

TREE PRESERVATION ORDER

SHOALHAVEN CITY COUNCIL – Notice is hereby given that under the provisions of clause 8 of the Environmental Planning & Assessment Model Provisions 1980, as adopted by the City of Shoalhaven Local Environmental Plan 1985, the Council of the City of Shoalhaven has by resolution adopted at its meeting of 20 January 2004, firstly, rescinded any Tree Preservation Order made prior to this notice, and secondly, made a Tree Preservation Order as set out hereunder:

1. Citation

This Order may be cited as “City of Shoalhaven Tree Preservation Order 2004”.

2. Commencement

This Order commences on the date of its notification in the NSW Government Gazette.

3. Application of the Order

- i) This Order prohibits the ring-barking, cutting down, lopping, topping, removing, injuring, poisoning or wilful destruction of any tree growing on land within the City of Shoalhaven and as particularly described in Schedules 1 and 2, without the written consent of Council.
- ii) This Order does not apply:
 - a) to those works listed in Schedule 4 unless the tree is located on land listed in Schedules 1 and 2.
 - b) to those works listed in Schedule 3 or any tree listed in Schedule 5.

4. Relationship to an environmental planning instrument or development control plan.

If this Order is inconsistent with any environmental planning instrument (EPI), made before or after this Order, or development control plan (DCP) adopted by the Council of the City of Shoalhaven before or after this Order, the EPI or DCP prevails to the extent of the inconsistency.

Note: There may be other legislation controlling the removal of trees within the Shoalhaven, which overrides this Order. For example Council’s local environmental plan has provisions controlling vegetation removal. Further information is contained within Council’s Tree Management Policy.

5. Definitions

- i) Under this Order, trees are defined as a perennial plant with at least one self-supporting woody or fibrous stem, being:
 - a) More than 5 metres tall; or
 - b) More than 5 metres wide across the foliage crown; or
 - c) Having a trunk circumference of more than 500 millimetres measured 1 metre above ground level;

But does not include the tree species referred to in Schedule 5.

- ii) The definitions cited in the Council of the City of Shoalhaven Tree Management Policy are adopted for the purposes of this Order.

Schedule 1

- Land where there are any conditions of development consent or “Section 88B” restriction to user instruments relating to the land that restrict part or all of the activity; or
- The tree or the land it is on is a heritage item or in a heritage conservation area; or
- Land within 20 metres of the edge of a water body (including riparian areas); or
- Land where Shoalhaven City Council Development Control Plan 62 “Residential Development in Foreshore Areas” applies; or
- Within 30metres of a rural road boundary.

Schedule 2

- i) Lands in the following Deposited Plans: 8362, 8399 (zoned Rural only)¹, 8590, 8591, 8592, 8769, 8770, 8771, 8772, 9063 (zoned 1(g) only), 9699 (zoned Rural only), 9897, 11629, 11388, 14958, 14959, 15559, 27575 (north of Woollamia Road only), 27814, 29970, (Lots 76-106 only), 877898, 877899, 877900.²
- ii) Toona Australis (Red Cedar) on any land.
- iii) Land supporting rainforest vegetation species as identified on Sheet 6 of 17 sheets titled Policy Map Land Supporting Rainforest Vegetation Species, Illawarra Regional Environmental Plan No. 1.

Schedule 3

- Tree works for the purposes of Bushfire Hazard Reduction Work carried out under the Bush Fire Environmental Assessment Code 2003.
- Wire Clearance – any work carried out under Section 48 of the Electricity Supply Act 1995
- Emergency Works – any work carried out by Council, the State Emergency Services, the Rural Fire Service of NSW, or a public authority in response to an emergency.
- Tree works carried out by Council or its agents on land owned or under the care and control of Council, provided that assessment of the tree work has been carried out in accordance with this policy.
- Severe Weather Event or Windstorm – any work to prune or remove a tree posing an immediate risk to persons or property during or immediately following a storm event (within 3 days) where the land owner has:
 - Given verbal notification to Council, via either the normal enquiry process or outside normal working hours on Council’s after hours emergency number, the following details; name of caller, address of property, location of tree within the property, approx size of tree, species of tree, reason for the work (eg broken branches, broken trunk, roots lifting, severe lean etc) and the name of the person or company undertaking the work.

¹ Amendment by Government Gazette 15 June 2007

² Amendment by Government Gazette 11 May 2007

- Where contact cannot be made with Council, all of the above information must be recorded by the tree owner and forwarded to Council within 14 days of the removal. It is also recommended that the tree owner take photographs and obtain a statement or report from the person removing the tree (eg arborist, SES etc) confirming the hazard.
- Crown Maintenance Pruning in accordance with the Australian Standards for Pruning of Amenity Trees, by up to ten percent (10%) in any one year.
- Removal of field grown trees from approved or permitted commercial horticultural or agricultural enterprises specifically producing advanced tree specimens for reselling
- Tree removal approved by a current Development Consent issued by Council.

Schedule 4

- Tree works on private land or *land under the care, control and management of Council*³, where any part of a tree is above a line 45° from the vertical extension of the wall of any building measured from its base; or
- Tree works within six (6) metres of an approved dwelling; or three (3) metres of an approved garage or outbuilding; zoned residential under Shoalhaven Local Environmental Plan 1985; or
- Tree works within twelve (12) metres of an approved dwelling; or six (6) metres of an approved garage or outbuilding; or six (6) metres of a rural fence; zoned rural under Shoalhaven Local Environmental Plan 1985; or
- Tree works on land zoned rural 1(a), 1(b) and 1(d) under Shoalhaven Local Environmental Plan 1985.

Schedule 5

Any of the following species, regardless of size (unless listed as a Heritage Item, growing within the curtilage of a Heritage Item, or within a Heritage Conservation Area under Shoalhaven Local Environmental Plan 1985) are exempt from this policy:

Fruit trees being specifically grown for their edible fruit for human consumption

Cootamundra Wattle	<i>Acacia baileyana</i>
Black Wattle	<i>Acacia decurrens</i>
Cape Leeuwin Wattle	<i>Albizia lophantha</i>
Evergreen Alder	<i>Alnus jorullensis</i>
Tree Lucerne	<i>Chamaecytisus sp</i>
Indian Coral Tree	<i>Erythrina x sykesii</i>
Silky Oak	<i>Grevillea robusta</i>
Privet	<i>Ligustrum species</i>
African Olive	<i>Olea africana</i>
Canary Island Date Palm	<i>Phoenix canariensis</i>
Sweet Pittosporum	<i>Pittosporum undulatum</i>
Umbrella Trees	<i>Schefflera species</i>
Cocos or Queen Palm	<i>Syagrus romanzoffianum</i>
Rubber Trees	<i>Ficus elastica</i>

³ Amendment by Government Gazette 17 September 2004

Any of the following species only if less than 10metres tall:

Camphor Laurel	<i>Cinnamomum camphora</i>
Liquidambar	<i>Liquidambar styraciflua</i>
Radiata Pine	<i>Pinus radiata</i>
Poplars	<i>Populus species</i>
Willows	<i>Salix species</i>

Any tree that is listed as a Declared Noxious Weed in the Shoalhaven City Council area (unless growing within the curtilage of a Heritage Item under Shoalhaven Local Environmental Plan 1985).