

# 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.

<b>This Policy is supported by:</b>		
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Strategic Community Plan:	Goal 3: Natural Belmont Strategy: 3.1 Protect and enhance our natural environment.	
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