

City of Belmont  
Local Planning Scheme No. 15  
SCHEME REPORT SUPPORTING  
DOCUMENT

**TREE REGISTER**

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## 1. INTRODUCTION

The existing provisions of Town Planning Scheme No. 14 relating to Tree Preservation Orders and Planting of Trees are contained within Section 10.13 of the Text.

## 2. SCHEME PROVISIONS UNDER CITY OF BELMONT TOWN PLANNING SCHEME NO. 14

The Scheme provisions state:

- “10.13.1 (a) The Council may resolve that an Order (“Tree Preservation Order”) be served upon the owner of any land requiring the preservation of a tree or group of trees growing wholly or partly on that land.*
- (b) If portion of the canopy of a tree, the subject of a Tree Preservation Order, overhangs property adjoining that on which the tree is growing, the Council may also resolve that a Tree Preservation Order be served upon the owner of that adjoining property and the order with any necessary modification shall have the same effect in respect of that owner as the order referred to in paragraph (a).*
- (c) If the owner of land on which any tree affected by a Tree Preservation Order is situated or the owner of land which any such tree overhangs is not also the occupier of that land the Council may additionally or alternatively serve a copy of the order on the occupier of such land, and the order shall have the same effect in respect of the occupier as the orders referred to in paragraph (a) and (b) in relation to owners.*
- (d) No person served with an order or a copy of an order in accordance with this subclause, and no person who has knowledge of such an order may remove or otherwise destroy, or cut, break or otherwise damage any part of a tree affected by the order, or cause or permit such removal, destruction, cutting, breaking or damaging except with the prior approval in writing of the Council.*
- 10.13.2 An owner of land affected by a Tree Preservation Order may, within 28 days of the serving of the order on that owner, request in writing that Council reconsider the Tree Preservation Order and revoke or modify the Order in a manner specified in the request. If the Council within 60 days of receipt of such a request fails or refuses to revoke or modify the order as requested, the owner may appeal against the refusal in accordance with the provisions of Part V of the Act.*
- 10.13.3 (a) The Council may at any time reconsider a Tree Preservation Order and either as a result of a request by an owner or of its own motion, may resolve to revoke or modify the order.*
- (b) A revocation or modification under the preceding paragraph may be in relation to any one or more of all the lands affected by the original Tree Preservation Order.*
- (c) The fact of a Tree Preservation order being revoked or modified shall be notified to any owner and occupier of land affected by the original Tree Preservation Order.*

- 10.13.4 *The Council may keep and maintain a register of trees which includes the description and location of any tree or group of trees the subject of a Tree Preservation Order, and the name and address of the landowner or occupier on whom any order has been served in accordance with this clause. The register shall be kept available for public inspection at the administrative office of the Council.*
- 10.13.5 *When the Council resolves to serve a Tree Preservation Order on the owner or occupier of any land the Council may without any further resolution deliver a copy of the Tree Preservation Order.*
- (i) In the case of an order relating to land which is under the operation of the Transfer of Land Act 1893, to the Registrar of Titles;*
  - (ii) In the case of an order relating to land which is alienated from the Crown but which is not under the Transfer of Land Act 1893, to the Registrar of Deeds and Transfers; or*
  - (iii) In the case of an order relating to land which is under the operation of the Land Act 1933, to the Under Secretary for Lands.*
- 10.13.6 *Upon the revocation or modification of a Tree Preservation Order which has the effect that any land is no longer affected by the Order, the Council shall deliver a notification of the fact that the land is no longer affected in the same way and to the same officers as a copy of an order is delivered under the preceding subclause. Such notification shall specify the date on which the revocation or modification took place and the land to which it relates.*
- 10.13.7 (a) *On receiving a copy of a Tree Preservation Order delivered under the provisions of this clause, the Registrar of Titles, the Registrar of Deeds and Transfers or the Under Secretary for Lands, as the case requires, shall register the order and endorse or note accordingly the appropriate register book or register or record in respect of the land stipulated in the order as the land to which it relates.*
- (b) *On receiving a notification of revocation or modification of a Tree Preservation Order delivered under the provisions of this clause, the Registrar of Titles, the Registrar of Deeds and Transfers or the Under Secretary for Lands, as the case requires, shall cancel or modify (as the notification requires) the registration of the Tree Preservation Order in relation to the land specified and endorse or note accordingly the appropriate register books register or record in respect of the land so specified.*
- 10.13.8 *In this clause:*
- (a) "Registrar of Titles" has the meaning given by the Transfer of Land Act 1893;*
  - (b) "Registrar of Deeds" has the meaning given by the Registration of Deeds Act 1856; and*
  - (c) "Under Secretary for Lands" means permanent head of the department within the meaning of the Land Act 1933."*

### **3. REGISTER OF TREES**

The following list is the Register of existing tree or trees subject of a Tree Preservation Order.

**LIST OF TREE(S) SUBJECT OF A TREE PRESERVATION ORDER**

| DESCRIPTION OF TREE(S) | LOCATION OF TREE(S)                                                                                                                     | NAME & ADDRESS OF LANDOWNER &/OR OCCUPIER ON WHOM<br>TREE PRESERVATION ORDER HAS BEEN SERVED |
|------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------|
| Moreton Bay Fig        | 57 Frederick Street, Belmont<br><br>Refer:<br>DA No. 307/2002/DA<br>Pathway No. 168256.doc<br>Item 8.6.1 PDC 21/10/2002 & CM 28/10/2002 | All strata owners (tree is on common property)<br><br>57 Frederick Street<br>Belmont         |