

STREET TREE PROTECTION DURING PROPERTY DEVELOPMENT POLICY

Responsible Directorate	Infrastructure and Works
Responsible Section	Parks and Natural Environments
Responsible Officer	Manager Parks and Natural Environment

OBJECTIVE:

The objectives of the Street Tree Protection Policy are to:-

1. Ensure that trees are suitably protected during the development process of an adjacent land property/lot;
2. Ensure the long-term health of trees on public land; and
3. Raise community awareness that it is an offence in terms of the Town of Cambridge ('the Town') *Local Government and Public Property Local Law 2017* to destroy any tree on any Local Government property.

SCOPE:

This Policy applies to all Applicants in relation to property development that may impact trees that are owned or managed by the Town.

POLICY STATEMENT:

The Town's *Local Government and Public Property Local Law 2017* provides that "*the owner, occupier, licensee or contractor who undertakes works on a private property adjacent to a street tree, must take all necessary precautions to ensure that the street tree is protected and not damaged during the course of the work*".

This Policy seeks to supplement the Local Law, by establishing specific requirements that seek eliminate (or at least reduce) damage to street trees, broadly as follows.

1. **Protecting** – Conduct a risk assessment to determine the likelihood of damage during development and or construction to ensure there are no detrimental impacts to adjacent street tree(s);
2. **Monitoring** – Ensure activity during construction does not detrimentally impact trees and all protection measures are complied with by the Applicant; and
3. **Enforcement** – Where the Applicant does not comply with the requirements to protect the tree(s), the Town will apply an appropriate penalty.

1. APPLICATION OF THIS POLICY

- 1.1. This Policy should be read in conjunction with Council's Policy No: 098 Management of Street Trees;
- 1.2. Costs associated with the implementation of the protection measures will generally remain the responsibility of the Applicant. The Town will subsidise the cost of additional

inspections for low-risk construction activities;

1.3. Non-compliance with the implementation of the appropriate preservation/protection strategy as per the specified requirements shall incur penalties; which will be determined by the Town, dependent on the extent of damage to the tree; and

1.4. The Town may also decline to refund the Secured Sum (bond).

2. APPLICATION COMMENCEMENT DATE, FEES AND CHARGES

Effective from 1 September 2023, all applications lodged after this date for planning approval or a building permit will be required to pay the prescribed Fees and Charges as adopted by the Council.

3. STREET TREE PROTECTION

Protecting

3.1. The Applicant must ensure all contractors engaged are made aware of the importance of protecting the Town's street tree(s), and that any damage occurring to the tree, wilful or otherwise will be subject to prosecution under the Town of Cambridge Local Government and Public Property Local Law 2017;

3.2. The Town will assess all applications to determine the level of risk of damage to a street tree from a proposed development. If it is determined there is;

3.2.1. no impact to the tree protection zone, then no action is required by the Applicant, however the Town will conduct occasional inspections to ensure there is no activity within the tree protection zone; or

3.2.2. if there is a risk of activity occurring within the tree protection zone, the Town may require an independent Arborist Report. The Report will define the actions required to protect the tree(s) during construction works, which must be followed by the Applicant; and

3.3. The Applicant must ensure all vehicles, machinery, building materials, rubble and/or debris are not placed or stored within the tree protection zone.

Monitoring

3.4. The Applicant must ensure street tree(s) are watered throughout the works. The Town will advise the Applicant the expected frequency of watering for each street tree(s) prior to the commencement of works.

3.5. The Town will undertake inspections to monitor the Applicants compliance in relation to the requirements under either section 3.2.1 or 3.2.2. The frequency of inspections will be conducted on an ad-hoc basis for low-risk activities, and fortnightly for high-risk activities; and

3.6. The Town will record and store information such as electronic photographs, condition inspections and correspondence for each development to monitor tree health over the duration of the works.

Enforcement

3.7. A tree protection bond and electronic photographs of the tree(s) are to be lodged with the

Town prior to the commencement of development. The bond is to be held until such time as the Town is satisfied the works have not caused detrimental impacts to the tree(s). The bond value is to be as per the Town's Fees and Charges. This includes application of the Helliwell (monetary) value for large trees up to a maximum value of \$20,000;

- 3.8. A maintenance fee may be taken to cover watering over the course of the development if inspections find that the street tree is not being adequately watered. The value of the maintenance fee is to be defined by the Fees and Charges for tree watering and inspections and will be applied on an annual basis;
- 3.9. Following the completion of works the tree(s) are to be assessed by the Town. If works are recommended to the tree(s) due to adverse effect of being adjacent to the demolition/construction, this may be deducted from the bond if the developer is unwilling to action when requested. If the tree(s) die due to the demolition and/or construction works, the full bond is to be taken from the developer/applicant.
- 3.10. Pursuant to the Local Law, Any person who causes significant damage to a street tree or its destruction, commits an offence. The Town of Cambridge will take legal action (eg issue an infringement notice or prosecute persons) where there is prima facie evidence of damage to street trees. This includes unauthorised application of herbicides to the tree or to the drip line of the tree and unauthorised pruning and removal of street trees.
- 3.11. Where the Town has prima facie evidence of illegal damage to a street tree, to such an extent that the tree significantly declines in health or dies, the Town may erect a sign of approx. 1500mm by 2500mm in front of the property where the tree was located, with the following wording:-

TOWN OF CAMBRIDGE

A street tree at this location has been illegally damaged/destroyed and the area is now being monitored. This sign will remain in place for a period of Thirty Six (36) Months. If you have any information regarding this matter or other acts of illegal damage to street trees, please contact the Town of Cambridge on Ph: 9347 6000

4. EXEMPTIONS

A Secured Sum (bond) will not be required for any Development Application or an Application for a Building Permit in the following circumstances:-

- (a) where the subject land which does not have a street tree; or
- (b) if the building construction is of such a 'minor nature' (eg patio) and does not involve, impact or interfere with the street tree(s); or
- (c) where access is via a laneway and does not involve, impact, or interfere with the street tree(s).

5. FEES AND CHARGES

The Applicant shall pay the fees and charges (Secured Sums - Bonds) for Verge Street Tree Preservation, as adopted by the Council.

DEFINITIONS:

Applicant is defined as a developer, builder, homeowner, owner builder, contractor or sub-contractor.

Arborist Report is defined as a report produced by a qualified (minimum AQF5) consulting arborist and completed to Australian Standard AS 4970-2009 'Protection of Trees on Development Sites.

'Prima facie' is a term used in Australian/English law (including both Civil and criminal law) to signify that upon initial examination, sufficient corroborating evidence appears to exist to support a case. In common law jurisdictions, prima facie denotes evidence that, unless rebutted, would be sufficient to prove a particular proposition or fact.

tree is any plant over 4 metres in height with a distinct single main trunk that has at least 50% of its base located on public land.

tree protection zone is defined as a measurement of 12 x the diameter of the tree trunk at breast height or 1.4 metres above ground level.

verge is the section of the road reserve between the private property boundary and the road kerb.

road reserve consists of the road and the verges, on both sides of the road, up to the private property boundary. The road reserve is crown land under the control of the Town.

Document Control

Office Use Only:

Previous Policy No	Nil
Statutory Legislation and Compliance	<i>Local Government Act 1995;</i>
Related Documents/Legislation	Town of Cambridge Local Government and Public Property Law Australian Standard AS 4970-2009 'Protection of Trees on Development Sites'
Date of Adoption by Council	23 April 2024
Date Reviewed/Amended	
Next Review Date	April 2028