull Bay
<i>Malus floribunda</i>	Crab Apple
<i>Melaleuca</i>	Broad Leaved
<i>quinquinervia</i>	Paperbark
<i>Nyssa sylvatica</i>	Tupelo
<i>Pistacia chinensis</i>	Pistachio
<i>Prunus x blireana</i>	Flowering Plum

Recommended Replacement Species

<i>Acmena smithii</i>	Lilly Pilly
<i>Tristaniopsis laurina</i>	Water Gum
<i>Corymbia eximia</i>	Yellow Bloodwood
<i>Backhousia citriodora</i>	Lemon Scented Myrtle
<i>Elaeocarpus reticulatus</i>	Blueberry Ash
<i>Waterhousia floribunda</i>	Weeping Lilly Pilly
<i>Syzygium leuhmannii</i>	Riberry
<i>Hymenosporum flavum</i>	Native Frangipani
<i>Eucalyptus sideroxylon</i>	Red Ironbark
<i>Eucalyptus microcorys</i>	Tallowwood
<i>Eucalyptus leucoxydon</i>	Yellow Gum
<i>Eucalyptus crebra</i>	Narrow Leaved Ironbark
<i>Syncarpia glomulifera</i>	Turpentine
<i>Lophostemon confertus</i>	Brush Box

APPENDIX 2: Guidelines for Arborist Reports

The following information is required to be included in Arborist Reports.

1. The name, business address, telephone number of company;
2. Evidence of technical qualifications and experience of the Arborist who undertakes the tree inspection, diagnosis and prepares the report;
3. The address of the site containing the trees;
4. The name of the person or company for whom the report is prepared;
5. The methods or techniques used in the inspection;
6. A suitably scaled plan of the site showing:
 - a. the location of all trees on the site and any trees on adjoining land which overhang or under grow
 - b. the subject land
 - c. the location of above and below ground services / utilities in proximity to the trees shown
7. A table showing for each tree surveyed:
 - a. the common and full scientific name
 - b. the age class
 - c. the estimated height
 - d. the trunk diameter at 1.4 metres
 - e. the canopy spread to the four cardinal points
 - f. a summary of the trees health and structural condition
 - g. an estimation of the trees useful life expectancy using appropriate industry methods
8. A summary and / or discussion of other relevant tree and site information such as soil and drainage characteristics, pests and diseases, and tree hazard assessment details;
9. The tree assessment should be conducted and recorded in accordance with industry best practice;
10. Supporting evidence such as annotated photographs and laboratory results if relevant;
11. A discussion of all options available, including why they are recommended or not recommended. eg. Can a built structure be relocated, repairs and tree(s) retained?
12. A review of the implications of the proposed development on the health and structural condition of trees to be retained;
13. A description of the recommended protection measures to be put in place to ensure the protection of trees to be retained;
14. A list of recommendations and the reasons for their adoption;
15. The sources of technical information referred to in the report. References not used in the report should not be included;
16. Present information as objectively as possible without attempting to support a specific development outcome;
17. Provide the scientific and common names of all tree species proposed for planting, including recommendations on the size and quality characteristics of trees to be planted.