Going Green: Planting Trees on the Verge or Common Property

With an increase in urbanisation across Australia, it is becoming more essential to preserve our natural resources and maintain our connection with the natural world. The presence of trees in urban areas not only has aesthetic benefits, but also assists in achieving social, health and economic prosperity!

If allowed, trees can play an important role in our urban ecosystem by improving the habitability of cities. Not only are they a pillar of sustainability by storing carbon and producing oxygen – trees can increase the quality of the air which we breathe, provide nutrients to local flora and fauna, reduce run-off from storm water and prevent the urban heat island effect through their natural cooling properties.

Benefits of street trees

Their ability to create shade and absorb heat is one of their most useful features in an urban landscape. Environmental planners across Australia have engaged in studies which suggest that the strategic placement of street trees to create shade can lower the temperature of its immediate surrounding area by up to 6 degrees Celsius, with that number jumping to 20 degrees Celsius over road areas.[1] This principle is also applicable to trees and plants affixed to buildings. The simple act of absorbing the incoming sunlight whilst attached to a roof or a wall has a natural cooling effect on the buildings underneath and lessens the demand for air-conditioning.

All of this is not to say that there are not downsides to street trees. They can pose a safety hazard on occasion and can damage common and private infrastructure, however attitudes towards trees in urban areas remain consistently positive. Characteristics such as a natural propensity for noise reduction and the increase in property value all contribute to the positive sentiment with respect to street trees.

Human health also benefits from being exposed to trees in urban areas. The mental and physical effects of being exposed to trees include reduced blood pressure, lower risk of cardio-vascular disease, reduced stress and positive social relationships, and are all a result of nature's ability to encourage mindfulness and promote healthy physical activity.[2] Social research by Hugh Mackay affirms that connection with the natural world is a huge source of relief from anxiety and has the potential to increase our social connectedness in his recent work, *Australia Reimagined*.

Capital value of trees

The capital value of trees in urban environments is also an important point to touch on. Whilst this value has shifted over time, the consensus continues to strengthen in promoting trees as an economic asset. The use of street trees remains ever-evolving as governments and councils develop greater awareness of how communities

[1] Gittins, R. (2019) *What the economy really needs more of: Trees*, *The Sydney Morning Herald*. The Sydney Morning Herald. Available at: https://www.smh.com.au/environment/conservation/what-the-economy-really-needs-more-of-trees-20181231-p50p06.html (Accessed: April 11, 2023).

[2] Van Dillen, S.M.E., DeVries, S., Groenewegen, P.P., & Spreeuwenberg,P. (2012). *Green space in urban neighbourhoods and residents health: adding quality to quantity*. Journal of Epidemiology and Community Health, 66, e8.

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rely on urban forests and tree management. '*Treenet.org'* characterises street trees as ecological analogs of industrial capacity and physical infrastructure, exploring how urban trees are entering the central equations of urban growth, often with new definitions of what trees are and do. Street trees act as a substitute for services which are generally provided by capital expenditures in infrastructure. Their absorption of pollutants, conservation of energy, natural cooling effects and storm water runoff, as discussed above, provides a natural alternative to government expenditure which would ordinarily have to be spent on implementing artificial infrastructure.[3] Effective tree management strategies also foster investment and increasing land value wrought by the new 'live-ability' of suburbs filled with trees and other natural features.

Examples of effective tree management

The Orange Master Plan provides an excellent example of effective tree management. Given the cultural, economic and historical importance of trees in Orange, it should come as no surprise that the area has a Street Tree Master Plan which ensures the effective and sustainable use of trees in the city. The plan itself covers floral life in relation to everything from interaction with the transport system, zoning, use in recreational areas, hydrology and drainage. Furthermore, it makes prescriptions on planting conditions and maintenance of tree life to ensure that they are only planted in appropriate locations – with information readily accessible online via the plan. Having prescriptions and conditions for tree planning has proven fruitful for the city of Orange as they continue to enjoy the social and economic benefits.

Obligations and liabilities when planting a tree on a nature strip

Planting rules can vary from council to council, so be aware of your obligations and liabilities when considering planting a tree on council property. For example, the Blue Mountains City Council encourages the planting of street trees and shrubs near footpaths provided that each tree compliments the character of the street and does not interfere with existing infrastructure.

An urban feature which you may recognise are the nature strips that line footpaths in many urban areas. The City of Parramatta mandates that, as council cannot maintain all of these strips themselves, there must be reliance on residents to tend to the strips adjacent to their own property, ensuring that the strip looks aesthetic whilst not interfering with pedestrian access.

The general policy across Australia in relation to these strips is that residents do not own the land itself, so cannot plant or remove trees without council approval. Councils can be relatively strict when granted permission to install new street trees on council land, so ensure that you check with your local council before commencing any works.

Setbacks

You might also be wondering about your rights in relation to trees on setbacks. A setback is defined as:

> *the minimum distance which a building or other structure must be set back from a street or road, a river or other stream, a shore or flood plain, or any other place which is deemed to need protection*

Somewhat frustratingly, there is no singular method which all councils employ to govern the use of setbacks. Whilst some communities treat the tree as a utility pole through the granting of an easement, others only require a simple agreement with the homeowner. In determining whether you can remove or install trees on a setback, ensure that you seek clarification and permission from your local council before commencing any works.

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[3] *McPherson, E.G., Simpson, J.R., Peper, P.J., Maco, S.E.,& Xiao, Q. (2005). Municipal forest benefits and costs in five U.S cities. Journal of Forestry, 103, 411-416.*

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Owners Corporation Approval

There are various processes for owners corporation approval in relation to works concerning trees. The removal of a tree in disrepair on the common property could arguably be carried out by the owners corporation without the need to pass a special resolution at general meeting. It is likely that remedial works of this type would fall under the owners corporation's 'repair and maintenance' obligation.

In contrast, the planting of a tree on common property could require either a license, or a special resolution making a common property rights by-law. Likewise, an owners corporation should pass the appropriate resolution to plant on Council's property. Albeit, the strata schemes legislation is not clear on this point, a special resolution would be prudent.

General planting and pruning requirements

In most areas of NSW, permission to prune or remove a tree is required from your local council. In NSW the Environmental Planning and Assessment Act 1979, the Biodiversity Conservation Act 2016 and Local Land Services Act 2013 and their associated planning instruments operate with local council measures to protect most trees and other vegetation on public and private land. As such, an unsightly tree may be difficult to acquire permission to remove depending on its type, size and importance.

More information

If this information interests you and you are looking for further clarification on any of the issues raised in this article, please do not hesitate to contact our team.

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