



On Public Exhibition

Preservation and Removal of Trees or
Vegetation

Development Control Plan (Chapter 21)

Exhibition period

From Thursday 27 March 2025 to Thursday
24 April 2025

How to make a Submission

Submissions must be received in writing and addressed to
The Chief Executive Officer, Dharawal Country,
Locked Bag 155 Shellharbour City Centre, 2529
or sent by email to council@shellharbour.nsw.gov.au

PRIVACY & PERSONAL INFORMATION PROTECTION NOTICE

The personal information contained in your submissions is collected by Shellharbour City Council for the purpose of corresponding with you about your submission. If you make an anonymous submission, Council will be unable to contact you further.

The information is intended for use by Council to assist in its decision making processes. The content of your submission may be summarised and attached to a Council Report and displayed on Council's website, your personal information will not be included. The submission will be stored in Council's electronic records management system. You can apply to Council to access and correct your personal information. Please see Council's Privacy Management Plan available on Council's website or contact Council's Privacy Officer on 4221 6111 for more information.

CHAPTER 21 - PRESERVATION AND REMOVAL OF TREES OR VEGETATION

Objectives

1. To provide the circumstances where trees or vegetation require an approved Vegetation Removal Application to ringbark, cut down, top, lop, remove, injure or wilfully destroy them.
2. To provide advice on public tree/vegetation removal and maintenance.
3. To preserve the amenity of the city, including biodiversity values, through the preservation of trees and other vegetation.

Note: This chapter applies to relevant zones under LEP 2013. For tree/vegetation removal on land not in LEP 2013, contact Council's Customer Services Section.

ADVICE

- 21.1 The *State Environmental Planning Policy (Biodiversity and Conservation) 2021* (The SEPP) and Part 4 of the *Environmental Planning and Assessment Act 1979* must be referred to for the proposed removal of tree and other vegetation.
- 21.2 The SEPP applies to vegetation in non – rural areas in the City. Refer to the SEPP for the relevant LEP 2013 zones. This Chapter nominates Declared Vegetation as required by the SEPP.
- 21.3 A Vegetation Removal Application (VRA) must be lodged with Council for all vegetation management works where it is proposed prune or remove vegetation.
- 21.4 Tree Works for Declared Vegetation will only be approved where Council is satisfied the vegetation is dead, dying or poses are risk to property or life.
- 21.5 Trimming or pruning branches to mitigate risk to property or life will be considered before removal.
- 21.6 The removal or pruning of trees for the improvement of views and/or drops unwanted material will not be an acceptable reason for the removal or pruning of Declared Vegetation.
- 21.7 Council will only undertake Tree Works for trees on public land to mitigate risks to property, life or damage to public assets. The following reasons are not considered in determining tree works:
 - a. Improvement of views
 - b. Dropping of unwanted materials, such as leaves, sticks, sap/resin, flowers, fruit or animal droppings
 - c. Interference with private structures
 - d. Shading of solar panels, except where Council planted the trees after the installation of the panels.
- 21.8 A VRA is still required where the application relates to Exempt Vegetation (Clause 21.10). Council's concurrence for tree works must be received prior to commenced of works.
- 21.9 The property owner must plant a suitable native replacement tree on their property or pay a contribution for Council to plant the tree on public land, where:

- An approved VRA is issued to remove Declared Vegetation or Exempt Vegetation (21.10 (a)), except dead branch removal or similar maintenance works; or
- Exempt species greater than 30cm in diameter measured at natural ground level.

Declared Vegetation

21.10 Vegetation is declared in accordance with the SEPP, if it meets any one or more of the following criteria:

- is 5 metres or more in height;
- has a trunk diameter of 30 cm or more at natural ground level;
- is a hollow bearing tree where the hollow is being used for shelter, roosting or nesting;
- it is a requirement of a Development Notice of Determination Consent that the vegetation is to remain.
- any vegetation listed as a threatened species as defined under clause 1.6 of the *Biodiversity Conservation Act 2016* (BC Act) or other relevant legislation (see list of legislation at end of this chapter).

Exempt Vegetation

21.11 A tree or other vegetation is exempt from being declared where:

- They are located within 3 metres, measured from the structure wall to the centre of the main trunk, of an existing approved habitable dwelling (note, habitable building does not include any deck, garage, garden shed or other ancillary building or structure), except:
 - they are not a heritage item or within a heritage conservation area; or
 - Where they are to remain as a requirement of a Development Notice of Determination Consent.
- Removal of dead branches attached to trees.
- they are identified as a noxious weed under the *Biosecurity Act 2015*.
- they are approved for removal under a Development Notice of Determination Consent.
- they are a specific species within an approved plantation grown for a commercial use.
- emergency works are carried out by Council, State Emergency Service, Rural Fire Service, or other emergency service authority in response to an emergency in the threat of injury to persons or damage to property.
- they are ordered under the *Electricity Supply Act 1995*, the *Roads Act 1993* and the *Surveying Act 1993*.
- bush fire reduction work is undertaken, authorised by the NSW Rural Fire Service under the *Rural Fires Act 1993*.
- the works are undertaken by Council or a contractor acting on behalf of Council on Council owned land or Council managed land.
- they are identified in the following **Table 21.1 Exempt Species**.

21.12 Exempt Vegetation does not apply to any tree or vegetation which:

- Is classified as being part of a vulnerable, threatened or endangered ecological community, or provides (or has the potential to provide) habitat for native fauna, or fauna classified as vulnerable or threatened under the relevant Act;
- Is located on a site that is classified as containing vulnerable, threatened or endangered ecological communities;
- Is, or forms part of, a heritage item or is within a heritage conservation area;
- Is required to be retained by the conditions of a development consent or a Section 88B restriction on the use of the land or positive covenant instrument;
- Has trunk diameter greater than 30cm measured at a natural ground level.

Table 21.1 - Exempt species

BOTANICAL NAME	COMMON NAME
<i>Acer negundo</i>	Box Elder
<i>Acacia baileyana</i>	Cootamundra Wattle
<i>Acacia podalyriifolia</i>	Queensland Silver Wattle
<i>Acacia pycnantha</i>	Golden Wattle
<i>Acacia saligna</i>	Golden Wreath Wattle
<i>Afrocarpus falcatus</i>	African Fern Pine / Yellowwood
<i>Ailanthus altissima</i>	Tree of Heaven
<i>Alnus acuminata</i>	Evergreen Alder
<i>Cecropia spp.</i>	Mexican Bean Tree
<i>Celtis sinensis</i>	Chinese Celtis
Citrus Trees	
<i>Cinnamomum camphora</i>	Camphor Laurel
<i>Cupressus macrocarpa 'Brunniana'</i>	Golden Cypress Pine
<i>Erythrina crista-galli</i>	Cockspur Coral Tree
<i>Erythrina x sykesii</i>	Coral Tree
<i>Ficus elastica</i>	Rubber Tree
<i>Gleditsia triacanthos</i>	Honey Locust
<i>Grevillea robusta</i>	Silky Oak
<i>Harpephyllum caffrum</i>	Kaffir Plum
<i>Jacaranda mimosifolia</i>	Jacaranda
<i>Koelreutaria paniculata</i>	Golden Rain Tree
<i>Lagunaria pattersonii</i>	Norfolk Island Hibiscus
<i>Ligustrum lucidum</i>	Large Leaf Privet
<i>Ligustrum sinensis</i>	Small Leaf Privet
<i>Liquidambar styraciflua</i>	Liquidambar

<i>Morus alba</i>	White Mulberry
<i>Nerium oleander</i>	Oleander
<i>Olea spp.</i>	Olive Trees
<i>Phoenix canariensis</i>	Canary Island Date Palm
<i>Pinus radiata</i>	Radiata Pine
<i>Populus spp.</i>	Poplar Trees
<i>Prunus spp.</i>	Stone Fruit Trees
<i>Pyracantha spp.</i>	Firethorn
<i>Radermachera sinica</i>	China Doll
<i>Ricinus communis</i>	Castor Oil Plant
<i>Robinia pseudoacacia</i>	Black Locust
<i>Syagrus romanzoffianum</i>	Cocos or Queen Palm
<i>Schefflera spp.</i>	Umbrella Trees
<i>Schinus spp.</i>	Peppercorn / Pepper Tree
<i>Salix spp.</i>	Willow Trees
<i>Tecoma stans</i>	Yellow Bells
<i>Toxicodendron succedaneum</i>	Rhus Tree
<i>Triadica sebifera</i>	Chinese Tallow
<i>Ulmus parviflora</i>	Chinese Elm
<i>Yucca spp.</i>	Dagger Plant
<i>Fraxinus griffithii</i>	Himalayan ash

Pruning

21.13 All pruning must be carried out to the Australian Standard 4373-2007 *Pruning of Amenity Trees*. See Council's website.

Offset Planting

21.14 In order to maintain urban tree canopy cover, the applicant may be required to undertake compensatory activities to offset the impacts incurred through an approval to clear vegetation.

The number of replacement plantings required will be guided by the retention value of the tree to be removed which is determined through a recognised arboricultural assessment method such as the Institute of Australian Consulting Arboriculturists (IACA) Significance of a Tree Assessment Rating System (STARS) (IACA 2010). This assessment will be undertaken by Council.

Guidelines on the minimum offset ratio for replacement planting according to a tree's retention value is as follows:

- Low retention value – 1:1 – one (1) replacement native tree
- Medium retention value – 2:1 – two (2) replacement native trees
- High retention value – 3:1 – three (3) replacement native trees

For highly significant trees of remnant, heritage or cultural significance; or containing habitat features, replacement plantings of a minimum of 4:1 may be required.

If offset planting within the property where the tree(s) were removed is not possible then payment of a fee to Council, for Council to undertake tree replacement on Council owned/managed land on behalf of the applicant will be required.

Heritage Considerations

21.15 State Environmental Planning Policy (Biodiversity and Conservation) includes considerations for the clearing of vegetation that is or forms part of a heritage item or that is within a heritage conservation area or that is or forms part of an Aboriginal object or that is within an Aboriginal place of heritage significance. It must be minor or for maintenance and not adversely affect heritage significance to be considered under the SEPP. Refer to the SEPP. If it does not meet the SEPP's criteria, then development consent is required under Clause 5.10(2) of LEP 2013.

Note: Legislation to consider

The following relevant legislation must be consulted for the proposed removal of any vegetation.

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *Biodiversity Conservation Act 2016*
- *Biodiversity Conservation Regulation 2017*
- *Local Land Services Act 2013*
- *Local Land Management (Native Vegetation) Code*
- *Fisheries Management Act 1974*
- *Environment Protection and Biodiversity Conservation Act 1999*
- *Environmental Planning and Assessment Act 1979*
- *Shellharbour Local Environmental Plan 2013*