

<b>Name of policy:</b>	<b>Vegetation Management</b>		
<b>Adoption by Council:</b>	<b>24 July 2024</b>	<b>Minute number:</b>	<b>304/2024</b>
<b>Last Review Date:</b>	<b>July 2024</b>		
<b>Review timeframe:</b>	<b>4 years</b>		
<b>Next scheduled review date:</b>	<b>July 2028</b>		
<b>Related legislation:</b>	<p><b><i>State Environmental Planning Policy (Biodiversity and Conservation) 2021 - Chapter 2 Vegetation in non-rural areas</i></b></p> <p><b><i>Biodiversity Conservation Act 2016</i></b></p> <p><b><i>Biosecurity Act 2015</i></b></p> <p><b><i>Environmental Planning and Assessment Act 1979</i></b></p> <p><b><i>Environment Protection and Biodiversity Conservation Act 1999 (Cth)</i></b></p> <p><b><i>Gloucester Development Control Plan 2010</i></b></p> <p><b><i>Greater Taree Development Control Plan 2010</i></b></p> <p><b><i>Great Lakes Development Control Plan 2014</i></b></p> <p><b><i>Local Land Services Act 2013.</i></b></p>		
<b>Associated policies/documents:</b>	<p><b>Greening Strategy</b></p> <p><b>Biodiversity Framework</b></p> <p><b>Climate Change Strategy</b></p>		
<b>Responsible division:</b>	<b>Liveable Communities</b>		

## Policy objectives

The objectives of this Policy are to:

- identify vegetation for protection for the purposes of the *State Environmental Planning Policy (Biodiversity and Conservation) 2021 - Chapter 2 Vegetation in non-rural areas*;
- identify existing vegetation and land for the purpose of maintaining ecological values or landscape character and amenity;
- outline assessment criteria that will be taken into consideration by Council as part of the assessment of permit applications for pruning or removal of tree(s) or vegetation; and

- facilitate the pruning or removal of undesirable exotics, environmental weeds, priority weeds, dangerous trees and any other inappropriate plantings that are causing damage to buildings or other infrastructure.

### **Policy statement**

This Policy has been prepared pursuant to Part 2 of the *State Environmental Planning Policy (Biodiversity and Conservation) 2021- Chapter 2 Vegetation in non-rural areas*. Through this Policy, Council is responsible for issuing permits for the pruning or removal of tree(s) or vegetation on private land. These permits are determined based on the consideration of the assessment criteria outlined in this Policy.

### **Coverage of the Policy**

This Policy applies to private land as shown on Council's [online mapping](#) and in Schedule 1.

This mapping is based on a highly targeted approach, based on an area's contribution to significant ecological values (e.g. habitats or significant fauna species), amenity values or their contribution to the landscape character. Council's website provides an assessment of the targeted locations against the above criteria.

Urban areas such as Hawks Nest, Tinonee and Smiths Lake are covered by the Policy as they provide habitat for significant species such as koalas and squirrel gliders. These are important species; by retaining vegetation in these locations there can be benefits for many other fauna species. The Policy applies to villages like North Arm Cove, Bundabah and Pindimar which have a 'leafy' character that significantly contributes to the amenity of these villages.

Larger environmental sites around Coomba Park, Charlotte Bay, and Boolambayte, along with Large Lot Residential estates like Failford, and estates surrounding Wingham, Hallidays Point, Old Bar and Tea Gardens have been included in the Policy. These locations contain vegetation where typically there is important habitat or environmental corridors through the targeted area, or the sites link to neighbouring bushland, State Forests or National Parks.

In total the Policy covers around 8,800 properties, with a combined coverage of around 12,000ha. The Policy does not apply to larger towns like Forster, Taree, Gloucester, Tea Gardens and Bulahdelah, where the focus will be on working with the community to green their neighbourhoods.

This Policy does not apply to land identified on Council's [online mapping](#) and in Schedule 1, where:

- clearing can be undertaken under the NSW 10/50 Vegetation Clearing Code of Practice for bushfire prone land;
- clearing can be undertaken under the NSW Rural Fire Service Rural Boundary Clearing Code;
- the site is listed as a heritage item, an archaeological site or located within a heritage conservation area (refer to Schedule 5 of the relevant Local Environmental Plan);
- the site contains an Aboriginal object or is located within an Aboriginal place of heritage significance;
- the tree/vegetation retention is a condition of a development consent or s88B instrument as shown on the title of the property.

## Strategic plan link

Community Outcome 2: An integrated and considered approach to managing our natural and built environments

<i>2.1 We protect manage and restore our natural environment and our biodiversity</i>	<i>2.1.1 Protect, maintain and rehabilitate natural areas</i>
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## Policy content

We are experiencing urban growth across the MidCoast, especially in our coastal centres. While planning for this future growth, we need to ensure that the high levels of liveability and environmental amenity our region is renowned for are maintained.

Large trees are important, they can provide shade, wind protection, a 'leafy' character, a sense of place and contribute to the local ecology. Vegetation management controls are commonly used by councils over privately owned land to ensure that large trees and significant vegetation communities are retained for their landscape, amenity and ecological values. The Vegetation Management Policy requires an assessment to be undertaken prior to the pruning or removal of tree(s) or vegetation on land covered by this Policy.

There are three steps to this assessment as outlined below. If an exemption or approval is issued at a step in the process, there is no need to progress to the next step.

**Step 1: Exemptions:** A self-assessment can be undertaken to determine whether an exemption applies, removing the need to lodge an application for a permit under this Policy. Complete the self-assessment form to determine if an exemption applies. By submitting the completed assessment, Council can easily record the exemption for the pruning or removal of tree(s) and vegetation. This will also enable Council to monitor the completed self-assessments, and undertake compliance and enforcement if required.

If an exemption is obtained under Step 1, it must be displayed by the applicant at the front boundary of the property for at least two days prior and two days after the work for which the exemption was for. The exemption is valid for twelve months only, and the exemption process will need to be undertaken again after this time.

The exemption will include conditions for the removal of the exempt tree(s) or vegetation. The applicant will not be required to plant suitable replacement tree(s) if an exemption is obtained, but they will be encouraged to plant suitable replacement tree(s) on their property. The replacement planting is not to occur on public land, unless written agreement is provided by Council. The written agreement will outline the planting location and species to be planted by the applicant. The aim of this is to ensure the tree canopy cover is wherever possible not diminished, and trees are replaced when they are approved for removal.

If it is determined that the pruning or removal of the tree(s) or vegetation is not exempt under Step 1, a permit application must be lodged in accordance with Step 2.

**Step 2: Permit application (Preliminary assessment):** Where a permit application is required following the self-assessment, the applicant will lodge a permit application, relevant information and pay the fee (as determined by Council's Fees and Charges). Council will determine applications based on the 'assessment criteria' outlined in this Policy. During this assessment process, Council staff may conduct an on-site inspection.

**Step 3: Permit application (Detailed assessment):** Where a decision cannot be made after the preliminary assessment, additional information will be requested to complete the assessment. All costs associated with providing the additional information are the responsibility of the applicant.

Additional information could include the following:

- an Australian Qualification Framework (AQF) Level 5 Arborist Report;

*Note: An arborist cannot also be the ecologist, be employed or in any way associated with the company contracted to remove the tree(s) or vegetation.*

- flora and fauna impact assessment (by a suitably qualified and experienced ecologist);

*Note: An ecologist cannot also be the arborist, be employed, or in any way associated with the company contracted to remove the tree(s) or vegetation.*

*Note: In the case of a hollow bearing tree, a suitably qualified and experienced animal handler may be required to be on site to rescue any animals as the works are carried out. This will be a condition of the approval where applicable.*

- geotechnical or structural engineer's report where the removal is associated with the tree's impact on a built structure;
- plumber's report where the removal is associated with the tree's impact on sewer or water infrastructure;
- medical certificate from a medical practitioner in cases where the pruning or removal is requested due to health-related impacts (e.g. allergies);
- survey of the property boundary to determine the location of the tree(s) or vegetation.

If the permit application is successful in Step 2 or Step 3, Council will notify the landowner and provide a Council issued permit. If the permit application is unsuccessful, Council will notify the landowner that no works can be undertaken on the tree(s) or vegetation.

The permit will include conditions for the removal of the tree(s) or vegetation. This may include a requirement for replacement tree(s) or vegetation on the property within three months of the removal due to the environmental impact and/or the impact of the removal on the landscape. As part of the permit conditions, the applicant will be required to notify Council of the planting location(s) of the replacement tree(s) or vegetation.

The Council issued permit must be displayed by the applicant at the front boundary of the property for at least two days prior and two days after the work for which consent was given. The permit is valid for twelve months only, and the permit will need to be renewed after this time and the permit application fee will apply.

### **Assessment criteria**

Schedules 2, 3 and 4 are referred to during a self-assessment process and the assessment of a permit application. Schedule 2 provides guidance on significant local trees, while Schedule 3 identifies species that could be identified as exempt during a self-assessment process and the assessment of a permit application. Schedule 4 lists potential exemptions available under the self-assessment process, subject to eligibility.

The following criteria are considered in the assessment of a permit application:

- whether the removal of the tree(s) or vegetation is associated with a development that requires consent under Part 4 of the *Environmental Planning and Assessment Act 1979*;
- extent that the tree(s) or vegetation are in poor condition or in a state of decline that is prolonged and irreversible;
- extent that the tree(s) or vegetation have, or likely will, cause significant damage that poses an unacceptable risk to human life or property;
- extent that the tree(s) or vegetation obstructs, or would be likely to obstruct, accessways, utility services and drainage lines;
- extent of impact on threatened species, their habitat (e.g. a hollow bearing tree) or ecological communities and their contribution to the local ecosystem and biodiversity;
- extent to which pruning of the tree(s) or vegetation would be more practical and desirable than its removal;
- extent of contribution of the existing tree(s) or vegetation to the provision of privacy, landscaping, scenic values, heritage values or protection from the sun, wind, noise, smells or smoke or the amenity of the land on which it is situated;
- extent of any impact of the tree(s) or vegetation on waterways, soil stability, the water table or other natural features of the land or locality concerned;
- demonstrated and consistent ongoing problem with the tree(s) or vegetation;
- if the tree(s) or vegetation is to be removed, whether a replacement tree(s) or vegetation should be planted;
- intrinsic value of the tree(s) or vegetation to public amenity.

The following will generally not justify the removal of tree(s) or vegetation:

- dropping of leaves, flowers, fruit, bark, sap or twigs into gutters, downpipes, cars, driveways, lawns or pools;
- enhancing views, solar access, street lighting, increase natural light or increase sunlight to garden areas;
- reducing minor lifting of driveways and paths by tree roots or impacts to minor structures or to erect a fence;
- for bushfire hazard control which has not been approved by the NSW Rural Fire Service (RFS) or Council;
- damage to sewer mains unless supported by written expert advice and only where reasonable alternatives are not feasible such as the relocation or encasement of main, and the trees causing the damage can be identified;
- damage to buildings or structures which have not been built in accordance with the relevant planning controls and legislation in force at the time of construction or where alternative tree sensitive construction measures could be undertaken.

## Compliance

Clearing as described by *State Environmental Planning Policy (Biodiversity and Conservation) 2021- Chapter 2 Vegetation in non-rural areas* (the SEPP) can be considered as 'development' for the purposes of the *Environmental Planning and Assessment Act 1979*. Before removing or pruning can be lawfully carried out, a Council issued permit approval must be obtained.

The NSW Department of Planning, Industry and Environment considers that a breach of the SEPP constitutes an offence against section 4.3(a) of the *Environmental Planning and Assessment Act 1979*. This can be enforced through the existing penalty notice regime, prosecution in the Local Court or prosecution in the Land and Environment Court.

Failure to comply with the conditions of a permit is also considered a breach of *State Environmental Planning Policy (Biodiversity and Conservation) 2021- Chapter 2 Vegetation in non-rural areas*.

## Definitions

**Crown maintenance pruning:** as defined in Australian Standard AS 4373-2007, "Pruning of Amenity Trees", and is considered to involve a reduction in tree foliage and branches (i.e. the airspace occupied by the tree) by up to 10% in any five years with no reduction in the height of the main trunk.

**Dead tree:** means a tree that is no longer capable of performing life processes in order to survive.

**Destroy:** means any activity leading to the death, disfigurement, or mutilation of a tree.

**Development:** has the same meaning of development in section 1.5 of the *Environmental Planning and Assessment Act 1979*.

**Injury:** means damage to a tree or vegetation and includes:

- lopping and topping; or
- 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
- cutting and tearing of branches and roots that is not carried out in accordance with accepted arboricultural practices, does not qualify as "pruning", or is done for invalid reasons; or
- ring barking, scarring the bark when operating machinery, fixing objects e.g. 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 fastening materials that circle and significantly restrict the normal vascular function of the trunk or branches; or
- damaging a tree's root zone by compaction or excavation, asphyxiation (including unauthorised filling or stockpiling of materials); or
- under-scrubbing or slashing unless very minor in extent and carried out by hand tools such as brush cutters and the like.

**Lopping:** means cutting between branch unions or at internodes on a young tree.

**Native vegetation:** means any of the following types of plants native to New South Wales:

- trees (including any sapling or shrub, or any scrub); or
- understorey plants; or
- groundcover (being any type of herbaceous vegetation); or
- plants occurring in a wetland.

**Pruning:** is defined as all other pruning which is not “crown maintenance pruning” and includes “crown modification” as defined in Australian Standard AS 4373-2007, “Pruning of Amenity Trees”.

**Remove:** means to cut down, clear, take away, or transplant a tree from its place of origin.

**Threatened species:** as defined in the *Biodiversity Conservation Act 2016* and/or the *Environment Protection and Biodiversity Conservation Act 1999* which includes native species, populations and ecological communities of flora and fauna.

**Topping:** means cutting away part or all of the tree canopy leaving a trunk and stubbed main branches.

**Tree:** means a perennial plant with at least one self-supporting woody or fibrous stems which:

- is 5 metres or more in height; or
- has a girth (circumference) greater than 600mm at 1 metre above the ground

**Vegetation:** means a tree or other vegetation, whether or not it is native vegetation.

#### **References and related documents**

- Greening Strategy
- Biodiversity Framework
- Climate Change Strategy

#### **Responsible officer (position)**

Manager Natural Systems

## **Attachments**

Schedule 1: Mapped area where this Policy applies

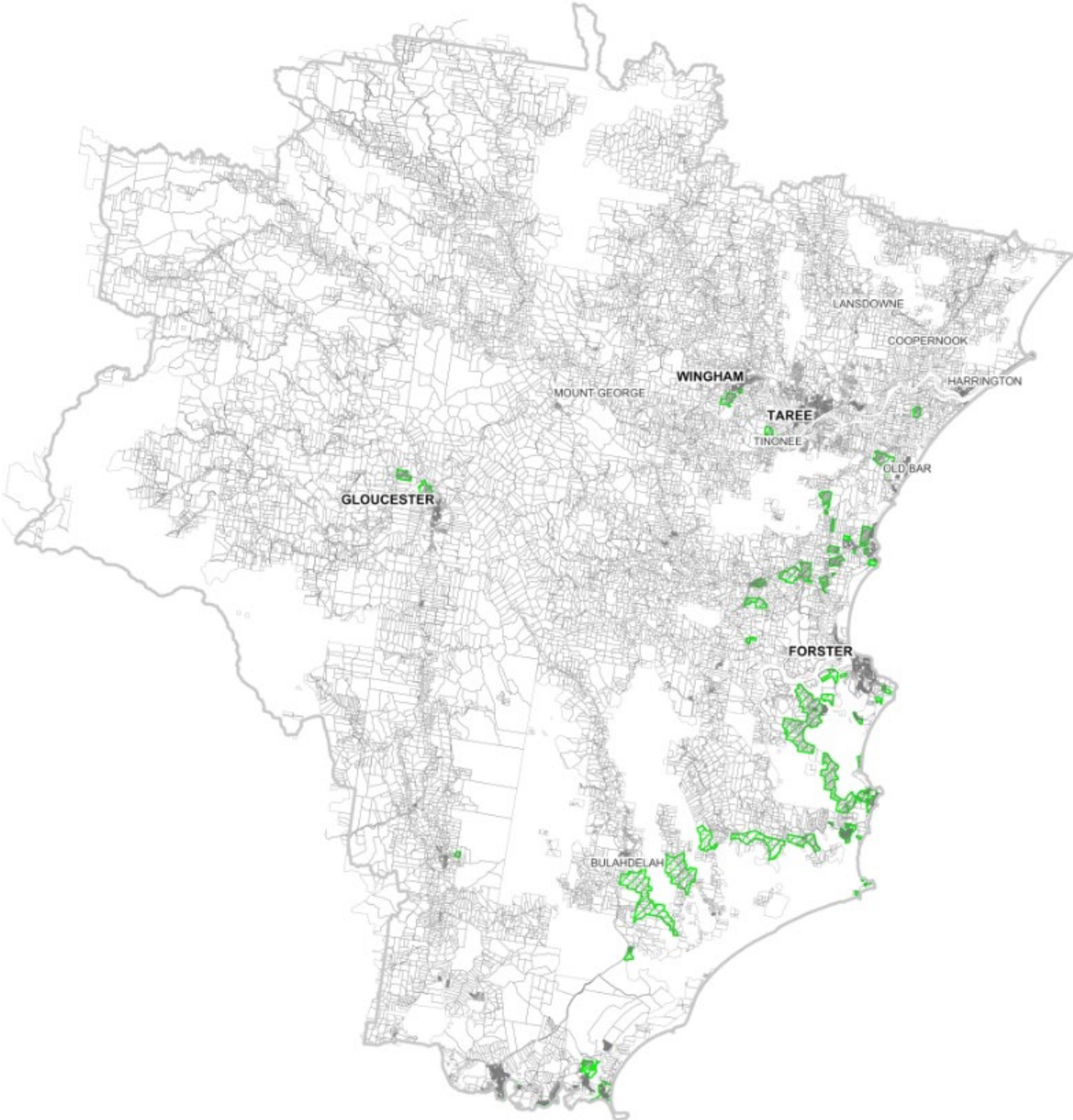
Schedule 2: Significant local trees

Schedule 3: Exempt species

Schedule 4: List of potential exemptions available under the self-assessment process



**Schedule 1: Mapped area where this Policy applies**



**Key:**

 Area where the Vegetation Management Policy applies

## Schedule 2: Significant local trees

Locally preferred koala food tree species	
Common Name:	Scientific Name:
Grey Gum	<i>Eucalyptus biturbinata</i>
Bangalay	<i>Eucalyptus botryoides</i>
Large-fruited Grey Gum	<i>Eucalyptus canaliculata</i>
Slaty Red Gum	<i>Eucalyptus glaucina</i>
Tallowwood	<i>Eucalyptus microcorys</i>
Grey Box	<i>Eucalyptus moluccana</i>
Drooping Red Gum	<i>Eucalyptus parramattensis subsp. decadens</i>
Small-fruited Grey Gum	<i>Eucalyptus propinqua</i>
Grey Gum	<i>Eucalyptus punctata</i>
Swamp Mahogany	<i>Eucalyptus robusta</i>
Narrow-leaved Red Gum	<i>Eucalyptus seeana</i>
Forest Red Gum	<i>Eucalyptus tereticornis</i>
Locally important koala food tree species	
Common Name:	Scientific Name:
Smooth-barked Apple	<i>Angophora costata</i>
Broad-leaved Apple	<i>Angophora subvelutina</i>
Red Bloodwood	<i>Corymbia gummifera</i>
Pink Bloodwood	<i>Corymbia intermedia</i>
Spotted Gum	<i>Corymbia maculata</i>
White Mahogany	<i>Eucalyptus acmenoides</i>
Blue-leaved Stringybark	<i>Eucalyptus agglomerata</i>
Cabbage Gum	<i>Eucalyptus amplifolia subsp. amplifolia</i>
Diehard Stringybark	<i>Eucalyptus cameronii</i>
Brown Stringybark	<i>Eucalyptus capitellata</i>
Thick-leaved Mahogany	<i>Eucalyptus carnea</i>
Thin-leaved Stringybark	<i>Eucalyptus eugenioides</i>
White Stringybark	<i>Eucalyptus globoidea</i>
Flooded Gum	<i>Eucalyptus grandis</i>
Craven Grey Box	<i>Eucalyptus largeana</i>
Silvertop Stringybark	<i>Eucalyptus laevopinea</i>
Narrow-leaved Black Peppermint	<i>Eucalyptus nicholii</i>
Ribbon Gum	<i>Eucalyptus nobilis</i>
Mountain Mahogany	<i>Eucalyptus notabilis</i>
Messmate	<i>Eucalyptus obliqua</i>
Blue Mountains Ash	<i>Eucalyptus oreades</i>
Grey Ironbark	<i>Eucalyptus paniculata</i>
Snow Gum	<i>Eucalyptus pauciflora</i>
Blackbutt	<i>Eucalyptus pilularis</i>
Sydney Peppermint	<i>Eucalyptus piperita</i>

Grey Ironbark	<i>Eucalyptus placita</i>
White-topped Box	<i>Eucalyptus quadrangulata</i>
Narrow-leaved Scribbly Gum	<i>Eucalyptus racemosa</i>
Red Mahogany	<i>Eucalyptus resinifera</i>
Rudder's Box	<i>Eucalyptus rudderi</i>
Sydney Blue Gum	<i>Eucalyptus saligna</i>
Grey Ironbark	<i>Eucalyptus siderophloia</i>
Scribbly Gum	<i>Eucalyptus signata</i>
Manna Gum	<i>Eucalyptus viminalis</i>
Broad-leaved White Mahogany	<i>Eucalyptus umbra</i>
Broad-leaved Paperbark	<i>Melaleuca quinquenervia</i>
<b>Other locally important tree species</b>	
<b>Common Name:</b>	<b>Scientific Name:</b>
Black She-oak	<i>Allocasuarina littoralis</i>
Forest Oak	<i>Allocasuarina torulosa</i>
Cabbage Tree Palm	<i>Livistona australis</i>

### Schedule 3: Exempt species

Common Name:	Scientific Name:
Cootamundra Wattle	<i>Acacia baileyana</i>
Queensland Silver Wattle	<i>Acacia podalyriifolia</i>
Golden Wreath Wattle	<i>Acacia saligna</i>
Box Elder	<i>Acer negundo</i>
Tree of Heaven	<i>Ailanthus altissima</i>
Bamboo	All Bamboo species
Bunya Pine	<i>Araucaria bidwillii</i>
Conifer	<i>Chamaecyparis pisifera</i> , <i>Cupressus macrocarpa</i> 'Brunniana' or <i>Cupressus sempervirens</i>
Camphor Laurel	<i>Cinnamomum camphora</i>
Lemon-scented Gum	<i>Corymbia citriodora</i>
Cadaghi	<i>Corymbia torelliana</i>
Scotch Broom	<i>Cytisus scoparius</i> subsp. <i>scoparius</i>
Loquat	<i>Eriobotrya japonica</i>
Cockspur Coral Tree	<i>Erythrina crista-galli</i>
Coral Tree	<i>Erythrina x sykesii</i>
Weeping Fig	<i>Ficus benjamina</i>
Rubber Tree	<i>Ficus elastica</i>
Honey Locust	<i>Gleditsia triacanthos</i>
Chinese Rain Tree	<i>Koelreuteria elegans</i> including all subspecies
Norfolk Island Hibiscus	<i>Lagunaria patersonia</i>
Large-leaved Privet	<i>Ligustrum lucidum</i>
Small-leaved Privet	<i>Ligustrum sinense</i>
Liquidambar	<i>Liquidambar styraciflua</i>
Oleander	<i>Nerium oleander</i>
Tree Tobacco	<i>Nicotiana glauca</i>
Olive Trees	<i>Olea europaea</i> including all subspecies
Crested Wattle	<i>Paraserianthes lophantha</i> subsp. <i>lophantha</i>
Slash Pine	<i>Pinus elliotii</i>
Radiata Pine	<i>Pinus radiata</i>
Loblolly Pine	<i>Pinus taeda</i>
Poplar	<i>Populus</i> including all species
Caster Oil Plant	<i>Ricinus communis</i>
Golden Robinia, Black Locust	<i>Robinia pseudoacacia</i> including all subspecies
Weeping Willow	<i>Salix babylonica</i>
Crack Willow	<i>Salix fragilis</i>
Umbrella Tree	<i>Schefflera actinophylla</i>
Pepper Tree	<i>Schinus areira</i>
Brazilian Pepper Tree	<i>Schinus terebinthifolius</i>
Wild Tobacco Bush	<i>Solanum mauritianum</i>

African Tulip Tree	<i>Spathodea campanulata</i>
Cocos Palm	<i>Syagrus romanzoffiana</i>
Rhus Tree	<i>Toxicodendron succedaneum</i>
Chinese Tallow Tree	<i>Triadica sebifera</i>
<i>Any other exotic or undesirable tree species that is identified in writing by MidCoast Council.</i>	

#### **Schedule 4: List of potential exemptions available under the self-assessment process**

A self-assessment can be undertaken to determine whether exemptions apply. Eligibility for an exemption will remove the need to lodge a permit application. If you are identified as not being eligible for an exemption under the Policy (refer below), you cannot use the self-assessment process. A permit application needs to be lodged with Council in accordance with Step 2 and 3 of the Policy.

An exemption will be available where the tree(s) or vegetation to be removed:

- a) is not listed in Schedule 2 as being a 'Significant local species'\*
- b) is listed in Schedule 3 as being an 'Exempt species'\*
- c) does not form part of a threatened ecological community or provide habitat for threatened plants or animals\*
- d) is not a hollow-bearing tree
- e) is not a species of mangrove
- f) is a Cabbage Tree Palm with a height less than 2 metres
- g) is consistent with (a), (c), (d) and (e) and is less than 5 metres in height or less than 600mm in girth at 1 metre above the ground.

An exemption can be considered where pruning less than 10% of the tree(s) or vegetation in accordance with Australian Standard AS 4373-2007, and that pruning of the tree(s) or vegetation has not been previously undertaken in the last five years.

- \* Please note, if you are unable to correctly identify the species or whether it is a threatened ecological community, you should not seek an exemption and proceed to lodging a permit application in accordance with Step 2 and 3 of the Policy. It will not be a sufficient defence to say that the species was not correctly identified prior to removal or pruning.