



Tree Preservation Order

1 Definitions

In this Order:

- **“Council”** means the Council of Warringah or any Officer authorised to act on behalf of the Council.
- **“Height”** means the distance measured vertically between the horizontal plane of the lowest point of the base of the tree which is immediately above ground and the horizontal plane of the uppermost point of the tree.
- **“Cutting down”** means clearing, thinning, killing, poisoning, burning, slashing, uprooting or removing or substantially damaging vegetation. Pruning of branches means cutting in a planned and systematic manner that is carried out in accordance to the Australian Standard AS 4373, “Pruning of Amenity Trees”. Cutting down in relation to a tree, means cut down, fell, destroy, kill transplant or uproot a tree.
- **“Lopping and Topping”** means the cutting of branches or stems between branch unions or at internodes on young trees.
- **“Removal or wilful destruction of a tree”** means:
 - a) lopping and topping; or
 - b) poisoning, including applying herbicides and other plant toxic chemicals to a tree or spilling (including washing off or directing water contaminated by) oil, petroleum, paint, cement, mortar and the like onto the root zone; or
 - c) cutting tearing of branches and roots that is not carried out in accordance with accepted arboricultural practices, or is done for invalid reasons; or
 - d) ringbarking, scarring the bark when operating machinery, fixing objects (eg signs) by nails, staples or wire, using tree climbing spikes in healthy trees marked for retention (except for access to an injured tree worker) or
 - e) fastening materials that circle and significantly restrict the normal vascular
 - f) function of the trunk or branches; or
 - g) damaging a trees root zone by compaction or excavation, asphyxiation (including unauthorised filling or stockpiling of materials); or
 - h) underscrubbing, unless carried out by hand tools, such as brushcutters and the like.
- **“Tree”** means a palm or a woody perennial plant greater than five (5) metres in height and /or ten (10) metres in canopy width.
- **“Arborist”** means a consultant who holds qualifications in horticulture as well as qualifications in arboriculture.

- “**Owner**” has the meaning ascribed to it in the *Local Government Act 1993* (as amended).
- “**Ring Barking**” means the removal of the outside layers of the tree with the aim of causing death or destruction of the tree through disruption of water and nutrient transportation.

2 Preservation of Trees

2.1 The objective of this clause is to preserve the amenity of the area through the preservation of trees.

2.2 **Land to which this Order applies:** This Order applies to all land within the Warringah Council area, to which the Warringah Local Environment Plan 2000 applies.

2.3 A person must not ringbark, cut down, top, lop, poison, remove, injure or wilfully destroy any tree to which this Order applies without the authority conferred by:

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

2.4 Consents

- a) Any application for consent to cut down, prune, remove, or transplant a tree or trees shall be made on Council's Tree Preservation Order Application by the owner of the land. The cutting down, pruning or removal by persons other than the owner must have written permission from the owner.
- b) Any consent issued under this Order, other than a consent referred to in clause 4(c), is only valid for a twelve (12) month period from the date of the application.
- c) Any consent issued under this Order in conjunction with a subdivision approval granted under the *Environmental Planning and Assessment Act, 1979*, shall lapse if the subdivision approval or development consent lapses or becomes invalid or void.
- d) Any consent issued under this Order shall be subject to the condition that the subject works shall not be carried out unless the consent or a copy of the consent is:
 - i) displayed on the land on which the works are to be carried out in a position that is readable from a public road which has a common boundary to the land prior to the commencement of and during the carrying out of works; and
 - ii) on demand by a Council Officer the Order shall be produced by the person or persons carrying out the work
- e) All work carried out pursuant to a consent issued under this Order must be carried out in accordance with the *Australian Standards 4373-1996 "Pruning of Amenity Trees"* and in accordance with the *Electricity Supply Act 1995*.

2.5 The refusal by the Council to grant consent to a person who has duly applied for the grant of the consent is taken for the purposes of the *Environmental Planning and Assessment Act, 1979*, to be a refusal by the Council to grant consent for the carrying out of the activity for which a consent was sought.

2.6 Prohibition

Except as otherwise provided in this Order, a person shall not ringbark, cut down, top, lop, poison, remove or wilfully destroy any tree except with the consent of Council under this Order and in accordance with any consent and any conditions thereof.

2.7 Relationship to Native Vegetation Conservation Act 1997

These provisions do not apply in areas or to vegetation, including trees, to which the Native Vegetation Conservation Act 1997 applies.

2.8 Exemptions

Such a consent or permission is not required in relation to the following trees:

- a) any tree, if documented evidence can be produced that is satisfactory to the Council to prove that:
 - i) the tree was dead, or
 - ii) the tree is declared by a qualified arborist to be an imminent danger to property or life, or
 - iii) taking the action concerned with respect to the tree was reasonably necessary to protect human life, buildings or other property from imminent danger from a bush fire burning in the vicinity of the land on which the tree was situated,
- b) any tree with a height less than five (5) metres and with a foliage crown spread of less than ten (10) metres, but only if the tree is not a heritage item or part of a heritage item and is not within a heritage conservation area,
- c) trees where less than ten (10) percent of the trees branches and foliage are pruned so as to cause the reduction by more than 10% of the air space occupied by the branches and foliage, or removal of the tree root system within the drip line of the tree over a period of twelve (12) calendar months,
- d) any tree which is identified for removal in a development consent authorising a land use, but only if removal occurs after a construction certificate has been issued in relation to that land use, and the tree is not a heritage item or part of a heritage item and is not within a heritage conservation area,
- e) all trees that are located within the pathway of a roadway, sewerage or drainage works or other works, including bush regeneration works, authorised to be carried out by a development consent or an approval obtained in accordance with Part 5 of the *Environmental Planning and Assessment Act 1979* by a public authority, but only if the tree is not a heritage item or part of a heritage item and is not within a heritage conservation area,
- f) trees of any of the following species (exempt trees and environmental weeds in Warringah):

i)	<i>Acacia baileyana</i>	Cootamundra Wattle
ii)	<i>Acacia saligna</i>	W A Glory Wattle
iii)	<i>Albizia lophantha</i>	Crested Wattle
iv)	<i>Ailanthus altissima</i>	Tree of Heaven
v)	<i>Araucaria bidwillii</i>	Bunya Bunya Pine
vi)	<i>Brachychiton acerifolius</i>	Illawarra Flame
vii)	<i>Cassia spp</i>	Cassia

viii)	<i>Chamaecyparis</i> spp	Cypress Pine
ix)	<i>Cinnamomum camphora</i>	Camphor Laurel
x)	<i>Cotoneaster glaucophyllus</i>	Cotoneaster
xi)	<i>Cupressus</i> spp	Cypress Pine
xii)	<i>Erythrina</i> spp	Coral Tree
xiii)	<i>Ficus benjamina</i>	Weeping Fig
xiv)	<i>Ficus elastica</i>	Rubber Tree
xv)	<i>Gleditsia triacanthos</i>	Honey Locust
xvi)	<i>Grevillea robusta</i>	Silky Oak
xvii)	<i>Harpephyllum caffrum</i>	Kaffir Plum
xviii)	<i>Lagunaria patersonii</i>	Norfolk Island Hibiscus
xix)	<i>Liquidambar styraciflua</i>	Liquidambar
xx)	<i>Morus</i> spp	Mulberry
xxi)	<i>Olea africana</i>	Wild Olive
xxii)	<i>Persea gratissima</i>	Avocado
xxiii)	<i>Populus</i> spp	Poplars
xxiv)	<i>Pyracantha angustifolia</i>	Orange Fire Thorn
xxv)	<i>Raphiolepis indica</i>	Indian Hawthorn
xxvi)	<i>Robina pseudoacacia</i>	Black Locust
xxvii)	<i>Salix babylonica</i>	Weeping Willow
xxviii)	<i>Schefflera actinophylla</i>	Umbrella Tree
xxix)	<i>Syagrus romanzoffiana</i>	Cocos Palm

g) This clause does not apply to or is in respect of:

- i) trees within a State Forest, or land reserve from sale as a timber or forest reserve under the *Forestry Act 1916*, or
- ii) trees in a National Park within the meaning of the *National Parks and Wildlife Act 1974*, or
- iii) action required or authorised to be done by or under the *Electricity Supply Act 1995*, the *Electricity Supply (General) Regulation 2001*, the *Electricity Safety Act 1945*, the *Roads Act 1993* or the *Surveying Act 2002*, or
- iv) plants declared to be noxious weeds under the *Noxious Weeds Act 1993*, including the following trees:

i)	<i>Acacia karo</i>	Karoo Thorn
ii)	<i>Ligustrum lucidum</i>	Large Leaf Privet
iii)	<i>Ligustrum sinense</i>	Small Leaf Privet
iv)	<i>Salix</i> spp (except <i>S babylonica</i> , <i>S calodendron</i> & <i>S reichardtii</i>)	Willows
v)	<i>Toxicodendron succedaneum</i>	Rhus Tree

h) any trees which are:

- i) in an area in which the Council has authorised their removal as part of a hazard reduction program, where that removal is necessary in order to manage risk,
 - ii) required to be removed under the *Rural Fires Act 1997*, or
 - iii) removed by a Rural Fire Brigade because they pose or will pose a significant threat to access along required fire trails or to human life, buildings or other property during a bushfire.
- i) any tree which has become dangerous from actions associated with hazard reduction burns undertaken in accordance with an approval obtained in

accordance with Part 5 of the *Environmental Planning and Assessment Act 1979*, or a bushfire,

- j) any tree the immediate removal of which is essential for emergency access, or emergency works by the Council, the State Emergency Service or a public authority,
- k) trees that are required or authorised to be removed, trimmed or pruned in accordance with the *Environmental Planning and Assessment Act, 1979*, or an instrument made under it.

2.9 **Pruning** - Nothing in this clause requires permission of the Council for the following:

- a) deadwooding", being the removal of deadwood from a tree,
- b) to remove any species of parasite mistletoe or parasitic plant from any part of a tree to ameliorate the effects on the tree from such a parasite.

2.10 This clause does not allow pruning of a tree unless it is carried out in accordance with *Australian Standard AS 4373-1996, Pruning of Amenity Trees*.

2.11 Transplanting

The following may be transplanted without the permission of the Council:

- a) specimens that have originated in and have grown continuously in a container which is not permanently fixed to a structure,
- b) a tree that has remained continuously confined within a container, but not a tree in a planter box where the box is part of a building,
- c) a field-grown tree propagated as part of a commercial horticultural or agricultural enterprise for the purposes of harvesting and selling it as an advanced specimen for relocation and re-establishment.

2.12 The Council, may by its Order, specify particular trees, or trees of a species or other class, to be likely habitat trees for the purposes of this clause.

