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Inner West Council Tree Management DCP



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Generic Provisions

2.20 Tree Management

Inner West Council is committed to the protection and management of a healthy urban forest within the Inner West Local Government Area (LGA). The urban forest provides significant environmental, social and financial benefits to the community. Inner West Council is committed to the perpetual protection and management of the urban forest as an essential intergenerational community asset.

2.20.1 Purpose

This section has been made in accordance with the State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (the Vegetation SEPP) and prescribes the vegetation to which the Vegetation SEPP and /or Clause 5.10 of the LLEP, MLEP and ALEP applies and the applicable consent process.

Council has established canopy targets for the Inner West LGA based on the zoning of the land. Those canopy targets are as follows:

Zone	Canopy Target
R1 General Residential	40%
R2 Low Density Residential	
R3 Medium Density Residential	25%
R4 High Density Residential	
Business zones (B1 Neighbourhood Centre, B2 Local Centre)	15%
B4 Mixed Use	
B5 Business Development	
B6 Enterprise Corridor	
B7 Business Park	
IN1 General Industrial	25%
IN2 Light Industrial	

This section outlines Council's approach to tree management for trees on private land in the LGA that will assist in achieving the above mentioned targets.

2.20.2 Objectives

The following objectives guide the protection and management of trees within the Inner West LGA:

- 01 To support Council's Community Strategic Plan *Our Inner West 2036 - Strategic Direction 1.2- Inner West has a diverse and increasing urban forest that supports connected habitats for flora and fauna.*
- 02 To establish a coordinated approach to the assessment and management of trees

- 03 To ensure an acceptable level of risk from trees to protect the safety of the community, private property and public infrastructure assets.
- 04 To detail controls and procedures for pruning, removal and replacement planting of trees in the LGA; including specifying prescribed trees by reference to species, size, location or other manner.
- 05 To facilitate an increase in healthy tree canopy coverage across the LGA and achieve Council's established canopy targets for particular land zones to ensure healthy and resilient residents and communities.
- 06 To protect trees within and adjacent to development sites and to ensure that all new development provides an opportunity for existing and new trees to grow.
- 07 To manage the urban landscape so trees continue to make a significant contribution to its quality, character and amenity.
- 08 To ensure all applications are assessed on the basis of best practice tree management principles.

2.20.3 Prescribed (vegetation) Trees

- C1 For the purposes of this DCP, a prescribed tree is:
- i. any tree with a height equal to or greater than 5 metres above ground level (existing); or
 - ii. any tree that is under 5 metres in height that has a trunk diameter of more than 300mm at ground level (existing);
 - iii. any tree with a canopy spread equal to or greater than 3 metres;
 - iv. any palm tree or tree fern with a stem length equal to or greater than 4 metres above ground level (existing);
 - v. any tree that is required as the habitat of native animals.

2.20.4 Clearing of vegetation that requires Council Consent

Under the provisions of Clause 7 of the Vegetation SEPP a person must not *clear vegetation* without the consent of Council.

Clear Vegetation

Clear vegetation, includes

- a) *Cut down, fell, uproot, kill poison, ringbark, burn or otherwise destroy the vegetation, or*
- b) *Lop or otherwise remove a substantial part of the vegetation*

(State Environmental Planning Policy (Vegetation in Non- Rural Areas) 2017)



2.20.5 Exempt Trees and Works

C2 This section identifies trees and tree activities that are not clearing in the Inner West, as defined above. These are referred to as exempt trees and works and do not require consent from Council to be undertaken:

- i. Pruning or removal of any tree listed below:

Species Name	Common Name
<i>Ailanthus altissima</i>	Tree of Heaven
<i>Arecastrum romanzoffianum</i>	Cocos/Queen Palm
<i>Bambusa spp.</i> <i>Phyllostachys spp.</i>	Bamboo species
<i>Celtis occidentalis</i>	Hackberry
<i>Cotoneaster spp.</i>	Cotoneaster
<i>x Cupressocyparis leylandii</i>	Leyland cypress
<i>Eriobotrya japonica</i>	Loquat
<i>Ficus benjamina</i>	Weeping Fig
<i>Ficus elastica</i>	Rubber Tree
<i>Lagunaria patersonii</i>	Norfolk Island Hibiscus
<i>Ligustrum spp.</i>	Privet
<i>Morus spp.</i>	Mulberry
<i>Nerium oleander</i>	Oleander
<i>Olea europaea subsp. cuspidata</i>	African Olive
<i>Salix spp.</i>	Willow
<i>Schefflera actinophylla</i>	Umbrella Tree
<i>Toxicodendron succedaneum</i>	Rhus or Wax Tree

State Weeds

Consent is not required for pruning or removal of trees listed as State Priority Weeds and the priority list in the *Greater Sydney Regional Strategic Weed Management Plan* as specified by NSW Department of Primary Industries (DPI) under the *Biosecurity Act 2015*.

- ii. Council considers the following works not to be substantial and therefore not requiring Council consent, provided the work is carried out in accordance with AS 4373 - 2007 – *Pruning of amenity trees* and the Safe Work Australia Code of Practice 'Guide to Managing Risks of Tree Trimming and Removal Work' 2016:



- a. Canopy lifting to 2.5 metres above ground level (existing) to provide safe pedestrian access to public and private pathways and for vehicle clearance on driveways. Pruned branches must not exceed 100mm in diameter at the branch collar;
 - b. Selective pruning to provide a 2 metre clearance above the roof or from the face of a principal building of live branches no greater than 100mm in diameter at the branch collar; and
 - c. The pruning of deadwood that does not have hollows or provide habitat for native fauna.
- iii. Trees that have a diameter at ground level equal to or less than 300mm, that are located within 500mm of a *Principal Building* when measured from the centre of the tree trunk where the tree is located on the land of the person carrying out clearing.
- iv. Works to trees owned by, or under the care, control and management of Inner West Council and undertaken by delegated Council staff or their authorised contractors.

Neighbouring trees

A person may prune the branches of a tree overhanging their property in accordance with AS4373-2007 – *Pruning of Amenity Trees* provided that the pruning is consistent with 2.20.3 *Exempt trees and works* but must not prune a tree beyond the property boundary. You must consult with your neighbour before you undertake the work.

C3 The exemptions above do not apply to:

- i. Work that is contrary to a development consent that requires trees to be retained; or
- ii. Tree(s) required to be planted as a condition of development consent or as a compensatory planting condition in a permit; or
- iii. Trees or bushland to which *State Environmental Planning Policy No. 19 – Bushland in Urban Areas* applies; or
- iv. Threatened species or land that contains native vegetation which is habitat for threatened species, populations or ecological communities listed in Schedule 1 and 2 of the *Biodiversity Conservation Act 2016* and protected matters listed under the *Commonwealth Environment Protection Biodiversity Conservation Act 1999*; or
- v. Land that is a declared area of outstanding biodiversity value under the *Biodiversity Conservation Act 2016*; or
- vi. Land identified on the *Sensitive Biodiversity Values (SBV) Map* and *Coastal Environment Map* (refer to Office of Environment and Heritage website); or



- vii. Land declared critical habitat under Part 7A of the *Fisheries Management Act 1994*; or
- viii. Any native tree located within a wildlife corridor as shown on the Biodiversity Map in *Part 2.13 - Biodiversity* of Marrickville DCP 2011 – Appendix 3; or
- ix. Any tree that is a heritage item, forms part of a heritage item, or is located within the curtilage of a heritage item identified in Schedule 5 of MLEP 2011, ALEP 2013 and LLEP 2013; or
- x. A tree identified on Council's *Significant Tree Register*.

Biodiversity and Land Management

Biodiversity and Land Management reforms commenced on 25 August 2017. *The SEPP and Biodiversity Conservation Act 2016 (BC Act)* were introduced as part of those reforms. The BC Act establishes the *Biodiversity Offsets Scheme (BOS)* thresholds, comprised of the *Biodiversity Values Map (BVM)* and an Area Clearing Threshold. If you are proposing works to trees on land mapped on the BVM or the extent of the works exceed the relevant area threshold, the proposal will exceed the BOS threshold. Council cannot issue a permit for tree works which exceed the BOS threshold and the application must be provided to the Native Vegetation Panel.

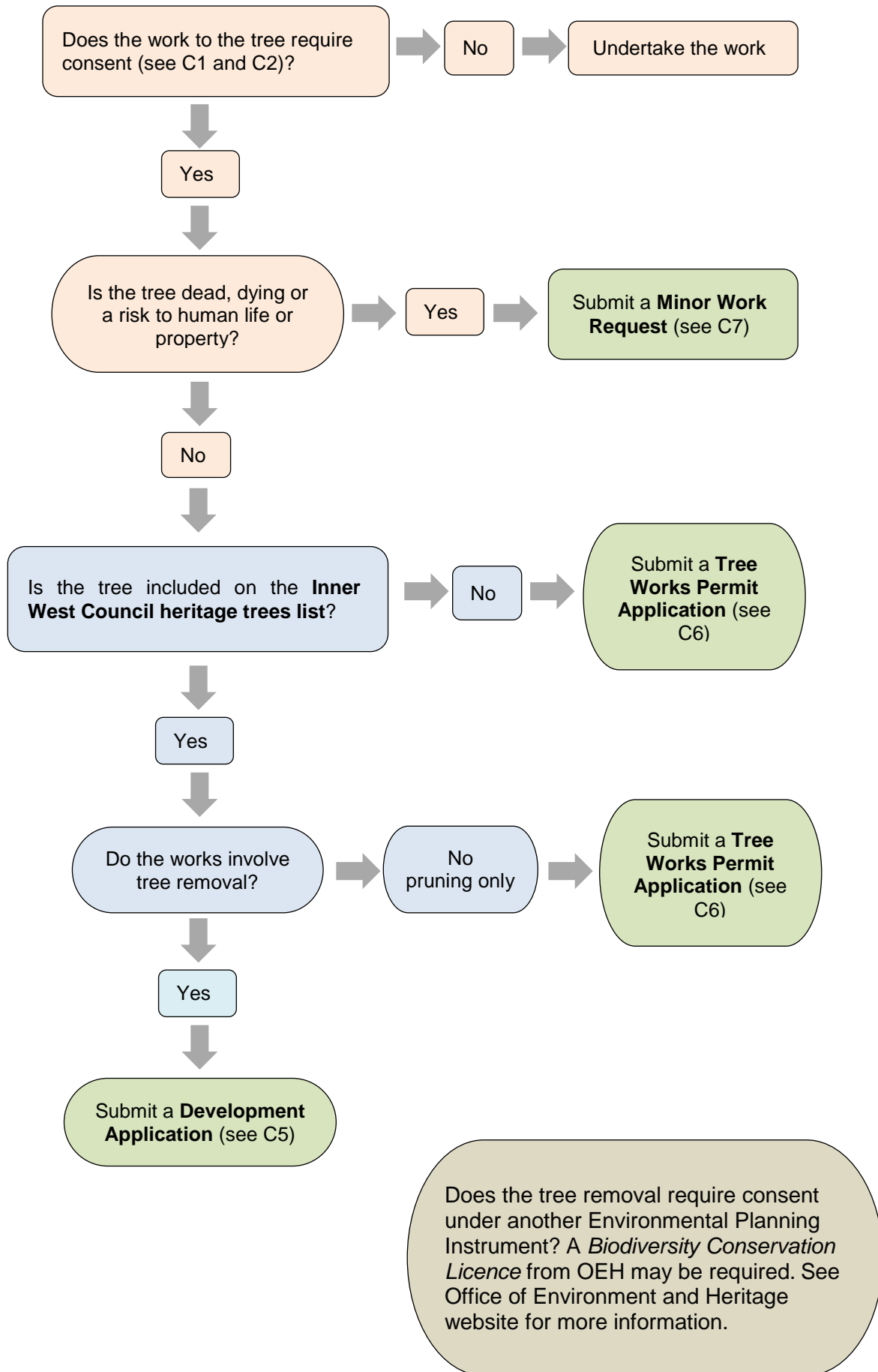
See Office of Environment and Heritage website for more information.

Types of Applications

- C4 Council consent is required before any clearing of vegetation (removal or pruning or tree/s) are carried out other than the exempt activities referred to in Control C2. Applications for consent will be assessed and determined either through:
- i. development application (as set out in Control C5); or
 - ii. tree permit application (as set out in Control C6); or
 - iii. minor works request (as set out in Control C7).

Note: See flowchart below for further clarification.





C5 **Development consent** is required in the following circumstances (except where the tree or the works to the tree are exempt under Section 2.20.3 or the tree is dead, dying or a risk to human life or property):

- i. Removal of trees identified on the Inner West Council heritage trees list.
- ii. That is or forms part of an Aboriginal object or that is located within an Aboriginal place of heritage significance.

C6 A **Tree Works Permit** is required, except where the tree or the works to the tree/s are an exempt activity under Section 2.20.3, to:

- i. Prune a tree; and/or
- ii. Remove a tree other than those trees which require Development Consent under Control C5.

Trees constituting Heritage items or within a Heritage Conservation Area Inner West LGA contains a number of areas with heritage significance; these areas are defined as Heritage Conservation Areas (HCA), Heritage Items or Aboriginal Place of heritage significance.

If the tree you want to remove is a heritage item included on the Inner West Council heritage trees list, you will need development consent. For trees located within an HCA or a heritage listed site that are not on the Inner West Council heritage trees list and if the Council advises you in writing that the proposed works are minor or are for maintenance purposes and the works will not affect the heritage significance of either a heritage item or the HCA, you will not require a Development Application. Otherwise, a permit will be required.

C7 A **Minor Works Request** is required for trees that are *dead, dying* or pose a *risk to human life or property*, in accordance with Part 2 Clause 8 (2) & (3) of the *Vegetation SEPP* and may be carried out under the following circumstances;

- i. The tree is located on the applicant's property;
- ii. The dead or dying tree is not required for habitat under the *Biodiversity Conservation Regulation 2017*;
- iii. The minor works request for a *dead* or *dying* tree is accompanied by evidence including clear colour photographs (minimum 4 photos from different directions), a statement indicating how the tree died and a tree replacement proposal indicating species and location;
- iv. The minor works request for a tree that poses an *risk to human life or property* tree is accompanied by evidence including clear colour photographs (minimum 4 photos from different directions) and a statement as to why the tree is considered to be an dangerous tree;
- v. Council has notified the applicant that it is satisfied that the tree is *dead, dying* or poses a *risk to human life or property*. If Council is not satisfied the tree meets the



criteria the applicant will be advised to lodge the relevant formal application.

Trees that are considered an imminent risk to human life or property

If a tree on your property is suspected to be an *imminent risk to human life or property* you should first contact Council and detail why the tree is considered to be a risk. Council may require a brief statement and or photos to demonstrate that the tree requires immediate removal. Council will issue expedited consent in writing to allow removal of an imminently dangerous tree under the provisions of *Part 2, Clause 8 (3) of Vegetation SEPP 2017*.

If Council is not satisfied that the tree is a risk to human life or property you will be advised to lodge the relevant application.

2.20.6 Application Assessment Criteria

2.20.5.1 Tree Removal

Council will use the following assessment criteria when considering an application to **remove** a tree/s:

1. Whether the tree/s presents an unacceptable level of risk* that cannot be managed through pruning or other risk mitigation measures (*risk is to be determined by an Australian Qualification Framework Level 5 Arborist qualified in tree risk assessment see Section 2.20.7);
2. Damage to *Principal Building* on private property proven to be directly caused by the tree/s and where remediation of the damage cannot be achieved by reasonable or practicable means; and
3. Whether there is any public infrastructure damage being caused by the tree/s, that is considered to be significant and cannot be overcome by any other reasonable or practicable means;
4. The health and structural condition of the tree/s;
5. The significance/ canopy value of the tree/s;
6. The location of the tree in terms of its sustainability in the foreseeable future, including future structural damage;
7. Any other reason at the discretion of delegated Council staff, which may be justified either on arboricultural, technical or legal grounds according to particular circumstances.
8. Replacement tree planting.

Evidence based assessment

Unsubstantiated opinion relating to the damage caused by a tree is considered an unsatisfactory basis for recommending the removal of a healthy and/or structurally sound tree. Any assessment of the damage being caused must be evidence based and for tree removal to be approved it must be clearly demonstrated that the tree is the primary cause of the damage.

2.20.5.2 Tree Pruning

Council will use the following assessment criteria when considering an application to **prune** a tree/s:

1. Safety or potential damage to property;
2. The health and structural condition of the tree/s;
3. The growth habit of the tree/s;
4. The stability of the tree/s;
5. The growing environment of the tree/s; and
6. Whether the tree/s will be adversely affected by the pruning.

2.20.5.3 Criteria not considered

The following criteria are generally **not** considered justification for tree removal or pruning:

1. The dropping of leaves, flowers, fruit, sap, seeds or small elements of deadwood (or other natural processes);
2. Insect/animal nuisance;
3. Solar access to solar panel or clearance to data receivers;
4. Increase general natural light or reduce shade created by a tree;
5. Enhancement of view corridors;
6. Minor lifting/ displacement of driveways, paths and paving or minor damage to outbuildings, garden structures, walls or landscape structures;
7. Damage to underground services (such as sewer lines, water services) where there are feasible alternatives to mitigate or solve problems and retain the tree;
8. The tree is too large or overhanging neighbouring property or roof line;
9. Pruning to reduce height, except pruning to reduce the height of hedge/s (In accordance with the *Trees (Disputes Between Neighbours) Act 2006 Part 2A High Hedges*);

Review of tree permit determinations

Section 12 of the *Vegetation SEPP* provides that the applicant for a permit may only appeal to the Land and Environment Court against refusal by a Council to grant a permit. Any such appeal is to be made within 3 months of the date on which the applicant is notified of the decision or within 3 months after the Council is taken to have refused the application (whichever is later).

2.20.7 Tree Planting Requirements

Adequate compensatory or replacement planting is a critical consideration when deciding whether consent should be granted. The applicant is required to nominate a tree species, number of trees and locations for replacement as part of their application.

- C8 Council will require replacement tree/s to be planted as a condition of any consent to remove a tree to effectively maintain the urban forest canopy across the LGA. Where achievable, the replacement tree mature to a similar size and canopy to the tree being removed.



- C9 Replacement tree/s must be maintained in a healthy and vigorous condition until they are protected by this Part. If any replacement tree/s is found to be of poor quality, damaged, dying or dead before it attains the size specified in Section 2.20.2, the tree/s must be replaced with another of the same species.
- C10 A person must not fail to plant, protect or care for a replacement tree which is required to be established as a condition of consent issued by Council.
- C11 The following minimum tree planting requirements are required for any new development sites:

Property Size:	Number of trees to be planted
Less than 300m ²	minimum of one (1) tree.
exceed 300m ²	minimum of two (2) trees

Tree container size and mature tree height will be determined by Council and will generally be based on available land space and land zoning canopy targets.

2.20.8 Trees on Development Sites

- C12 All development proposals must be designed to maintain or improve the urban forest values of the site by minimising the impact on tree/s and planting compensatory tree/s for tree/s that are proposed for removal. This requirement applies to Council owned trees and trees on private property and adjoining land.
- C13 The design of buildings or alterations and additions to buildings must provide sufficient distance from existing trees (whether on the site or on adjoining land), in accordance with AS 4970 - 2009 *Protection of trees on development sites*, to ensure the tree/s' practical retention.
- C14 Trees on public land must be protected during demolition, excavation, the erection of hoarding and construction works as set out in Section 4 of the AS 4970 – 2009. Council will require the payment of a security deposit in relation to a tree on public land if:
- i. Development is proposed within the TPZ of that tree or;
 - ii. Council determines that the development may adversely affect the roots or crown of the tree.
- C15 Development must allow for any existing overhead electrical lines to be converted into aerial bundled cabling (ABC) or redirected underground to reduce the impact upon surrounding trees.



2.20.9 Arborist Reports and Qualification Requirements

Additional Information

Council's role in tree assessment is as a Consent Authority. Applications are assessed based on the information provided to Council. Council may require (or you may wish to submit) additional information (such as a report prepared by a consulting arborist, structural engineer or licensed plumber) to ensure full consideration of your application for tree works. However, it should not be assumed that because you have submitted additional information, that Council will issue consent for your application.

Reports must comply with the requirements for reports specified in Council's Development Fact Sheets (Trees on Development Sites; Arborist Reports; and Technical Reports (available on Council's website).

Before you employ an arborist you should check that the arborist(s) has the qualifications and meets the guidelines below:

- C16 All assessments, reports and pruning specifications must be prepared by an arborist(s) with an Australian Qualification Framework (AQF) level 5 Diploma in Horticulture (Arboriculture).
- C17 Any arborist report provided with an application in support of the removal of a tree on the basis of risk must be prepared by arborist(s) with AQF level 5 in Horticulture (Arboriculture) who also holds a qualification in an industry recognised risk methodology such as *Tree Risk Assessment Qualification* (TRAQ), *Quantified Tree Risk Assessment* (QTRA) or *VALID* Tree Risk Assessment.
- C18 All tree works (cutting) must be undertaken by an arborist with a minimum AQF Certificate 2 in Arboriculture, and any climbing works directly supervised by a person with a minimum AQF Certificate 3 in Horticulture (Arboriculture).
- C19 All reports (arborist, engineer, plumbing etc) submitted to Council **must** meet the minimum report requirements outlined in Council's development factsheets (available on Council's website).

Find an arborist

A list of qualified Arborists can be obtained from the *Institute of Australian Consulting Arboriculturalists (IACA)* website at www.iaca.org.au. *Arboriculture Australia* is also able to supply the details of a suitably qualified Arborist. For more information call 1300 664 374 or visit www.arboriculture.org.au.

2.20.10 Definitions

In this Part:

AS 4373 - 2007 means Australian Standard 4373 - 2007 Pruning of amenity trees.

AS 4970 – 2009 means Australian Standard 4970 - 2009 Protection of trees on development sites.

Clear Vegetation includes: (a) cut down, fell, uproot, kill, poison, ringbark, burn or otherwise destroy the vegetation, or (b) lop or otherwise remove a substantial part of the vegetation.

Dead means no green cambium (tissue) and no green foliage and that the tree is no longer capable of performing any living functions.

Dying means a tree in a state of decline where it is unlikely to recover. Generally, this may be represented by only $\leq 20\%$ live canopy.

Foreseeable future means the next 12 months.

Risk to human life or property is where a tree presents an unacceptable level of risk under normal weather conditions.

Imminent risk to human life or property includes, but is not restricted to, obvious instability of the root system, evidence of soil heave or cracking, loss of structural roots, root decay, storm damage and structural defects that are imminently hazardous, such as splitting branches.

LGA means the Inner West Local Government Area.

Project Arborist means the arborist appointed to monitor the vitality and condition, throughout the construction process, of trees being retained on the site (and any trees on adjoining private land and trees on public land where the development encroaches into the TPZ of those trees).

Principal Building means a primary dwelling, residential flat building, commercial building or other significant structure. In general, Council does not consider the following to be significant structures: fences, paving, concrete hardstand, clay/ earthenware pipes, dilapidated secondary structures, driveways, sheds, verandas/ patios, car ports, cantilevered and pier supported structures such as balconies and decks.

Tree Protection Zone (TPZ) means the area around a tree required to protect the tree's crown and roots during the construction process. The tree protection zone must be calculated in accordance with AS 4970 - 2009.

Urban forest means all trees and vegetation (both naturally occurring and planted) that occur within or near urban areas.

NB *All references to Acts, Australian Standards, Policies, and Strategies, are to those documents as amended from time to time.*

