



DEPARTMENT OF LANDSCAPE ARCHITECTURE  
KULLIYAH OF ARCHITECTURE AND ENVIRONMENTAL DESIGN  
INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA

**MINI SYMPOSIUM:  
NATURAL AND CULTURAL  
HERITAGE CONSERVATION**

**Tree Preservation Order**

Presented By :

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4.8.2022

LANDSCAPE HERITAGE  
AND CULTURAL STUDIES

## Introduction

Tree Preservation Order (TPO) is an order regarding the preservation of tree, trees or groups of trees that can be issued by the local planning authority to prohibit the felling of trees without written permission and to ensure the replacement of trees through replanting

1

The provisions related to Tree Preservation Order (TPO) were enacted following the Highland Tower incident in December 1993

2

In 1995 Part VA was included in Act 172 through Act A933, which provides provision for TPO



The collapsed Highland Towers condominium in Ulu Kelang, Selangor. Picture by Kamarudin Ahmad  
<https://www.nst.com.my/news/2015/09/remembering-highland-towers-tragedy>



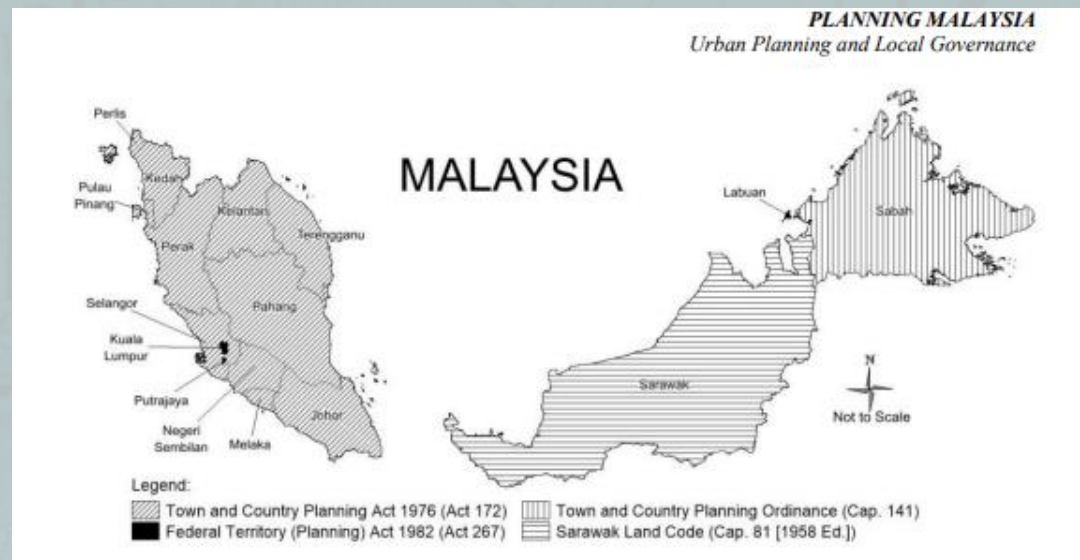
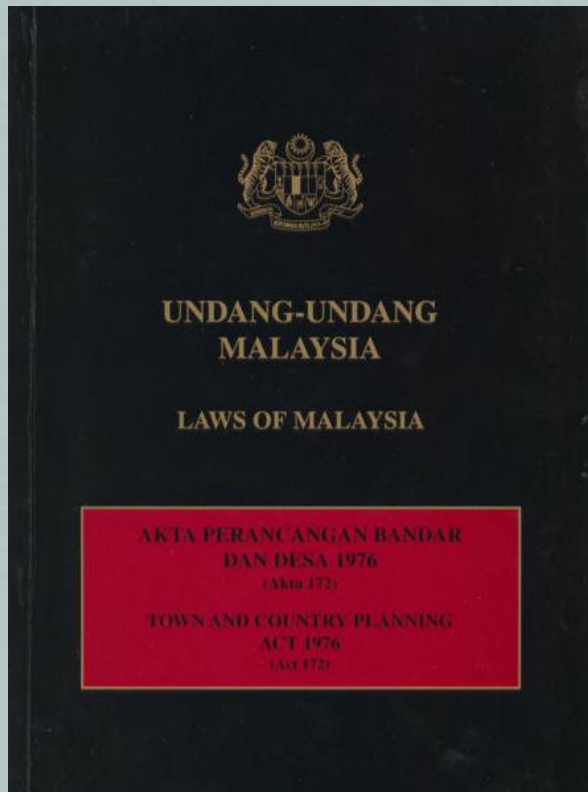
UNDANG-UNDANG  
MALAYSIA

LAWS OF MALAYSIA

AKTA PERANCANGAN BANDAR  
DAN DESA 1976  
(Act 172)

TOWN AND COUNTRY PLANNING  
ACT 1976  
(Act 172)

# Town and Country Planning Act 1976 (Act 172)



Ahmad Sarkawi, A., & Abdullah, M. F. (2014). Historical influences to present legal setting of planning law in Malaysia. *Planning Malaysia*, 12(3)

# Town and Country Planning Act 1976 (Act 172)

## Town and Country Planning Act 1976 (Amendment) 1993 [Act A866]

The Act is amended by inserting provisions relating to sewerage activities so that it is consistent with the Sewerage Services Act 1993 [Act 508], which was enacted in the same year

## Town and Country Planning Act 1976 (Amendment) 1995 [Act A933]

Amended to address the weaknesses that arise as a result of development that **neglects environmental conservation**, especially those related to **tree conservation orders**. The entire provisions relating to the **tree preservation order** can be seen in Part VA starting from Section 35A to 35H of Act 172.

## Town and Country Planning Act 1976 (Amendment) 2001 [Act A1129]

Amended to address problems that arise, particularly in the real estate sector and create the role of the Federal Government in town and country planning matters in line with the spirit of shared responsibility provided in the Federal Constitution. The Act also contains two new parts, Part IIA of the Regional Planning Committee and Part IIB of the National Physical Plan. The amendment also introduces several new approaches, particularly in the development planning system and planning control in Act 172.

## Town and Country Planning Act 1976 (Pindaan) 2007 [Act A1313]

The Act is amended to include provisions relating to controlled solid waste management and public cleansing. Amending Subsection 22 (2) of Act 172 is to enable local planning authorities to consider the provisions of the Solid Waste Management and Public Cleansing Act 2007 [Act 672] *Akta Pengurusan Sisa Pepejal dan Pembersihan Awam 2007 (Akta 672)* when managing an application for planning permission.

# Town and Country Planning Act 1976 (Act 172)

<p><b>LAWS OF MALAYSIA</b></p> <p><b>Act 172</b></p> <p><b>TOWN AND COUNTRY PLANNING ACT 1976</b></p> <p><b>ARRANGEMENT OF SECTIONS</b></p> <p><b>PART I</b></p> <p><b>PRELIMINARY</b></p> <p>Section</p> <p>1. Short title, application and commencement</p> <p>2. Interpretation</p> <p><b>PART II</b></p> <p><b>POLICY AND ADMINISTRATION</b></p> <p>2A. National Physical Planning Council</p> <p>2B. Director General of Town and Country Planning</p> <p>3. General planning policy</p> <p>4. The State Planning Committee and its functions</p> <p>5. Local planning authorities</p> <p>6. Functions of local planning authorities</p> <p><b>PART IIa</b></p> <p><b>REGIONAL PLANNING COMMITTEE</b></p> <p>6A. Regional planning committee</p> <p><b>PART IIb</b></p> <p><b>NATIONAL PHYSICAL PLAN</b></p> <p>6B. National physical plan</p>	<p>4</p> <p><i>Laws of Malaysia</i></p> <p><b>ACT 172</b></p> <p><b>PART III</b></p> <p><b>DEVELOPMENT PLANS</b></p> <p>Section</p> <p>7. Survey of planning areas</p> <p>8. Preparation of draft structure plans</p> <p>9. Publicity in connection with preparation of draft structure plans</p> <p>10. Approval or rejection of draft structure plans by Committee</p> <p>11. Review or alteration of structure plans</p> <p>11A. Procedure for review of structure plan</p> <p>11B. Procedure for alteration of structure plan</p> <p>12. Preparation of draft local plans</p> <p>12A. Publicity in connection with preparation of draft local plan</p> <p>13. Publicity in connection with draft local plans</p> <p>14. Inquiries and hearings in respect of draft local plans</p> <p>15. Approval or rejection of draft local plans</p> <p>16. Alteration, revocation and replacement of local plans</p> <p>16A. Preparation, etc., of local plan by State Director</p> <p>16B. Special area plan</p> <p>17. Power to make rules</p> <p><b>PART IV</b></p> <p><b>PLANNING CONTROL</b></p> <p>18. Use of land and buildings</p> <p>19. Prohibition of development without planning permission</p> <p>20. Prohibition of development contrary to planning permission</p> <p>20A. Duty to consult</p> <p>21. Application for planning permission</p> <p>21A. Development proposal report</p> <p>21B. Layout plans</p> <p>21C. Preparation of plan, etc., by a qualified person</p> <p>22. Treatment of applications</p> <p>23. Appeal against decision of local planning authority</p> <p>24. Lapse of planning permission</p>	<p>5</p> <p><i>Town and Country Planning</i></p> <p>Section</p> <p>25. Revocation and modification of planning permission and approval of building plans</p> <p>26. Offences relating to unauthorized development</p> <p>27. Enforcement in the case of contravention of section 19</p> <p>28. Enforcement in the case of contravention of section 20</p> <p>29. Enforcement in the case of development that is inconsistent with modified planning permission or approval of building plan</p> <p>30. Requisition notice</p> <p>31. Execution by authorized person</p> <p>31A. Inconsistency between building by-laws and development plan</p> <p><b>PART V</b></p> <p><b>DEVELOPMENT CHARGE</b></p> <p>32. Development charge and liability thereto</p> <p>33. Determination of development charge</p> <p>34. Payment of development charge</p> <p>35. Power to make rules</p> <p><b>PART Va</b></p> <p><b>TREE PRESERVATION ORDER</b></p> <p>35A. Tree preservation order</p> <p>35B. Tree preservation order not to be made if tree is already subjected to conditions</p> <p>35C. Appeal against tree preservation order, etc.</p> <p>35D. Compensation under a tree preservation order</p> <p>35E. Replacement of trees</p> <p>35F. Local planning authority to replace tree if the person whose duty it is to replace fails to do so</p> <p>35G. Revocation of a tree preservation order</p> <p>35H. Prohibition to fell, etc., tree with girth exceeding 0.8 metre</p> <p><b>PART VI</b></p> <p><b>THE APPEAL BOARD</b></p> <p>36. The Appeal Board</p>
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## Part VA

### Tree Preservation Order

- 35A. **Tree preservation order**
- 35B. Tree preservation order not to be made if tree is already subjected to conditions
- 35C. Appeal against tree preservation order, etc.
- 35D. Compensation under a tree preservation order
- 35E. **Replacement of trees**
- 35F. Local planning authority to replace tree if the person whose duty it is to replace fails to do so
- 35G. Revocation of a tree preservation order
- 35H. **Prohibition to fell, etc., tree with girth exceeding 0.8 metre**



### WHO?

Local Planning Authority (LPA) as the principal planner, implementer and controller, with the cooperation of any individual or company, as well as related experts.



### WHERE?

In the LPA jurisdiction areas and individually owned land where tree, trees and groups of trees meet the determination criteria under the TPO.



### WHEN?

Since the amendment of Act A933 in 1995, and after the gazettelement (*pewartaan*) of TPO (*Kaedah-kaedah Perintah Pemeliharaan Pokok*) by the State.



### HOW?

Suggestions by the LPA and the public – suitable tree, trees and group of trees that meet the determination criteria of TPO

# Section 35A

## Tree preservation order

**35A. (1)** If it appears to the local planning authority that it is expedient in the interest of amenity to preserve any tree, trees or group of trees in its area, it may make a tree preservation order with respect to such tree, trees, or group of trees.

(2) A tree preservation order may, in particular, make provisions—

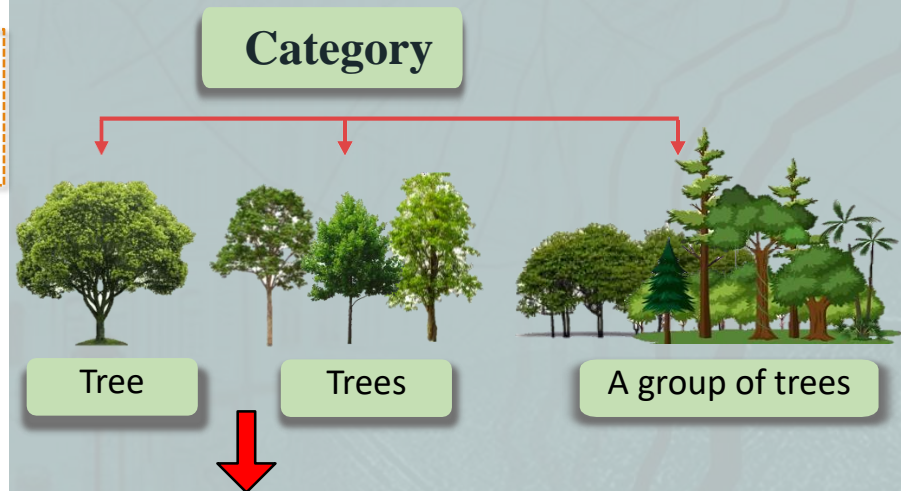
- (a) for prohibiting the felling of trees except with the written permission of and subject to conditions, if any, imposed by the local planning authority; and
- (b) for securing the planting of trees or the replacement of trees by replanting in such manner as may be determined by the local planning authority.

(3) Paragraph (2)(a) shall not apply to the felling of a tree—

- (a) which is dying or dead;
- (b) for the prevention of an imminent danger; or
- (c) if it is to comply with any written law.

(4) Any person who contravenes any provision in the tree preservation order commits an offence and is liable, on conviction, to a fine not exceeding \*one hundred thousand ringgit or to imprisonment for a term not exceeding six months or to both.

- **Section 35A(4)** Any person who contravenes any of the provisions can be **fined up to RM100,000.00** or imprisoned up to **6 months**, or both.



186 Pk. P.U. 48.

Jenis Kerja  
Kerangka Perintah Pemeliharaan Pokok  
No. P. (P. U. 2011)

**BORANG A**  
PERINTAH PEMELIHARAAN POKOK  
(Johor Bahru 4/11)

(Form Perintah Pemeliharaan Tempatan)

Bilakah Dajir: \_\_\_\_\_

Bekasawara penuh pendajir: \_\_\_\_\_ (Majlis Bandaraya Johor Bahru) (Majlis Perbandaran Tempatan)

mentau bag kepentingan kesihatan untuk memelihara pokok, pokok-pokok atau kelompok pokok, yang dinyatakan dalam Jabatan Perintah ini di atas tanah di \_\_\_\_\_ Taman Rekreasi Gunung Lang, \_\_\_\_\_ negeri yang ditunjukkan di atas peta atau gambar atau peta berkadat yang ditunjukkan bersempitan ini dan ditunjukkan oleh Jabatan berkenaan.

**OLEH YANG DEMBANG Pihak Berkuasa Tempatan ini memarah kesihatan yang dibuat oleh subsektor 35A(1) Akta.**

**DENGAN INI**

(a) MEMBAGAT Perintah ini diberikan sebagai Perintah Pemeliharaan Pokok \_\_\_\_\_ Taman Rekreasi Gunung Lang \_\_\_\_\_ (Majlis Perbandaran Tempatan yang ditunjuk)

(b) MELARANG penebangan mana-mana pokok yang meliputi pokok, pokok-pokok atau kelompok pokok yang dinyatakan dalam Jabatan perintah ini dan ditunjukkan di atas peta atau gambar yang ditunjukkan.

MELARANG sebarang tindakan yang membolehkan felling dari Pihak Berkuasa Tempatan ini.

- **Section 35A(1)** Local planning authority can issue an order to **preserve any tree, trees or group of trees**.
- To curb cutting of endangered species or clearing of trees without permission and proper planning.

## Section 35A (3)

The TPO is not applicable to felling of a tree:-

- (a) which is **dying** or **dead**
- (b) for the **prevention of an imminent danger**; or
- (c) if it is **to comply with any written law**



except...

With written permission and subject to condition,

May imposed to replace the trees by replanting determined by the authority



**35B.** Tree preservation order not to be made if tree is already subjected to conditions

**35C.** Appeal against tree preservation order

**35D.** Compensation under a tree preservation order

### Replacement of trees

**35E.** (1) It shall be the duty of the person who is found guilty under subsection 35A(4) for felling any tree in respect of which a tree preservation order is for the time being in force, in contravention of the tree preservation order, to replace such tree by planting another tree—

- (a) of an appropriate size and species;
- (b) at or near the same place or such other place;
- (c) within the time; and
- (d) subject to such terms and conditions,

as may be specified by the local planning authority unless on his application or the application of any other person or at its own discretion the local planning authority dispenses with this requirement.

(2) The time specified by the local planning authority under paragraph (1)(c) for the replacement of a tree may be extended once on the application of the person whose duty it is to replace such tree.

- (3) Any person who is aggrieved by—
- (a) the refusal to dispense with the requirement for replacement of a tree under subsection (1);
  - (b) any order given under paragraph (1)(a) or (b);
  - (c) any term or condition imposed under paragraph (1)(d); or
  - (d) the refusal to extend time under subsection (2),

may, within one month of the date of the communication of such order, refusal or imposition of term and condition, appeal to the Appeal Board.

(4) In relation to any tree replanted under subsection (1), the relevant tree preservation order shall apply to it as it had applied to the original tree.

(5) Where the person whose duty is to replace a tree under subsection (1) fails to do so, he commits an offence and is liable, on conviction, to a fine not exceeding \*one hundred thousand ringgit or to imprisonment for a term not exceeding six months or to both.

### Local planning authority to replace tree if the person whose duty it is to replace fails to do so

**35F.** In the event of a failure to replace a tree under subsection 35E(1), the local planning authority may proceed to replace the tree and, notwithstanding payment of a fine under subsection 35E(5), all costs and expenses reasonably incurred thereby by it shall be reimbursed by the person in default of such replacement.

### Revocation of a tree preservation order

**35G.** The local planning authority may amend or revoke a tree preservation order including for the purpose of granting planning permission under subsection 22(3) in respect of an area where a tree preservation order is for the time being in force.

## Section 35H

### Prohibition to fell, etc., tree with girth exceeding 0.8 metre

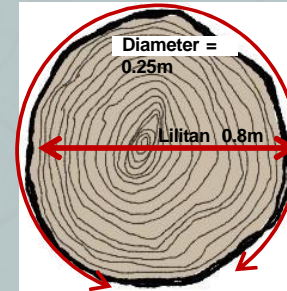
**35H.** (1) No person shall, without the written permission of the local planning authority, fell a tree with a girth exceeding 0.8 metre which is not subjected to a tree preservation order unless the felling—

- (a) is in respect of such tree which is dying or dead;
- (b) is for the prevention of an imminent danger; or
- (c) is to comply with any written law.

(2) For the purpose of subsection (1), the girth of a tree shall be measured half a metre from the ground provided that the girth of a tree with buttress shall be measured above the buttress.

(3) Any person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding \*ten thousand ringgit or to imprisonment for a term not exceeding three months or to both.

- Fell a tree with a (trunk) of **0.8 meter** or more in **circumference** measured 0.5 meter from the ground **shall not be cut down.**



**Example:**  
Girth = 0.8m circumference  
Diameter = 0.8 / 3.142  
= 0.25m



\*0.5m from the ground



Do you think tree preservation and conservation is important for Natural and Cultural Heritage?



UNDANG-UNDANG  
MALAYSIA

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DAN DESA 1976  
(AKA 172)

TOWN AND COUNTRY PLANNING  
ACT 1976  
(134:172)

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**Jadual 1**  
**KATEGORI POKOK DI BAWAH PERINTAH PEMELIHARAAN POKOK**

ANCAMAN KEPUPUSAN		
NILAI ISTIMEWA	NILAI SEJARAH	TANAMAN KENAMAAN
Spesis yang mempunyai nilai istimewa merujuk kepada pokok, pokok-pokok atau kelompok pokok yang mempunyai nilai tersendiri yang mempunyai keindahan semula jadinya atau mempunyai nilai tempatan atau sumbangan estetika terhadap landskap; atau sebagai penghadang fizikal semula jadi terhadap pandangan buruk atau kawasan pembangunan akan datang.	Spesis yang mempunyai nilai sejarah merujuk kepada pokok, pokok-pokok atau kelompok pokok yang ditanam melebihi 30 tahun lalu dan mempunyai kaitan dengan nilai sejarah terhadap kawasan setempat.	Tanaman kenamaan merujuk kepada pokok, pokok-pokok atau kelompok pokok yang ditanam oleh pemimpin Negara atau orang-orang kenamaan sempena suatu upacara yang mempunyai kepentingan Negara.

**POKOK-POKOK DALAM KAWASAN PERLINDUNGAN**

Termasuk semua pokok yang telah ditakrifkan di dalam undang-undang bertulis lain dan pokok-pokok yang terletak di dalam kawasan yang diisytiharkan kawasan hutan simpan, kawasan tadahan air, kawasan pemeliharaan bukit dan lain-lain kawasan yang seumpamanya.

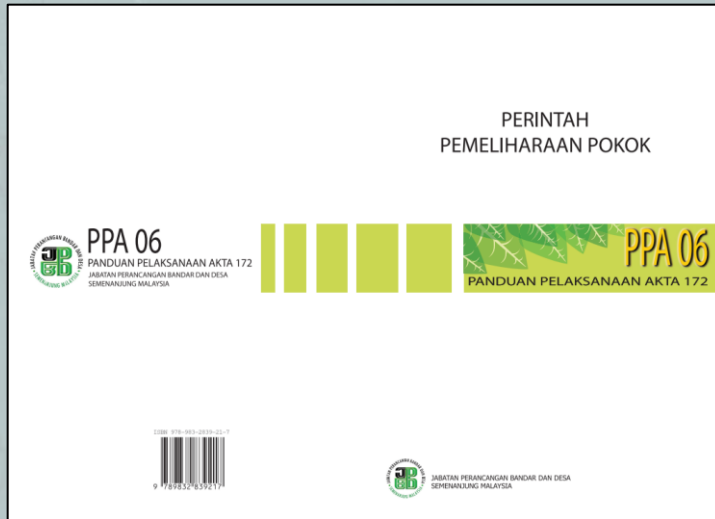
12

ANCAMAN KEPUPUSAN		
“RARE”	“ENDEMIC”	“ENDARGERED”
Merujuk kepada pokok, pokok-pokok atau kelompok pokok yang terdiri daripada spesis yang jarang ditemui. Walau bagaimanapun jumlahnya masih banyak lagi untuk dikategorikan ke dalam kumpulan terancam.	Merujuk kepada pokok, pokok-pokok atau kelompok pokok yang terdiri daripada spesis pokok yang hanya didapati tumbuh di tempat-tempat tertentu sahaja yang mempunyai kesesuaian iklim, ekologi setempat, keadaan muka bumi serta komposisi tanah yang sesuai dengan pokok-pokok berkenaan.	Merujuk kepada pokok, pokok-pokok atau kelompok pokok yang sukar ditemui serta bilangannya sedikit dan sekiranya tidak dilindungi, besar kemungkinan pokok-pokok daripada spesis ini akan pupus.

PERINTAH  
PEMELIHARAAN POKOK



## Criteria of trees to be protected



- 1. Unique Characteristics (*Nilai istimewa*):** any tree that are possessing unique characteristic or value such as having a natural beauty or local value or contributing towards certain landscape area
- 2. Historical Value (*Nilai sejarah*):** any tree having historical value and planted more than 30 years and related historically to a particular place
- 3. Planted by a Leader (*Tanaman kenamaan*):** any tree planted by leader of a state or to commemorate dignitaries in an occasion and having national interest
- 4. Rare Species (*Spesis yang jarang dijumpai*):** any tree that is rare but abundance in number to be considered as endangered species
- 5. Endemic Species (*Spesis yang hanya tumbuh di tempat-tempat tertentu*):** Any tree that is found in certain area of climatic suitability, ecology, or soil compatibility
- 6. Endangered Species (*Spesis yang hampir pupus*):** any tree that is endangered and without protection shall be extinct.

## Historical Value



*Hevia brasilensis* at Kuala Kangsar among the first seed planted in Malaysia

## Historical Value



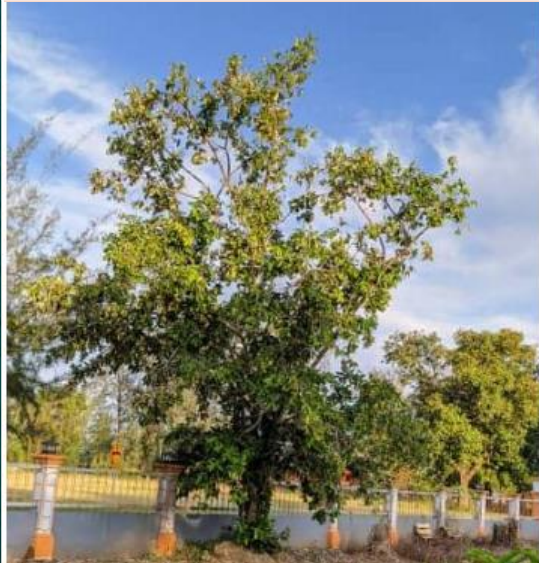
*Hevia brasilensis* at Seremban among the first seed planted in Malaysia

## Historical Value & Planted by a Leader



*Juniperus chinensis* at Sekolah Tuanku Abdul Rahman (STAR) planted by the 1<sup>st</sup> YDP Agong in 1958

**Unique Characteristics  
(local value & character)**



**Dungun tree (*Heritiera littoralis*) at Dungun**



**Unique Characteristics  
(local value & identity)**



**Ipoh tree (*Antiaris toxicaria*) at Dataran KTM Ipoh**



<https://www.bharian.com.my/taxonomy/term/2643/2017/04/276978/pokok-ipoh-tumbang-akibat-ribut>

**Unique Characteristics  
(mother tree)**



**Mahogany tree  
(*Swietenia macrophylla*) in Hulu Selangor**

Rare



*Durio testudinarum* (Durian  
Kura-kura)

Endemic



*Borassodendron  
machadonis* (Elephant Palm)  
A species of flowering plant

IUCN Red List of Threatened Species 1998

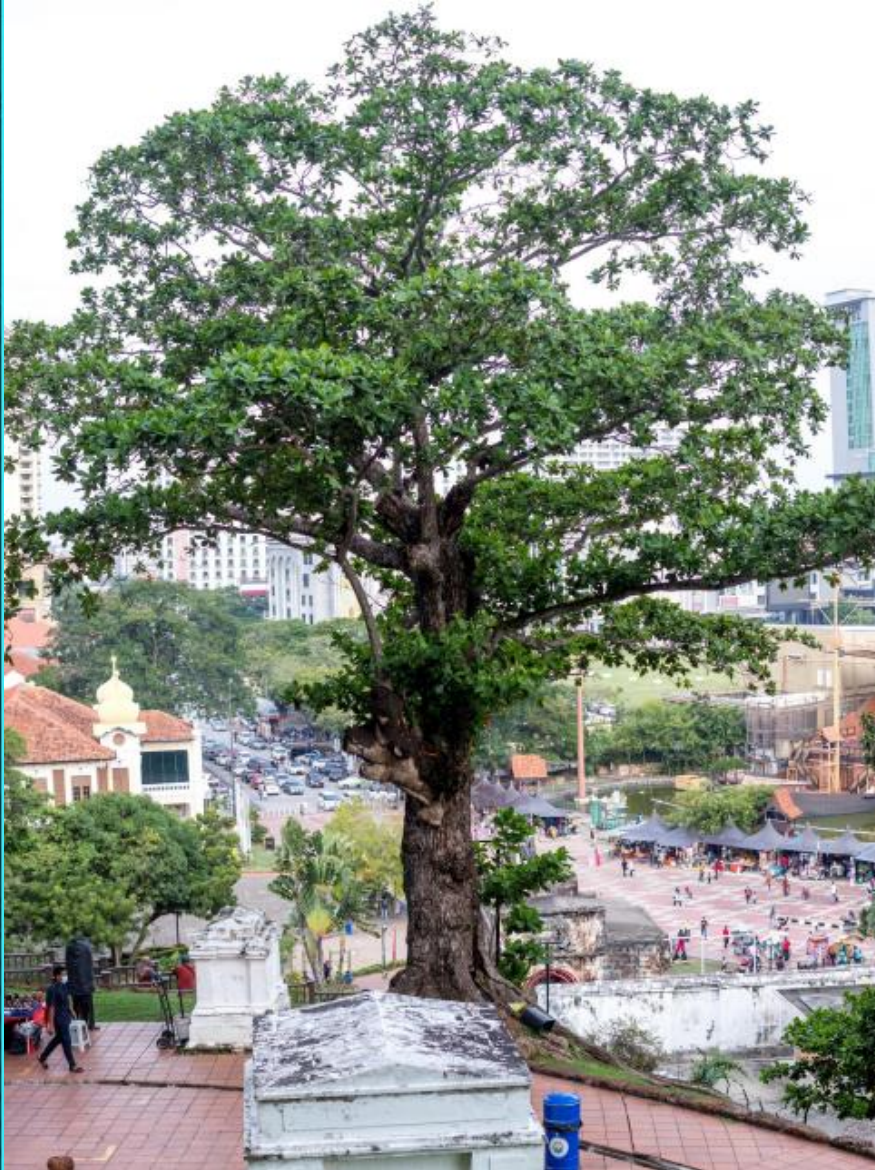
Endangered



*Shorea uliginosa* (Meranti  
Bakau) important source of  
'Red Meranti' timber

IUCN Red List of Vulnerable Species 2013

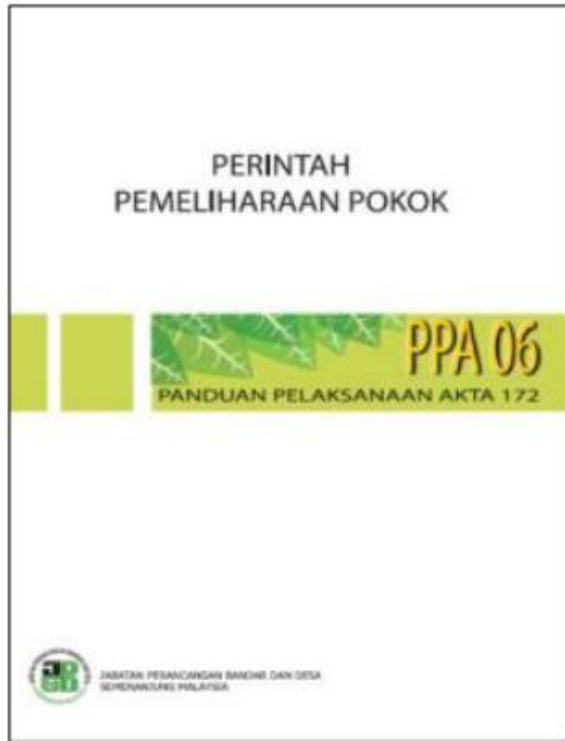




*What would be the best framework of tree preservation for a Heritage Town?*



**Jadual 1**  
**KATEGORI POKOK DI BAWAH PERINTAH PEMELIHARAAN POKOK**



ANCAMAN KEPUPUSAN		
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POKOK-POKOK DALAM KAWASAN PERLINDUNGAN		
Termasuk semua pokok yang telah ditakrifkan di dalam undang-undang bertulis lain dan pokok-pokok yang terletak di dalam kawasan yang diisytiharkan kawasan hutan simpan, kawasan tadahan air, kawasan pemeliharaan bukit dan lain-lain kawasan yang seumpamanya.		

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- 2. Historical Value (*Nilai sejarah*):** any tree having historical value and planted more than 30 years and related historically to a particular place

## KRITERIA PENENTUAN POKOK PPP

Kriteria penentuan PPP merangkumi lima (5) kriteria wajib dan lima (5) kriteria tambahan untuk penilaian asas dan dua (2) kriteria wajib untuk penilaian teknikal. Kriteria-kriteria ini adalah seperti yang ditunjukkan di bawah.

### PERINGKAT 1: PENILAIAN ASAS



#### KRITERIA WAJIB (5)

##### 1. Nilai Ekologi

1. Pokok yang menyebabkan kehadiran spesies unik atau pembentukan suatu ekosistem yang khusus
2. Pokok yang menjadi sumber makanan hidupan liar dan spesies pendatang
3. Pokok Induk (Mother Tree) yang menjadi sumber utama biji benih

##### 2. Nilai Kepentingan Spesies

1. *Endangered species*
2. *Rare species*
3. *Endemic species*

##### 3. Nilai Istimewa

1. Pokok yang mempunyai sejarah dan warisan
2. Pokok tanaman orang kenamaan
3. Pokok etnobotani

##### 4. Nilai Daya Tahan

1. Pokok penyerap CO<sup>2</sup> yang tinggi
2. Pokok yang membantu pengurangan hakisan dan pengukuhan tebing (hidrologi)

##### 5. Nilai Identiti

1. Pokok mercu tanda
2. Pokok yang memberi nama kepada sesuatu tempat
3. Pokok asal yang ditanam sewaktu pembentukan sesuatu kawasan
4. Pokok bernilai estetika

#### KRITERIA TAMBAHAN (5)

##### 1. Tarikan Pelancongan

1. Pokok yang menjadi tumpuan pelancong

##### 2. Nilai Hartanah

1. Pokok yang terbukti meningkatkan nilai hartanah

##### 3. Sempadan Pentadbiran PBT

1. Kawasan Operasi
2. Kawasan Pentadbiran

##### 4. Kawasan Tepu Bina

1. Bandar
2. Pinggir Bandar

##### 5. Ukur Lilit Pokok

1. Mempunyai ukur lilit melebihi 0.8m.

### PERINGKAT 2: PENILAIAN TEKNIKAL

#### KRITERIA WAJIB (2)

##### 1. Kesihatan Pokok

1. Pokok mempunyai tahap kesihatan yang signifikan.
2. Pokok bebas daripada penyakit.

##### 2. Risiko Pokok

1. Mempunyai baki jangka hayat yang signifikan
2. Mempunyai kestabilan struktur pokok yang baik
3. Tidak mendatangkan bahaya kepada orang awam dan harta benda

## PENENTUAN POKOK PPP

### PENILAIAN PENENTUAN POKOK PPP



Rajah 2-2 : Peringkat 1: Penilaian Asas dan Peringkat 2: Penilaian Teknikal

#### KRITERIA WAJIB

- i. Kriteria penting yang lebih khusus terhadap penilaian pokok untuk dikenakan PPP.
- ii. Dalam penilaian asas, perlu memenuhi sekurang-kurangnya satu untuk dibuat PPP.

#### KRITERIA TAMBAHAN

- i. Kriteria penting yang menilai kesesuaian PPP melalui aspek lain untuk mengukur keutamaan PPP.
- ii. Kriteria tambahan ini merupakan kriteria pilihan (*optional*) dalam membantu penentuan keutamaan Pokok berpotensi yang boleh dibuat PPP.

### SENARIO PENENTUAN PPP

SENARIO	PERINGKAT 1		PERINGKAT 2		KEPUTUSAN
	KRITERIA WAJIB	KRITERIA TAMBAHAN	KESIHATAN POKOK	RISIKO POKOK	
Senario 1	●	●	●	●	Pokok Berpotensi dilindungi di bawah PPP. Keutamaan pada Senario 1.
Senario 2	●	●	●	●	Pokok Berpotensi dilindungi di bawah PPP
Senario 3	●	●	●	●	
			Sekiranya pokok tidak memenuhi Peringkat ke-2 tetapi masih boleh dirawat/ diperbaiki.		PPP tidak akan dibuat
			Jika pokok tidak boleh dirawat atau diperbaiki		
Senario 4	●	●	Tidak perlu membuat peringkat ke-2		PPP tidak akan dibuat

● dipenuhi    
 ● Tidak dipenuhi    
 ● ● Antara satu sama ada dipenuhi atau tidak

Thank you