

STRATEGIC PLANNING

DRAFT **Randwick** **Development** **Control Plan** **B5 Preservation** **of trees and** **vegetation**

D05917755

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1. Introduction

A healthy urban forest provides significant aesthetic, ecological and environmental benefits to residents, workers and visitors of Randwick City. It is of vital importance to protect and enhance the City's urban environment through long term preservation and management of trees and other vegetation in our urban forest. Preserving the City's tree coverage is important in protecting the liveability of our neighbourhoods. As a large proportion of the City's tree canopy is existing on private land, observance of Council's tree and vegetation controls are imperative to protect our city's trees and vegetation.

Implementing the green grid, protecting areas of bushland and biodiversity, increasing tree canopy cover and increasing the native and indigenous species across the LGA are key priorities of the City of Randwick Environmental Strategy 2022 and our Local Strategic Planning Statement 2036

This section applies to trees in Randwick City and supplements the [State Environmental Planning Policy Biodiversity and Conservation 2021 \(BC SEPP\)](#) by specifying additional types of tree works which require Council approval and guidance for preparation of applications seeking Council Tree permit approval.

This section of the DCP should be read in conjunction with:

- Part B4 Landscaping and Biodiversity of the DCP which covers trees on development sites.

Tree removal that is associated with building work requiring consent will be evaluated as part of the development assessment process and may also require additional assessment and approval under the NSW Biodiversity Act (2016). Please see Part B4 – Landscaping and Biodiversity. If you wish to remove a tree or trees that have been conditioned to be retained or forms part of the approved landscape design in a development consent, you are required to apply for a section 4.55 or 4.56 amendment to your development consent.

Alignment with other planning instruments

In addition to the Randwick Local Environment Plan (LEP), the Biodiversity Conservation SEPP applies.

In the event of an inconsistency between this DCP and the SEPP, the SEPP prevails to the extent of the inconsistency.

Other Council documents

This section of the DCP should be read in conjunction with the following tree management documents, which can be found on Council's website:

- Tree Management Technical Manual
- Significant Tree Register
- Urban Forest Policy
- Sewerage Stormwater Drain Blockage Policy
- Street tree masterplan
- Street Tree Identification Manual
- Randwick City Council Local Environment Plan

2. Tree Permits

Objectives

The specific aims of this section are:

1. To effectively protect and enhance the urban forest in Randwick City Council
2. To protect and retain trees with cultural, heritage and natural significance
3. To provide effective tree protection measures that promote the retention of vegetation and increase tree canopy coverage across the City of Randwick

Controls

- a) A tree permit is required to clear or carry out tree works to any of the following:
 - i. Any hollow bearing trees
 - ii. Severing of tree roots greater than 50 mm
 - iii. Tree with a height equal to or exceeding 3 metres
 - iv. Tree with a canopy width equal to or exceeding 4 metres
 - v. For a single trunk tree species, a trunk circumference equal to or exceeding 400 mm at a height of one (1) metre above ground level
 - vi. For a multi-trunk tree species, a combined trunk circumference (measured around the outer girth of the group of trunks) equal to or exceeding 400 mm at a height of one (1) metre above ground level.

Note

Unless specifically exempt under this Plan or other applicable legislation, the pruning, damaging, or removal of any of the prescribed trees listed above must not occur without prior written consent from Council. Such consent is to be obtained through either a Tree Permit Application or a Development Application for Tree Works, as determined by the tree's location and relevant planning controls.

An arboriculture assessment (Arborist) report by a suitably qualified Australian Qualification Framework (AQF) Level 5 Arborist, and other specialist reports and information may be required to be submitted as part of the application/permit assessment process as evidence to support the pruning or removal of the tree(s).

Relevant forms are 'Application for Permit to Prune/Remove Tree/s' and 'DA for Tree Works'. Both can be downloaded from Council's website

<https://www.randwick.nsw.gov.au/environment-and-sustainability/trees/removing-and-pruning-trees>

3. Development Applications for Tree Works

Objectives

1. To ensure the protection and appropriate management of trees with heritage, cultural, or significant value by establishing clear requirements for Development Applications involving pruning or removal, thereby safeguarding the historic, cultural, and natural character of the area.

Controls

- a) A Development Application (DA) for Tree Works is required to prune more than 10% of the live canopy within any 12-month period or to remove any tree that meets one or more of the following criteria:
 - i. The tree is located within a Heritage Conservation Area or forms part of a Heritage Item.
 - ii. The tree is, or forms part of, an Aboriginal object or is within an Aboriginal place of heritage significance.
 - iii. The tree is listed on Council's Register of Significant Trees.
 - iv. The proposed tree works will have an impact on heritage significance or amenity.

Note

All Development Applications for tree works must be lodged using Council's prescribed 'Development Application for Tree Works' form.

All trees listed on Council's Register of Significant Trees are considered to have historic, cultural and natural significance. The Register can be viewed at Council's website.

If approval is given for the pruning and removal of tree(s) as part of DA consent, tree works can only be carried out when construction work physically and substantially commences.

4. Exempt Vegetation

Objectives

1. To clearly define circumstances where tree pruning or removal may occur without Council consent, ensuring works are limited to essential maintenance, safety, and statutory obligations, and are carried out in accordance with recognised standards to protect environmental and heritage values

Controls

- a) Council consent is not required for tree works that meet all of the following conditions:
 - i. All pruning must comply with AS 4373–2007 Pruning of Amenity Trees.
 - ii. Trees certified by Council or a qualified arborist as posing an imminent risk to life or property.
 - iii. Emergency works undertaken under the State Emergency and Rescue Management Act 1989 or State Emergency Service Act 1989, with written verification (including photographs and an arborist's report) provided to Council within 6 months.
 - iv. Removal of trees confirmed as dead and not providing habitat for native fauna, with evidence retained.
 - v. Removal of vegetation declared a priority weed under the Biosecurity Act 2015, except where located in a Heritage Conservation Area or are part of a heritage item, in which case Council must be notified at least 7 days prior (see Annexure B5-2 for a list of undesirable weed trees).
 - vi. Selective pruning of branches up to 40mm diameter within 2m of a building (work is in accordance with Australian Standard AS 4373 – 2007 - Pruning of Amenity Trees)
 - vii. Removal of deadwood over 50mm diameter, roots under 50mm diameter, or branches up to 2.5m above ground level.
 - viii. Formative pruning for young tree for powerline clearance in accordance with AS 4373–2007 Pruning of Amenity Trees and relevant utility guidelines.
 - ix. Tree works to give effect to a development consent that permits the pruning or removal of the tree/s
 - x. Any works authorised by or under the State Emergency and Rescue Management Act 1989 or State Emergency Service Act 1989 in relation to an emergency (within the meaning of that Act) and that was reasonably necessary to avoid an actual or imminent threat to life or property; and any emergency firefighting act or bush fire hazard reduction work within the meaning of the Rural Fires Act 1997 that is authorised or required to be carried out under that Act.
- b) The exemptions do not apply to:
 - i. Tree/s that are required to be retained by a condition of development consent;
 - ii. Trees on public land owned or managed by Council
 - iii. Tree/s required to be planted as a condition of development consent or condition in a tree permit;
 - iv. Threatened species or land containing native vegetation (including dead trees) that provides habitat for threatened species, populations, or ecological communities listed under Schedules 1 and 2 of the Biodiversity Conservation Act 2016, as well as other protected matters under the Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth).

- v. Land that is a declared area of outstanding biodiversity value under the Biodiversity Conservation Act 2016;
- vi. Land declared critical habitat under Part 7A of the Fisheries Management Act 1994;
- vii. Any native prescribed tree located as described in Section B4 areas of High Biodiversity Value
- viii. Pruning more than 10% of the canopy, or proposed removal of a prescribed tree that is a heritage item, forms part of a Local heritage item, or is listed in the significant tree register, or located in a Local heritage conservation area or where the tree forms part of an Aboriginal object or is located within an Aboriginal place of heritage significance

Note: written verification from a qualified person

Where a tree is removed because it is dead or poses an imminent risk to human life or property (e.g., following storm damage), the landowner must provide written verification to Council and retain this evidence for at least six (6) months after the event.

Such evidence should include:

- Photographs clearly showing the tree's condition.
- A written statement from a qualified arborist confirming the tree's condition and that it does not provide habitat for protected species.
- A written statement from the State Emergency Service (SES), if works were carried out by SES at the owner's request.

Expert advice from an arborist must be obtained with respect to these trees to confirm their condition and that they do not provide habitat for protected species.

Cutting or removal of threatened species, endangered communities, or their habitats, which pose a threat to life and property, can only be authorised under:

- State Emergency and Rescue Management Act 1989, or
- State Emergency Service Act 1989.

Any other removal may breach the National Parks and Wildlife Act 1974, attracting significant penalties.

5. Penalties

Any clearing, pruning, or removal of vegetation without a Vegetation Clearing Permit, not in accordance with a development consent, or not exempt under this Plan or relevant legislation will be subject to enforcement action under applicable laws. These include the Local Government Act 1993 and the Environmental Planning and Assessment Act 1979.

Local Government Act 1993 (Section 629)

It is an offence to wilfully or negligently injure, damage, or unnecessarily disturb any tree or vegetation in a public place, including road reserves. Maximum penalty: 20 penalty units. [www5.austlii.edu.au]

Environmental Planning and Assessment Act 1979 (Division 9.6)

Failure to obtain the required approval (development consent or tree permit, as applicable) constitutes an offence under Division 9.6. Offenders may be liable to:

Failure to obtain the required approval, (that is, development consent or tree permit as applicable) is an offence under the Division 9.6 Criminal offences and proceedings under the Environmental Planning and Assessment Act 1979. This will render persons liable to significant penalties, issue of a Penalty Notice and/or the issue of an Order by Council. Offenders may also be required to rehabilitate the site, plant new trees and vegetation and maintain these until maturity.

Note

For the purposes of this Plan, “injure a tree” includes, but is not limited to:

- Poisoning or applying herbicides to a tree or within its Tree Protection Zone (TPZ).
- Spilling or washing off toxic chemicals within the TPZ.
- Damaging roots through stockpiling materials, soil compaction, excavation, filling, or altering soil levels within the TPZ.
- Wounding trunks or branches or breaking/tearing roots or branches.
- Fixing objects to trunks or branches using nails, wires, staples, or similar fasteners.

Note

A development application is required for r pruning of more than 10% of a tree/s canopy or removal of a prescribed tree/s located on a property which is a heritage item, forms part of a heritage item, is listed in the heritage trees list, is located in a heritage conservation area or where the tree forms part of an Aboriginal object or is located within an Aboriginal place of heritage significance.

6. Effect of State Environmental Planning Policy (Exempt and Complying Development Codes)

The State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) contains provisions that affect tree and vegetation removal in relation to exempt and complying development. This section clarifies how these provisions apply within Randwick City.

Objectives

1. To ensure consistency between this DCP and the Codes SEPP regarding tree and vegetation removal.
2. To prevent unauthorised removal of prescribed trees during exempt or complying development.
3. To maintain heritage, environmental, and amenity values while facilitating lawful development.

Controls

Exempt Development

- a) Under Clause 1.16(1)(b) of the Codes SEPP, development cannot be considered exempt if it involves:
 - i. The removal or pruning of any tree or vegetation that requires consent under this DCP or other legislation, unless carried out in accordance with a valid permit or development consent.

Complying Development

- a) Under Clause 3.1(2) and related provisions of the Codes SEPP:
 - i. A Complying Development Certificate (CDC) must not be issued if the proposal involves removal or pruning of a prescribed tree without Council approval.
 - ii. Where tree removal is proposed, the applicant must provide:
 - A Tree Permit or relevant Development Consent from Council; and
 - Evidence that the tree is not listed on Council's Register of Significant Trees.
 - iii. Tree works associated with complying development must comply with:
 - AS 4373-2007 Pruning of Amenity Trees; and
 - Any conditions imposed by Council in the permit or consent.

Distance and Size Restrictions

- a) Vegetation less than 3m in height and located more than 3m from any building (other than an exempt structure) may be removed without consent, subject to compliance with this DCP and Codes SEPP.
- b) Trees within Heritage Conservation Areas, forming part of a Heritage Item, or listed on the Register of Significant Trees are not exempt under the Codes SEPP.

Heritage and Aboriginal Significance

- a) Tree works affecting heritage significance or Aboriginal objects/places are not permitted as exempt or complying development under the Codes SEPP and require Council approval.

Note

Private Certifiers must ensure compliance with these provisions before issuing a Complying Development Certificate (CDC). Failure to obtain required approvals may result in enforcement action under the Environmental Planning and Assessment Act 1979 and Local Government Act 1993.

Notes: State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 If works are proposed under exempt development would involve cutting down or pruning a tree:

- You must first obtain tree removal approval from council unless the tree is exempt as specified in Section 4.1 Exempt Vegetation.

For complying development, the certifier cannot issue a CDC (Complying Development Certificate) if the works would require removal of a prescribed tree without council approval.

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

1.16: General requirements for exempt development:

(3) To be exempt development for the purposes of this Policy, the development must—

- (b) not involve the removal or pruning of a tree or other vegetation that requires a permit, approval or development consent, unless the removal or pruning is carried out in accordance with the permit, approval or development consent

1.18 General requirements for complying development:

- (h) for development involving the removal or pruning of a tree or other vegetation that requires a permit, approval or development consent—before the complying development certificate is issued, have the permit, approval or development consent.

3.33 Setbacks of dwelling houses attached development and detached development from protected trees:

(1) Pruning and removal of trees A complying development certificate for complying development under Division 1 is taken to satisfy any requirement under this Policy for a permit, approval or development consent to remove or prune a tree or other vegetation on the lot if—

- (a) the tree is not listed on a register of significant trees kept by the council, and
- (b) the tree or vegetation will be within 3m of any building that has an area of more than 25m², and
- (c) the tree or vegetation has a height that is less than—
 - i. for development that is the erection of a dwelling house—8m and is not required to be retained as a condition of consent, or
 - ii. in any other case—6m.

Appendix A: Definitions

Dead tree means a tree with no living vascular tissue.

Destroy means any activity leading to the death, disfigurement or mutilation of a tree.

Height means the distance measured vertically between the horizontal plane of the lowest point of the base of the tree/s which is immediately above ground level and the horizontal plane of the uppermost point of the tree/s.

Injury or injuring means damage to a tree and includes:

- Killing or destruction of a tree or
- Removal of a tree without appropriate consent
- Severing of branches, limbs, stems over 40mm, damage to the trunk and/or roots.
- Lopping and topping.
- Poisoning, including applying herbicides and other plant toxic chemicals to a tree or spilling (including washing off or directing water contaminated by) oil, petroleum, paint, cement, mortar and the like onto the root zone.
- Cutting and tearing of branches and roots that is not carried out in accordance with accepted arboriculture practices, does not qualify as ‘pruning’ (as defined within AS 4373 – 2007 – *Pruning of Amenity Trees*), or which is done for invalid reasons.
- Ringbarking, scarring the bark when operating machinery, fixing objects (e.g., signs) by nails, staples or wire, using tree climbing spikes in healthy trees marked for retention (except for access to an injured tree worker) or fastening materials that circle and significantly restrict the normal vascular function of the trunk or branches.
- Damaging a tree’s root zone by compaction, excavation or asphyxiation (including unauthorised filling or stockpiling of materials).
- Under scrubbing, particularly carried out by mechanical tools such as brush cutters and the like.

Lopping means the cutting of branches or stems between branch unions or at internodes on trees.

Prune or pruning means cutting branches from a tree/s in a planned and systematic manner that is carried out in accordance with the provisions of AS 4373 - 2007 - *Pruning of Amenity Trees*, and which consists of the following pruning types:

- Crown maintenance pruning involving:
 - general pruning
 - thinning
 - dead wooding
 - selective pruning
 - formative pruning

(Crown maintenance pruning relates to pruning according to the growth habit of the tree/s without reducing the area of the crown, while retaining the structure and size of the tree/s.)

- Crown modification pruning involving:
 - reduction pruning
 - crown lifting
 - pollarding
 - remedial pruning
 - powerline clearance

(Crown modification pruning relates to pruning that changes the structural appearance and habit of the tree/s.)

Remove or removal means to cut down, fell, destroy, kill, take away, uproot or transplant a tree from its place of origin.

Topping means cutting away part or all of the tree canopy, leaving a trunk and stubbed main branches.

Tree works are works affecting the form, structure or foliage of a tree including root cutting, crown lifting, reduction pruning, selective pruning, crown thinning, remedial or restorative pruning or complete tree removal.

Trunk means the main stem of the tree, as distinguished from the branches and roots.

Undesirable species are plants listed in this control which are deemed undesirable due to characteristics which may lead to poisoning, weed infestation or bushland invasion.

Width means the distance measured horizontally (in metres) between the two (2) widest points of a tree's canopy.

Appendix B: Undesirable Weed Tree species

Botanical name	Common Name
<i>Acacia saligna</i>	Golden Wreath Wattle
<i>Ailanthus altissima</i>	Tree of Heaven
<i>Alnus jorullensis</i>	Evergreen Alder
<i>Bambusa species</i>	Bamboo species
<i>Celtis occidentalis</i>	Hackberry
<i>Cinnamomum camphora</i>	Camphor laurel
<i>Cotoneaster species</i>	Cotoneaster
<i>Cupressocyparis x leylandii</i>	Leyland Cypress
<i>Erythrina species</i>	Coral tree
<i>Ficus elastica</i>	Rubber tree
<i>Lagunaria patersonia</i>	Norfolk Island Hibiscus
<i>Ligustrum lucidum</i>	Large Leaf Privet
<i>Nerium oleander</i>	Oleander
<i>Ochna serrulata</i>	Ochna
<i>Olea europea var. africana</i>	African Olive
<i>Populus species</i>	Poplars
<i>Salix species</i>	Willows
<i>Schefflera actinophylla</i>	Umbrella tree
<i>Syagrus romanzoffianum</i>	Cocos Palm
<i>Toxicodendron succedaneum</i>	Rhus tree

Note

This table does not apply for Heritage Items or in Heritage Conservation Areas

Source Sydney Weeds network

Greater Sydney Regional Strategic Weed Management Plan

Appendix C: Assessment criteria for tree permits or Development Applications

The following matters are considered, but not limited to

- Whether the tree has significant amenity or aesthetic value or is ecologically significant, with particular emphasis placed on retaining trees listed on Council's Register of Significant Trees. The condition, maturity and Safe Useful Life Expectancy (SULE) of the tree/s;
- A report from a qualified arborist, if required;
- Whether the tree is affected by the provisions of any other Act, Regulation or State Environmental Planning Policy applying to the land;
- The potential hazards to persons and/or property in the context of:
 - the structural soundness of the particular tree (including condition of the canopy, amount of deadwood, any prolonged decline, significant and sustained insect attack, etc); and/or
 - the characteristics and risk potential of the particular species; and/or
 - siting issues such as ground conditions, building proximity, etc, which may give rise to a hazardous situation (particularly structural damage to public infrastructure and/or private property caused by the tree/s, its trunk or its root system); and/or
 - ill health, such as allergies, where specific evidence is provided by an expert in the relevant medical field and a link between the ailment and the species is reasonably established; and/or
 - existing (or potential for) traffic obstruction in relation to proximity to a roadway, intersection or driveway, where pruning would be an insufficient remedy;
- The demonstrated need for reasonable solar access to windows, openings of a building, solar appliances, clothes drying and outdoor living areas;
- Whether a tree should be replaced by a more suitable species given its location or proximity to services such as overhead powerlines, sewer or drainage pipes or the like;
- Whether an amenity tree no longer fulfils its original purpose in the landscape;
- Whether the species' natural propagation method is likely to create a nuisance in the landscape (e.g. Camphor laurel, Hackberry and Sweet Pittosporum);
- Whether the proposed work needs to be carried out by a suitably qualified and experienced person;
- Whether the tree is located in an area prioritised for increased tree canopy and/or tree plantings
- Whether the tree is mapped within the 'Biodiversity Habitat Corridor'
- Whether appropriate additional (or replacement) planting has been or should be undertaken;
- The need for, and suitability of, soil erosion and siltation controls;
- Whether tree protection measures are required prior to works commencing;
- Whether a tree or vegetation is or provides habitat of a threatened species or ecological communities listed in Schedule 1 or 2 of the Biodiversity Conservation Act (BC Act) 2016;
- Whether, prior to the felling of a tree, special measures should be in place to reduce the potential for injury or death of animals likely to inhabit the tree. Such measures may include:
 - inspection of hollows and other potential habitat sites on the tree;
 - sectional dismantling;
 - supervision of works by an arborist and/or a licensed wildlife carer or handler.

- The following should not generally be considered as valid reasons to remove a tree/s or native vegetation:
 - leaf drop to gutters, downpipes, pools, lawns, etc.;
 - to increase natural light, where it is the sole consideration;
 - to improve street lighting into private property;
 - to enhance views or reduce the height of trees;
 - to reduce shade created by a tree/s – particularly species such as Ficus or Araucaria;
 - to reduce fruit, resin or bird droppings falling onto driveways and/or cars;
 - minor lifting of driveways, front fences, paths and footpaths by tree roots;
 - to erect a fence;
 - bushfire hazard control, which has not been verified by Council; or
 - potential damage to sewer mains or stormwater pipes, unless supported by written expert advice and only where reasonable alternatives are not feasible (e.g. relocation or encasement of mains and replacement of damaged pipes in PVC plastic).

