



Council Policy

Tree Management on Public Land

Version 5 - 27 June 2022

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Introduction

Purpose

To identify Council's responsibilities and define appropriate methodologies, in accordance with industry best practice regarding the management of trees growing on or arising principally from public land.

Scope

To be considered under this policy, trees, whether individual or in groups, must originate "wholly or principally" from public land owned or managed by Council. If trees do not originate "wholly or principally" from Council-owned or managed public land, then the relevant enquiry shall be addressed to the respective land owner.

Policy statement

The beneficial role trees provide is crucial to preserving the environment while maintaining a liveable city.

These include providing visual, practical and environmental amenity. By retaining and enhancing the urban forest and taking a positive approach towards tree management, residents and visitors of Lake Macquarie will also benefit from improved health and wellbeing.

Although trees carry some degree of inherent risk, Council will strive to preserve trees that provide a benefit to the community and the environment, while taking reasonable steps to manage existing trees in a manner that minimises the risk of personal injury or property damage.

Principles

Council conducts tree removal or pruning in a reactive manner, directing resources accordingly while maintaining any associated risk as low as reasonably practicable, in line with Council's Enterprise Risk Management Framework.

All tree related work undertaken by Council or its delegated contractors will be completed in accordance with industry best practice guidelines and relevant Australian standards.

Objectives

The objective of this policy is to ensure trees located on public land are suitably maintained and managed with available resources.

Tree planting

Council implements a variety of vegetation rehabilitation projects each year, primarily on community land categorised as natural areas. In addition, Council supports an active volunteer Landcare program that plants thousands of trees and rehabilitates many hectares of native vegetation each year in natural areas around Lake Macquarie.

Council undertakes a limited tree planting programme. Council supports residents who wish to plant a street tree in a suitable location, identified within the road reserve along their property frontage. Approvals, guidelines and specifications for resident street tree planting can be gained by contacting Council’s Customer Service Centre.

Council does not authorise the planting of trees in public reserves by individuals, unless they are working as part of a recognised Landcare Group in accordance with an approved site management plan.

Hazard ratings and Council’s actions

Where a request for tree removal or pruning relates to the potential for injury to any person or damage to property, a suitably qualified Council Officer will use the Tree Assessment Report to assess the hazard.

The below table demonstrates Council’s response to requests based on a hazard rating determined from the Tree Assessment Report. The hazard rating will determine Council’s response and the priority of the work, which is also dependent on available resources and annual budget.

Table 1 - Hazard ratings

HAZARD RATING	COUNCIL ACTION
< 5	No action based on hazard assessment.
5 – 9	Low/no imminent risk identified, although Council may issue conditional consent for the property owner to undertake work, as specified by inspecting arborist.
10 - 11	Tree removal or pruning to be scheduled by Council.
12	Tree removal or pruning to be prioritised by Council.

Tree work that may be undertaken or approved by Council

Pruning

- Selective pruning for solar access.
- Maintenance pruning to remove dead, diseased, dying and/or defective branches.
- Selective pruning to reduce/remove branches, for example branches rubbing on dwellings.
- Selective root pruning on public land where trees are interacting with built assets, for example, footpaths or buildings.
- Pruning to meet utility mandatory clearances.

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Policy - external Tree Management on Public Land

- Canopy raising pruning for pedestrians and vehicle access.
- Pruning for the visibility of designated road traffic signage or vehicle sight lines.
- Crown reduction pruning under exceptional circumstances such as to improve safety.
- Tree pruning where approved under a Council issued Hazard Reduction Certificate, in accordance with the Bush Fire Environmental Assessment Code, or where it has been determined in writing by the New South Wales Rural Fire Service (NSWRFS) that a 'significant' bush fire threat exists.
- Where a tree impedes the authorised use of community land categorised under the Local Government Act 1993, for example a sportsground, consideration will be given to pruning or removal of the tree.

Removals

- Trees planted by third parties on public land, with or without Council authority, where trees are determined by Council as:
 - an inappropriate species.
 - a proven irritant or toxic species.
 - in an inappropriate location.
 - not meeting Councils requirements in relation to stock quality or planting processes
- Where any species is determined by Council to be a known irritant or where an individual provides medical evidence from a doctor/immunologist to support a claim of allergic reaction.
- Where approved under a Council issued Hazard Reduction Certificate in accordance with the Bush Fire Environmental Assessment Code or where it has been determined in writing by the NSWRFS that a 'significant' bush fire threat exists.
- Where a tree assessment report has been completed by Council's inspecting Arborist and there are no suitable abatement options available.

Tree work that will not generally be undertaken or approved by Council

Pruning

- Pruning of trees contrary to the Australian Standards AS4373/2007 – Pruning of Amenity Trees.
- 'Topping', 'Lopping' or tree height reduction.
- Pruning of trees to prevent or reduce the normal shedding of leaves, flowers, fruit, seeds or deadwood.
- Pruning of trees for view purposes unless in accordance with established principles of view sharing as identified in Council's Scenic Management Guidelines (2013).
- Pruning for visibility of commercial signage.

Removals

- Removal of trees for view purposes unless in accordance with established principles of view sharing as identified in Council's Scenic Management Guidelines (2013).
- Removal of trees claimed to be inhibiting turf or other garden vegetative growth.
- Removal of trees to prevent or reduce the normal shedding of leaves, flowers, fruit, seeds or deadwood.
- Removal of trees to prevent sap drop, bird/bat droppings or nuisance animals.
- Removal of trees interacting with non-structural built assets, for example garden pathways and fences.
- Removal of trees, or the application of pesticides to control termites (refer to termites/bees/pests section).
- Removal of trees that are claimed to cause allergies, unless the allergy is proven by medical testing and poses a significant impact on quality of life. These two factors need to be confirmed in writing by a medical doctor/immunologist.
- Removal of trees to increase solar access if any of the following conditions apply:
 - The tree predates (that is, was growing prior to) the solar appliance installation.
 - The tree is located on community land identified in the Community Land Plan of Management and is part of the native vegetation on the site.
 - The tree is located in an area of public bushland or is a native bushland remnant tree.
 - The tree is a threatened species or part of an Endangered Ecological Community.
 - The tree is a habitat or stag tree.
 - The tree forms part of a native vegetation corridor and the removal or pruning of the tree will have a negative impact on that corridor.
 - The tree is listed on Council's significant tree register.
 - The tree is included in a heritage declaration.
 - The solar appliance is receiving four hours or more full sunlight in winter.
 - The tree is subject of a development consent or other approval that requires its retention.

Appeal of hazard assessment

Lake Macquarie City Council will only reconsider an assessment where an Australian Qualification Framework (AQF level V) Arborist supplies satisfactory, documented evidence to support the appeal.

Development and project planning

To prevent damage occurring to trees on public land through the construction of developments and infrastructure projects, and to maintain good ongoing tree health, the following conditions apply:

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Policy - external Tree Management on Public Land

- Any trees growing on public land within fifteen (15) metres of a construction site are to be identified on any design or architectural plans. The trees shall be protected in accordance with AS4970/2009 – Protection of Trees on Development Sites.
- Developments and projects should be designed to ensure:
 - structures are located no less than five (5) metres from a tree located on public land.
 - driveways are located no less than three (3) metres from a tree located on public land.
- Development applications and project proposals inclusive of structures that cannot be located no less than five (5) metres (or no less than three [3] metres for driveways) of a tree located on public land shall be referred to Natural Assets staff for consideration.
- Council may require the applicant or project planner to engage a suitably qualified arborist to provide an arboricultural impact statement and associated tree protection and tree management plans, in accordance with AS4970/2009 – Protection of Trees on Development Sites and AS4373/2007 – Pruning of Amenity Trees.
- Council will consider and may favour alternatives to removing the tree/s which may result in increased costs for the applicant.
- Where necessary, Council may require a bond to ensure appropriate management and protection of trees and native vegetation on public land.
- No pruning or removal of trees located on public land is to be undertaken without prior consent being issued in writing by a suitable Council Officer.
- Where a request for removal, pruning or alternative treatments of a tree located on public land is related to construction of a new private structure or driveway and Council approves the works, the applicant shall be responsible for any associated cost.
- Any trees removed as a result of the project should be replaced at the development/project expense and at a minimum compensatory ratio of 2:1 or as determined by the assessing officer.
- All tree planting shall be undertaken in accordance with Council's standard drawings and specifications.

Existing trees - potential damage to private assets

Service requests relating to damage to private assets caused by trees will be referred to the relevant section/s of Council.

Property owners are responsible for the repair and maintenance of assets on their land, including pipes, plumbing, driveways and retaining walls. If tree roots have entered a pipe, it is usually because the roots are attracted to water leaking from the pipe. Underground pipes are often found to be in poor condition due to age, mine subsidence, earthquake damage, reactive soils, poor installation and backfilling, and a variety of other reasons. Property owners are responsible for repairs to pipes and should notify Council if repairs require pruning the roots of public trees.

Council will only consider claims for damage to private assets where there is sufficient evidence of a tree on public land being the sole cause of damage and Council can be shown to have failed to take appropriate action.

Vandalism

Various legislation provides for an offence where a person who, without lawful excuse, wilfully or negligently injures, damages or removes any tree in a public place.

Council may implement actions relative to the severity and scale of the environmental vandalism. Such actions may include:

- notifying surrounding residents
- installing temporary signage or banners at the site
- placing notifications on various media platforms available to Council.
- investigating and interviewing relevant persons
- issuing infringement notices
- retaining dead trees if safety concerns have been satisfied by Council
- re-planting replacement trees at a ratio of up to five replacement trees for every tree damaged
- considering legal proceedings if sufficient evidence exists
- offering an appropriate reward for information leading to a prosecution.

Termites/Bees/Pests

Lake Macquarie City Council will not normally undertake the eradication of termites/bees/pests in tree(s) or tree stumps or any timber on Council road reserves and public reserves.

It is the responsibility of the property owner to protect all buildings from termite attack by installation and maintenance of recommended methods of control in accordance with Australian Standard AS 3660.2—2000 'Termite Management in and Around Existing Buildings and Structures'.

Dead wood/firewood collection

The removal of dead wood, trees and logs is a Key Threatening Process under the Biodiversity Conservation ACT 2016. Council will leave dead wood in situ or on site as much as possible to provide habitat for native fauna, facilitate ecological processes and assist in the control of soil erosion. The collection of firewood is not permitted from Council-owned or managed land categorised as natural areas.

Tree harvesting/seed collection

Harvesting or collection of plant material on Council land requires written permission and will be considered on a case-by-case basis.

Collection of seed from proposed development areas approved by Council is preferred to collection from Council reserves.

Policy - external Tree Management on Public Land

Collection of seed from Council land is subject to the following requirements:

- Florabank guidelines must be followed. (www.florabank.org.au).
- No collection in areas which have been burnt by a bushfire or subject to a major disturbance within the previous three years.
- Written consent of Council for seed collection shall be limited to a maximum of two years.
- No collection of seed from sensitive species (for example, family Orchidaceae).
- Applicants must demonstrate they have any necessary approvals/licences from relevant government agencies.
- Any other conditions Council may require.

Controlled document information

Authorisation details

Folder No:	F2005/02216	TRIM Record No:	D10374982
Audience:	External - This document applies to General Public and all Council Staff		
Department:	Environmental Systems	Officer:	Matthew Corbett - Senior Projects and Technical Officer
Key focus area(s):	Unique Landscape		
Review Timeframe: Max < 4 years	4 years	Next Scheduled Review Date:	27 June 2026
Authorisation:	Council		
Authorisation - Council Adoption Date:	27 June 2022		

Related document information, standards and references

Related Legislation:	(Legislation Name)	(Relationship/Context)
	Local Government Act 1993	Provides for offences when persons damage or remove trees on Council land
	Vegetation SEPP	
	Roads Act	Provides for categorisation of land as community land
	EP&A Act	Development without consent
	Biodiversity Conservation Act 2016	Protection of threatened species
	Biosecurity Act	Declared weed species
	NSW - <i>Trees (Disputes Between Neighbours) Act 2006</i>	Part 2 Court orders—trees that cause or are likely to cause damage or injury
	Threatened Species Act 1997	May impact on tree pruning or removal if habitat of threatened species or ecological communities are affected
	Pesticides Act 1999	Unlawful use of pesticides.
Related Policies:	(Policy Name)	(Relationship/Context)
	Asset Management Policy - Council Policy	Asset management objectives to ensure Council's asset stewardship is met. Guiding policy
	Community Land Plan of Management	Provides maps of land categorised as community land in accordance with the LGA
	Dinghies on Council Land policy	Provides for protecting trees and vegetation from damage resulting from inappropriate storage of dinghies

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Policy - external Tree Management on Public Land

Related Procedures, Guidelines, Forms, WHS Modules/PCD's, Risk Assessments, Work Method Statements:	(Document Name) Procedure- Management of trees on roads and public reserves Procedure- Management of Trees or Tree Limbs Fallen from Council Land onto Private Property LMCC DCP – Landscape Standard Drawings LMCC DCP - Tree Preservation and Native Vegetation Management Guidelines	(Relationship/Context) Provides guidance for the implementation of this policy Describes the requirements for managing the removal of trees or tree limbs (debris) that have fallen from Council land onto private property Details requirements for tree planting in a variety of situations Includes significant tree register
Standards, COP's & Other References	(Standard, COP or Other References) AS 4373-2007 AS4970-2009AS2303-2019 AS3660.1-2000 and AS3660.2-2000 AS3660.2-2000 Statewide Mutual – Trees Best Practice Manual V.5 2010 www.florabank.org.au	(Relationship/Context) Australian Standard Pruning of amenity trees Australian Standard Protection of Trees on Development Sites Australian Standard Tree Stock for Landscape Use Australian standard for termite management in and around existing buildings and structures Statewide Mutual guide to developing and adopting procedures for the management and selection of urban trees in proximity to structures and people. Flora bank guidelines

Definitions

Term	Definition
Council land manager	The Council officer, department, agent or similar that is responsible for the care and control of the land.
Council managed land	Council-managed land includes: <ul style="list-style-type: none"> • land owned by the Council set aside for community uses (such as parks and natural bushland) including Crown Land managed by Council (this may include Community Land) • roads and road reserves (whether the road is formed or not) • Council-owned/managed natural areas managed as biodiversity offsets and drainage reserves • land owned by Council set aside for its operational functions.
Public land	Any land (including a public reserve) vested in or under the control of Council, but does not include: <ol style="list-style-type: none"> (a) a public road (b) land to which the Crown Land Management Act 2016 applies (c) a common (d) a regional park under the National Parks and Wildlife Act 1974 .
Tree	A perennial woody plant with secondary branches supported by a primary stem and usually having a distinct crown. A tree may be alive or dead.
Vandalism	The unlawful destruction, damage or injury to trees, whether dead or alive, through methods including, but not limited to poisoning, pruning, cutting, ringbarking or removal.

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Consultation

Key Departments, Teams, Positions, Meetings:	Environmental Systems, City Works, Risk Management, Insurance Officer,
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Version history

Version No	Date Changed	Modified By	Details and Comments
2	April 2012	Graham Prichard	Updated various sections to reflect contemporary language Updated table 1 Hazard ratings Added new sections regarding deadwood/firewood, tree/seed harvesting, vandalism, development, potential damage to private assets Updated appendix 1 tree assessment report Updated criteria regarding assessments of requests for solar access
3	17/05/2016	Toni Woodcock	Updating to new template. Updating document language and spelling throughout. Updating Control Document schedules.
3	16/06/2016	Toni Woodcock	Finalising and updating Tree Assessment Report
5	15/9/2021	Matthew Corbett	Updated to new template Updated language and presentation throughout Included reference to AS2303/2019 Included discussion around possible future street tree planting self-assessment Review of tree protection in and around construction sites Review of actions and consequences resulting from tree vandalism Endorsed at Council Meeting as version 5 instead of version 4.

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