KOGARAH CITY COUNCIL - TREE PRESERVATION

5.9

Preservation of trees or vegetation

(1)   The objective of this clause is to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation.

(2)   This clause applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan made by the Council.

   Note. A development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or other manner.

(3)   A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:

   (a)   development consent, or
   (b)   a permit granted by the Council.

(4)   The refusal by the Council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the Council to grant consent for the carrying out of the activity for which a permit was sought.

(5)   This clause does not apply to a tree or other vegetation that the Council is satisfied is dying or dead and is not required as the habitat of native fauna.

(6)   This clause does not apply to a tree or other vegetation that the Council is satisfied is a risk to human life or property.

Part 5   Miscellaneous provisions

(7)   A permit under this clause cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation:

(a)   that is or forms part of a heritage item or that is within a heritage conservation area, or

(b)   that is or forms part of an Aboriginal object or that is within an Aboriginal place of heritage significance, unless the Council is satisfied that the proposed activity:

(c)   is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area, and

(d)   would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.

Note. As a consequence of this subclause, the activities concerned will require Development consent. The heritage provisions of clause 5.10 will be applicable to any such consent.

(8)   This clause does not apply to or in respect of: (a)   the clearing of native vegetation:

(i)   that is authorised by a development consent or property vegetation plan under the *Native Vegetation Act 2003*, or

(ii)   that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or

(b)   the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the *Native Vegetation Act 2003*) that is authorised by a development consent under the provisions of the *Native Vegetation Conservation Act 1997* as continued in force by that clause, or

(c)   trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the *Forestry Act 1916*, or

(d)   action required or authorised to be done by or under the *Electricity Supply Act 1995*, the *Roads Act 1993* or the *Surveying and Spatial Information Act 2002*, or

(e)   plants declared to be noxious weeds under the *Noxious Weeds Act 1993*.

Note. Permissibility may be a matter that is determined by or under any of these Acts.

(9)   Subclause (8) (a) (ii) does not apply in relation to land in Zone R5 Large Lot Residential, E2 Environmental Conservation, E3 Environmental Management or E4 Environmental Living.

5.9AA
Trees or vegetation not prescribed by development control plan

(1)   This clause applies to any tree or other vegetation that is not of a species or kind prescribed for the purposes of clause 5.9 by a development control plan made by the Council.

(2)   The ring barking, cutting down, topping, lopping, removal, injuring or destruction of any tree or other vegetation to which this clause applies
is permitted without development consent.