

COUNCIL POLICY DDES005

TREE PRESERVATION

(Trees on Public Land)



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Policy Outcomes Statement

This policy will assist Council and the community to protect valuable trees against unwarranted removal or damage. It will promote awareness around the importance of trees within the urban landscape.

The Policy generally requires planting of Australian native trees indigenous to the area or trees deemed suitable to their surrounds (in the case of powerlines or park precincts) when tree replacement planting is carried out.

Overview

This Policy identifies the significance of trees and outlines the approval process should a request be made to remove or impact a tree in a public precinct under Council's control.

It details the responsibility of Council staff and how to identify if a tree is suitable for impact or removal and clarifies when the decision should be escalated.

Furthermore this policy outlines that Council approval is required for planting of trees on public land under Councils control. This will ensure appropriate species are selected and consideration will be given to any legislation, regulation and/or policy in place at the time.

Applicability

This Policy applies to all public land under the control of Council, including but not limited to road reserves, parks and gardens and other community lands within particular zones under the Bogan Local Environment Plan 2011 (LEP) and located in or adjacent to the township of Nyngan and the villages of Coolabah, Hermidale and Girilambone.

This Policy does not remove any obligation under any Act, State or Commonwealth, and any Notices, Directions and/or Orders made under any Act.

Principles

Bogan Shire Council recognises that trees, particularly public space trees, are an important asset for the amenity of the Shire and the wellbeing of its residents. The Tree Preservation Policy (TPP) is intended to protect valuable trees against unwarranted destruction by removal or damage.

The Policy binds the general community and Council staff to carry out correct procedures and protocols to maintain and/or improve the aesthetics of the Shire.

In the urban environment, trees provide valuable shade and soften the general appearance of a sometimes harsh and hardened landscape or streetscape. They make our urban environment a pleasant place to live and visit through the array of heights, shapes, colours and general form they offer. Trees help define and give an identity to residential areas, streets and other urban precincts.

To ensure relevant information is available regarding trees already assessed, Council will request a review of its Arborist Report every 5 years, which may include the inspection of specific tree/s.

The importance of trees within the urban landscape will be promoted by;

- preventing unwarranted and wilful destruction of public place trees due to non-compliance with this Policy;
- maintaining the environmental protection and amenity of trees throughout the urban and rural residential localities;
- carrying out correct procedures, seeking Council actioning a request to remove, lop, top or root prune public place trees;
- providing guidelines for planting of trees;
- providing advice and information in regard to selecting appropriate plants/species, suitable to the location, and
- applying a cross-organisational approach to the assessment of applications for removing, lopping or topping public place trees.

Policy

1. Requirements of the Tree Preservation Policy (TPP) – Public Place Trees

1.1 When is Approval Needed?

Residents, landowners or any other person or body must seek Council approval if they request to remove, ring bark, lop, top, prune or injure any tree in a public precinct on Council managed land.

Any agreed works or removals will be carried out by Council staff or Council approved contractors.

Council is not required to seek written approval to remove/impact trees on Council managed land unless section 1.6 of this policy is triggered. Adherence to this policy will ensure all trees on Council managed land are assessed consistently.

Residents, landowners or any other person or body must seek approval from Council prior to planting trees on Council managed land.

1.2 Land to which the Policy Applies

The TPP applies to all public land under the control of Council including road reserves, parks and gardens and other community land located within the Township of Nyngan and the villages of Girilambone, Hermidale and Coolabah as identified by the following zones of the Bogan LEP:

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|-------------------------------|---------------------------------|
| • Zone R1 General Residential | • Zone R5 Large Lot Residential |
| • Zone RU5 Village | • RU3 Forestry |
| • Zone E1 Local Centre | • Zone E3 Productivity Support |
| • Zone E4 General Industrial | • Zone SP2 Infrastructure |
| • Zone RE1 Public Recreation | • Zone RE2 Private Recreation |

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| <ul style="list-style-type: none">• Zone C1 National Parks and Nature Reserves | <ul style="list-style-type: none">• Zone W2 Recreational Waterways |
| <ul style="list-style-type: none">• Public land within 200 metres of all of the above | |

1.3 Situations in which pruning, or removal may be carried out.

Minor pruning or removal of trees for the following purposes may be carried out by Council or Council engaged contractors subject to Council's assessment:

- 1.3.1 removal of dead branches.
- 1.3.2 removal or pruning for ornamental purposes.
- 1.3.3 removal or pruning for operational purposes.
- 1.3.4 removal of undesirable trees or shrubs classed as priority weeds, identified in the National Weeds Strategy under the Biosecurity Act.
- 1.3.5 a tree which has a trunk less than three (3) metres from the outmost projection of a building.
- 1.3.6 removal of trees to give effect to a Council approved development.
(Refer to Section 2 of this Policy in relation to specific requirements that may apply for developments.)
- 1.3.7 in accordance with Section 88 of the Roads Act.
- 1.3.8 in accordance with Schedule 5A of the Local Land Services Act.
- 1.3.9 trees which pose a real risk to public safety, or which significantly increase the risk of damage to property. Is Poisonous to people or animals, harbours disease, allergenic (asthma, allergic rhinitis, dermatitis etc)
- 1.3.10 the provisions of this Policy do not apply to trees required to be trimmed in accordance with Section 48 of the Electricity Supply Act.
- 1.3.11 the provisions of this Policy do not apply to any Tree Replacement Program adopted by Council.

All works must be carried out by Council, or a Council engaged contractor under the direct supervision of Council staff.

1.4 Dangerous Trees

Council will determine the health of a tree. If the tree is assessed as dangerous or poses an unacceptable level of risk such that it warrants removal or pruning, then Council will remove or prune the tree to make it safe. A report from a Tree Surgeon or Arborist may be required where significant uncertainty exists as to the integrity or safety of a tree and the tree is considered by the Council and the community to warrant preservation.

1.5 Reasons for Removal or Pruning Trees

Council will consider the following circumstances when determining the removal or pruning of tree/s:

- 1.5.1 risk of personnel injury,
- 1.5.2 risk of damage to buildings, structures or services lines,
- 1.5.3 risk to operational practices of business,
- 1.5.4 creation of a traffic hazard by obstruction of vision, and
- 1.5.5 other circumstances where it is evident that the adverse impact of the tree/s clearly outweighs its value and contribution to the amenity of the locality.

1.6 Reasons for Protecting Against Removal or Pruning

Council will place particular importance on the preservation of a tree where it is considered that it:

- 1.6.1 has cultural (Aboriginal) significance of any type,
- 1.6.2 has historical or commemorative significance,
- 1.6.3 makes a significant contribution to the landscape/streetscape and amenity of the area,
- 1.6.4 is exceptionally old, large, rare or endangered,
- 1.6.5 has notable aesthetic qualities,
- 1.6.6 assists in stabilisation of soil,
- 1.6.7 has horticultural or scientific value, and/or
- 1.6.8 forms part of a themed street tree planted zone.

1.7 Approval Process

Requests for the removal or pruning of a tree/s must be forwarded to Council in writing and specify the location, type, and size of the tree/s requested to be removed or pruned and the reason and extent of the requested work.

Council will consider the removal or pruning of tree/s on public land following an assessment of the tree/s by an appointed Council officer. If tree/s fall into any category described in Section 1.6 of this Policy, a written report will be prepared for consideration by the Director Development and Environmental Services who may refer to Council.

Consideration of a request will be made on each individual case, that may be tree by tree or by group of trees. In considering an application to remove or prune a tree, the following steps are to be implemented by the Council Officer in the decision as to whether to retain, remove or refer the tree/s;

- 1.7.1 is the tree unsafe? If so, arrange removal or lopping,
- 1.7.2 determine individual and streetscape significance of the tree,
- 1.7.3 is the tree in poor condition or is it a poor specimen,
- 1.7.4 is building/infrastructure damaged by tree - If the cost of the building/infrastructure repairs is reasonable and funds are available in Council's budget, then retain the tree,
- 1.7.5 is building/infrastructure damaged by tree - If the repairs are estimated to be significant and not within Council budget, then remove the tree or the Director Development and Environmental Services will refer to Council for consideration.

1.8 Tree Replacement

Where tree removal is proposed, Council will generally plant an equivalent number of replacement trees in the same location or at another more appropriate site/s. Use of native trees indigenous to the area or trees deemed suitable to their surrounds will generally be used for the purposes of tree replacement.

1.9 Qualifications and Insurance

Council requires that street and public place tree removal and/or pruning is only carried out by Council staff or a Council engaged contractor. Council will determine the manner of treatment or removal, based on the nature, extent and location of the work to be carried out and the significance of the tree/s.

Council will insist that all contractors and/or their subcontractors have appropriate personal injury, public liability and property damage insurances prior to commencing works.

1.10 Clearing for Bushfire Risk Reduction

Clearing in those zones to which this Policy applies may be carried out where removal of vegetation is necessary to reduce the risk of injury or damage from bushfires. Where there is an immediate risk of bushfire damage, and circumstances do not permit Council notification and approval, a reasonable degree of risk will be considered in a defence against the provisions of this Policy, noting that this Policy does not apply to private land.

Ecological Endangered Communities and Threatened Species must be considered when undertaking the removal of vegetation to reduce risks from a bushfire.

1.11 Penalties for Unlawful Removal or Trimming of Trees

Any person who contravenes or causes or permits the contravention of this Policy is guilty of an offence pursuant to Section 629 of the Local Government Act. A Penalty Infringement Notice (on-the-spot fine) may be served for the injury or unnecessary disturbance of trees and vegetation on public land including road reserves.

Prosecution may also follow or other remedies pursued in accordance with Section 690 of the Local Government Act.

2. Development and Building Approval

Council may specify in a Development Consent that certain trees may be removed or must be retained. Landscaping requirements, including tree replacement requirements, may also be specified as conditions when a Development Consent is granted by Council.

Use of native trees indigenous to the area will generally be required for the purposes of tree replacement.

Authority

Council resolution No 048/24 dated 28 03 2024.

Policy Owner / Further Assistance

Director Development and Environmental Services / Senior Health and Building Surveyor

Related Information

Council's legislative requirements include, but are not limited to the following instruments of legislation:

- Biodiversity Conservation Act
- Biosecurity Act
- Civil Liability Act
- Environmental Planning and Assessment Act
- Heritage Act
- Local Government Act
- Local Land Services Act
- Protection of the Environment Operations Act
- Threatened Species
- Work Health and Safety Act
- Summary Offences Act

Other

- Arborist Report – Town of Nyngan by Arborsaw (Alex Austin) May 2020

- Arborist Report (Review) – Town of Nyngan by Arborsaw (Alex Austin) April 2023

Review Date

February 2027

Revision History

| Date | Description of Change | Sections Affected |
|------------|----------------------------------|-------------------|
| 25/03/2004 | New Policy adopted by Council | All |
| 25/08/2016 | Update Policy | All |
| 28/03/2024 | Update Policy adopted by Council | All |
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