

When Do You Need Approval to Remove or Prune a Tree?

Tree preservation orders are in practice made by local councils as orders pursuant to powers under the Local Government Act 1993. There can be significant differences between tree preservation orders for specific councils and any proposal to remove or prune a tree should be considered in light of the requirements of the tree preservation order applicable to the relevant local government area.

This is despite the New South Wales government having issued a standard template (clause 5.9 of the NSW Government's Standard Instrument LEP template), with the objective of promoting consistency.

A tree preservation order for a particular local government area will typically have the following scope:

- Area - the order will typically apply to all land within the local government area.
- Type - the order will typically apply to trees and palms above a certain height (e.g. 5m for Parramatta City Council), specified plants of any height (e.g. a cycad or mangrove) and bushland. However, there will typically be exceptions, such as dead vegetation, declared noxious plants, undesirable plants on public land, parasitic plants and specified fruit trees. This is the main area of divergence between Council requirements, some councils being far more restrictive than others.
- Restricted activities - the order will typically prohibit removing or pruning a tree to which the order applies, unless council approval has been obtained. These terms are defined broadly to cover similar or related activities, such as poisoning or otherwise preventing a tree from growing. However, pruning back an overhanging tree to the boundary is generally not restricted.

An application for council approval is not expensive, but will not necessarily be approved, so intending applicants should contact the relevant Council to ascertain the required form and fee, the supporting evidence required (e.g. an arborist's report) and the criteria against which the application will be considered.

These requirements should be taken seriously. Councils take them seriously and potential penalties are substantial, being up to \$110,000 if prosecuted in the Local Court and up to \$1.1 million if prosecuted in the Land and Environment Court.

This article considers council tree preservation orders. They are not the only regulation of trees and further information about some other controls can be found in the below article.

[Trees Causing Damage – What Can You Do?](#)

Further, owners of some properties in bush fire prone areas will be able to remove trees under the 10/50 Vegetation Clearing Code of Practice for New South Wales which broadly permits removal of trees without approval within 10m of a home and other vegetation within 50m. Further information can be obtained below.

[10/50 Vegetation Reduction Areas](#)

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