



## OFF SITE TREE REPLACEMENT AND DEED OF AGREEMENT

### Why have off site tree replacement in Sutherland Shire?

Sutherland Shire is characterised by natural features which includes an established tree canopy. This living asset is highly valued by the community, however changing lifestyles has meant that some residents find they no longer have space or the desire for big trees on their residential property. As a consequence the urban tree canopy is being reduced at an alarming rate.

Every year residents seek approval to remove around 3,000 trees from their property and around 2,500 trees are removed from public places. If this trend continues an estimated 165 ha of canopy will be lost over the next decade.

Through the Urban Tree and Bushland Policy, Council has made a commitment to the community to

- plant street trees to ensure there is no net loss of tree canopy on public land, and minimise the impact of the built environment
- prioritise street tree planting in areas of greatest ecological benefit or visual amenity,
- plant indigenous trees appropriate to the local environmental context, and
- link identified Greenweb areas.

But this is not enough to address the rate of removal on private property.



### How does off site replacement work?

Until recently, when Council has permitted the removal of a tree, residents have been required to replace the tree. However a one for one ratio replacement ratio has proven insufficient to ensure the tree canopy is maintained. Residents do not always want to replant with the larger tree species required to maintain the canopy. Due to small lot size or lack of space sometimes it is not possible to even accommodate a smaller tree, and not all trees survive to maturity.

On 22 October 2012 Council resolved that the replanting ratio would be 4:1 and to accept offset replanting on public land through a Deed of Agreement. A resident may elect to either comply with the 4:1 replanting requirement on their site, or choose to engage Council to replant on public land by entering into a Deed of Agreement and paying for the replanting of the replacement trees.

### Deed of Agreement for off site tree replacement

The Deed of Agreement is activated when both you and Council have signed the document and you have paid the replanting fee.

Council deems the entering into the Deed of Agreement as satisfying the replanting requirement on your Consent, provided that all trees that are subject to a replanting requirement have been accounted for either through the Deed of Agreement or replaced on your property at the appropriate ratio, or a combination of both.



## Off Site Tree Replacement Election

Application

Sutherland Shire  
COUNCIL



### BACKGROUND

A. On 22 October 2012, Sutherland Shire Council ("Council") resolved to accept offset planting on public land subject to an applicant or property owner entering into a deed of agreement that is supported by a condition of consent under S80A of the Environmental Planning and Assessment Act. (Report No. DAP010-13)

B. The purpose of this Agreement is to provide for a funding arrangement between an applicant and Council where Council has reviewed an application involving the removal of trees that contribute to environmental outcomes. As part of that assessment Council has approved the removal of specific trees and required by way of a condition of consent replacement planting at a ratio of five to one on public land and four to one on private land or as varied in the conditions of approval. An applicant may choose to either replant at the ratio required or enter into an arrangement with Council to provide funding to Council for the replanting of the trees on public land.

C. The parties to this Agreement:

- Acknowledge that maintenance of the tree canopy of the Shire has been identified as a key environmental factor in the physical identity of the Sutherland Shire and in improving the quality of urban life
- Recognise that the Shire's tree canopy is under pressure from increased residential densities. Lot sizes have reduced over time and houses have become larger. In combination with changes in lifestyle that have resulted in more paving and in-ground pools there is reduced space available for the planting of trees on private land
- Accept this Agreement as satisfying a condition of consent on the Development Application nominated above provided that all trees that are subject to a replanting requirement in the Consent have been accounted for either through this Agreement or replaced on site at the appropriate ratio.

D. The Consent specifies that a Tree Location Plan must be lodged with Council prior to the issue of a Construction Certificate, nominating the location and species of trees to be replanted. Where an applicant is relying on this Agreement to satisfy the Consent, this Agreement must be in place prior to the issue of a Construction Certificate.

### TERMS

1. This Agreement is between Council and

Name : \_\_\_\_\_ ("the Applicant/Owner")

Address : \_\_\_\_\_

2. At the time of submitting this form the Applicant/Owner agrees to pay Council \$ \_\_\_\_\_ for the planting of \_\_\_\_\_ trees on public land on behalf of the Applicant in accordance with Consent No. \_\_\_\_\_ and the Urban Tree and Bushland Policy towards the maintenance of the tree canopy of the Shire.

3. The Council agrees to

- a) replant in accordance with best practice planting
- b) regular review and maintenance for the trees
- c) replant in accordance with public works or tree replanting program
- d) report annually on the replanting program as part of the Annual State of the Environment Report

4. Miscellaneous provisions

- a) If GST or similar value added tax is imposed on any supply under or in accordance with this Deed, the amount payable for that supply is increased by the amount of that GST, unless the amount payable already specifically includes that GST. The party seeking payment must provide a GST tax invoice (or any other thing required under any legislation) in the form required, and in the time provided for, by the relevant legislation.
- b) Nothing in this agreement is intended to limit or fetter Council's proper performance of its statutory functions or duties and clauses are to be construed (if possible) consistently with the proper exercise of those functions and duties.
- c) This Deed does not create a relationship of agency between the parties. Neither party shall act or represent itself as acting on behalf of the other party.

**Executed as a Deed**

Executed by an authorised representative(s) on behalf of the Applicant/Owner:

|                   |                 |
|-------------------|-----------------|
| _____             | _____           |
| Name of signatory | Name of Witness |
| _____             | _____           |
| Signature         | Signature       |
| Date: _____       |                 |

Executed by Council Officer : \_\_\_\_\_  
on behalf of Sutherland Shire Council pursuant to  
delegation dated 16 July 2012 under the *Local Government Act, 1993*:

|                         |                 |
|-------------------------|-----------------|
| _____                   | _____           |
| Name of Council Officer | Name of Witness |
| _____                   | _____           |
| Signature               | Signature       |
| Date: _____             | Date: _____     |

Upon both parties signing and payment of this agreement a copy will be provided to you. You may lodge this in person at the Customer Service Centre or mail your signed copy with payment and your copy with receipt attached will be mailed back to you.

|                   |       |
|-------------------|-------|
| Office Use        |       |
| Date Received     | _____ |
| Officer Initial's | _____ |
| Receipt number    | _____ |