

Tree Preservation Orders

Policy Objective

To provide for the protection of significant trees through Tree Preservation Orders.

Policy Detail

1. Eligibility criteria for application and serving of a Tree Preservation Order

- a) A landowner may apply for a Tree Preservation Order to protect a tree on their land.
- b) A neighbouring landowner may apply for a Tree Preservation Order to protect a tree on the adjacent property if the canopy of that tree overhangs into their property.
- c) The City of Belmont may serve a Tree Preservation Order upon a landowner for the protection of a tree on their land or a tree that overhangs their land.

2. Assessment criteria for significant trees

For a tree to be considered significant and worthy of protection through a Tree Preservation Order, it must meet one or more of the following criteria:

- a) Scientific, Environmental or Biological Significance and;
 - i. Is remnant native vegetation, was not planted or propagated and is of a local native species; or
 - ii. Is recognised by relevant State or Federal legislation as rare or endangered but may be exempt from requiring a clearing permit; or
 - iii. Is connected with native fauna assemblages that are recognised as at risk by relevant State or Federal legislation; or
 - iv. Has significant horticultural value.
- b) Cultural or Historical Significance and;
 - i. Is located on the City of Belmont Local Heritage Survey or Local Heritage List; or
 - ii. Is associated with or attached to a listed heritage site and directly relates to the heritage value of the site; or
 - iii. Is connected to or within an Aboriginal Heritage Site but is not protected under law.

- c) Landscape or Amenity Significance and;
 - i. Represents a curious growth form that significantly contributes to the landscape and has become a unique and widely renowned specimen; or
 - ii. Occurs in a unique and prominent location and acts as a landmark to the local area.

3. Tree condition, impacts and locational attributes

The tree's condition and locational attributes will also be assessed to determine whether a Tree Preservation Order may be supported. The following information will be taken into consideration as part of this assessment:

- a) The tree's current useful life expectancy (in years) and age class (maturity/life cycle).
- b) Description of current and future growth habit, including root structure, and any existing or future risk of structural damage or encroachment to buildings, property boundaries, or other structures.
- c) Existing health and structural integrity or known risks associated with the tree (i.e. presence of any growth or physical defects, pest or disease).
- d) Current and expected (at maturity) height, canopy and crown width (in metres) and trunk diameter at 1m above ground level (in millimetres).
- e) Works required and ongoing management requirements if evident.
- f) Assessment of potential risk of harm as assessed using a Quantified Tree Risk Assessment (QTRA) or International Society of Arboriculture Hazard Rating.

4. Review of trees protected by a Tree Preservation Order

- a) A tree protected through a Tree Preservation Order will be reviewed by the City's Arborist at the City's cost:
 - i. A minimum of every year, against this Policy; or
 - ii. Where emergency works have been undertaken; or
 - iii. Where the tree may result in damage to property or personal injury.
- b) A Tree Preservation Order shall include requirements for:
 - i. The owner/occupant of the property on which the tree is situated providing City officers with reasonable and adequate access to the property to undertake an inspection of a tree.

- ii. A landowner/occupant notifying the City of any issues associated with a tree which may result in damage to property or injury to persons.
- iii. The applicant/landowner/occupant bearing all costs associated with maintenance.
- c) A review of the tree may result in the modification or revocation of a Tree Preservation Order as per Section 4 of Council Policy Manual – Tree Preservation Orders.
- d) The City’s Parks section will maintain a publicly available register for inspection.

5. Modifying or revoking of a Tree Preservation Order

Council can determine to modify or revoke a Tree Preservation Order and request that the Registrar of Titles remove or amend the memorandum from a property title(s).

- a) Council will consider modifying a Tree Preservation Order where:
 - i. Natural changes in the trees structure results in the Tree Preservation Order needing to be added or removed from property titles; or
 - ii. A boundary line and property title, through subdivision, amalgamation or otherwise, has changed requiring the addition or removal of the Tree Preservation Order to property titles.
- b) Council will consider revoking a Tree Preservation Order where the tree:
 - i. Is or will be deemed dangerous and requires removal; or
 - ii. Is deceased and requires removal; or
 - iii. May result in damage to property or personal injury; or
 - iv. No longer meets the criteria for which it was originally protected (Section 1 and 2).

6. Instances where Tree Preservation Orders may not be considered

A Tree Preservation Order may not be applied to trees in the following instances:

- a) Trees that are currently protected or subject to management requirements under local, state or federal legislation, may not be considered. This includes, but is not limited to;
 - i. *Energy Operators (Powers) Act 1979;*
 - ii. *Bush Fires Act 1954;*
 - iii. *Environmental Protection (Environmentally Sensitive Areas) Notice 2005; or the Main Roads Act 1930.*
- b) Trees which are:

- i. Dead or considered non-viable;
- ii. Structurally unsound and present an unacceptable risk to property or life that cannot be mitigated without removing the tree; or
- iii. A noxious or declared weed.

Reference/Associated Documents

City of Belmont Local Planning Scheme No. 15.

Reference to Internal Procedure

Process Map – Tree Preservation Orders – To be developed.

Definitions

'Certified Arborist' means an Arborist who is certified by a professional organization like the International Society of Arboriculture (ISA).

'Owner' has the same meaning given in the *Planning and Development (Local Planning Schemes) Regulations 2015*.

'Tree' means a woody plant inclusive of its roots, canopy, stems and trunk(s) that is capable of growing taller than 4m in height at maturity.

'Trees Structure' means its physical stature, including trunk, branches, roots, and foliage and growth habit, including direction of growth.

This Policy is supported by:		
Policy No:	CP64	
Strategic Community Plan:	Goal 3: Natural Belmont Strategy: 3.1 Protect and enhance our natural environment.	
Register of Delegations:	n/a	
Service Area:	Planning Services/Parks, Leisure and Environment	
Policy Owner:	Manager Planning Services/ Manager Parks, Leisure and Environment	
Policy Stakeholder:	Coordinator Planning Projects/ Coordinator Environment	
Amendment Status:		
Date of Amendment	Status of Amendment	Minute Item Reference
23 April 2024	New Policy	12.1