

Yallaroi Local Environmental Plan 1991

[1991-7]



New South Wales

Status Information

Currency of version

Repealed version for 15 December 2008 to 29 August 2013 (accessed 12 July 2024 at 2:21)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Repeal**

The plan was repealed by cl 1.8 (1) of the [Gwydir Local Environmental Plan 2013 \(507\)](#) (LW 30.8.2013) with effect from 30.8.2013.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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New South Wales

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Yallaroi Local Environmental Plan 1991



New South Wales

Part 1 Preliminary

1 Name of plan

This plan may be cited as *Yallaroi Local Environmental Plan 1991*.

2 Aims, objectives etc

The general aims of this plan are:

- (a) to encourage the proper management, development and conservation of natural and man-made resources within the Shire of Yallaroi by protecting, enhancing or conserving:
 - (i) prime crop and pasture land,
 - (ii) timber, mineral, soil, water and other natural resources,
 - (iii) areas of ecological significance,
 - (iv) areas of high scenic or recreational value, and
 - (v) places of archaeological or heritage significance to the Shire of Yallaroi, and
- (b) to replace the existing planning controls with a single local environmental plan to help facilitate growth and development of the Shire of Yallaroi in accordance with the aims specified in paragraph (a) and in a manner which:
 - (i) encourages the efficient and effective delivery of services and facilities and
 - (ii) encourages a range of living environments and economic opportunities in accordance with the demand for those environments and opportunities.

3 Land to which plan applies

This plan applies to all land within the Shire of Yallaroi as shown on the map, with boundaries as indicated on the map.

4 Relationship to other environmental planning instruments

Interim Development Order No 1—Shire of Yallaroi in so far as, immediately before the appointed day, it applied to the land to which this plan applies, is repealed.

5 Interpretation

(1) In this plan:

alter in relation to a heritage item means:

- (a) make structural changes to the outside of the heritage item, building or work, or
- (b) make non-structural changes to the detail, fabric finish or appearance of the outside of the heritage item, building or work, other than changes that maintain the existing detail, fabric, finish or appearance of the outside of the heritage item or work.

animal boarding or training establishment means a building or place used for keeping, maintaining, receiving or training animals for purposes other than agriculture and includes riding schools, kennels and the like.

appointed day means the day upon which the plan takes effect.

arterial road means Main Road 63 south of SH 12 and SH 12 as shown on the map.

caravan park means land used as a site for movable dwellings, including tents and caravans or other vehicles used for temporary or permanent accommodation.

Council means the Council of the Shire of Yallaroi.

demolish, in relation to a heritage item, means damage, deface, destroy, pull down or remove that item, in whole or in part.

environmentally sensitive land means land shown diagonally hatched with black lines on the map, indicating the presence of sandstone derived silicious sands and lithosols, supporting or having previously supported the indicator species *Angophora Costata* (Smooth Barked Apple) as the dominant vegetation.

existing holding means:

- (a) the area of a lot, portion or parcel of land as it was at the appointed day, or
- (b) if, as at the appointed day, a person owned two or more adjoining or adjacent lots, portions or parcels of land, the combined area of those lots, portions or parcels as they were as at the appointed day.

floodway means land capable of carrying the main body of floodwaters.

flood liable land means land inundated by flood waters during the flood of 1955.

heritage significance means historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance.

heritage item means a building, work, relic, tree or place of heritage significance to the Yallaroi Shire and described in Schedule 1.

intensive agriculture pursuits means market gardening, mushroom growing, fruit growing, flower growing, intensive livestock keeping and similar pursuits.

intensive livestock keeping establishment means a building or place in which or on which cattle, sheep, goats, poultry or other livestock are held for the purpose of nurturing by a feeding method other than natural grazing and, without limiting the generality of the foregoing, includes:

- (a) feed lots,
- (b) piggeries,
- (c) poultry farms, and
- (d) fish farms (including farms for producing crustaceans),

but does not include an animal boarding or training establishment or land used for the keeping of livestock or poultry intended solely for personal consumption or enjoyment by the owner or occupier of the land.

maintenance means continuous protective care of the fabric of an item or its setting.

prime crop and pasture land means land within an area identified on a map prepared by or on behalf of the Soil Conservation Service, as Class I, Class II, Class III or Class IV or land which is notified by the Director General of the Department of Agriculture as prime crop and pasture land for the purpose of this plan.

recreation area means:

- (a) a children's playground,
- (b) a site used for sporting activities or occupied by sporting facilities,
- (c) a site used by the Council to provide recreational facilities for the physical, cultural or intellectual welfare of the community, or
- (d) a site used by a body of persons associated for the purpose of the physical, cultural or intellectual welfare of the community to provide recreational facilities for that purpose,

but does not include a racecourse or a showground.

relic means any deposit, object or material evidence (terrestrial or underwater)

relating to the use or settlement of the Yallaroi Shire which is 100 or more years old.

renovation in relation to a building or work, means the making of structural changes to the inside or outside of the building or work.

the map means the map marked “*Shire of Yallaroi Local Environmental Plan 1991*” consisting of 2 sheets numbered “Sheet 1” and “Sheet 2”, as amended by the maps (or by specified sheets of the maps) marked as follows:

tree includes sapling, shrub, and scrub, but does not include any plant that is declared noxious under the [Local Government Act 1919](#).

vacant means devoid of dwellings.

(2) A reference in this plan:

- (a) to a building or place used for a purpose, includes a reference to a building or place intended to be used for that purpose,
- (b) to a map, is a reference to a map deposited in the office of the Council, and
- (c) to land within a zone specified in the Table to clause 9 is a reference to land shown on the map in the manner indicated in clause 8 as the means of identifying land of the zone so specified.

6 Adoption of model provisions

The [Environmental Planning and Assessment Model Provisions 1980](#), except for:

- (a) the definition of **arterial road** and **map** in clause 4 (1), and
 - (b) clauses 13, 15, 17, 18, 20, 21, 22, 23, 24, 27, 28, 29, 32 and 34,
- are adopted for the purposes of this plan.

7 Consent authority

The Council shall be the consent authority for the purposes of this plan.

Part 2 Zones

8 Zones indicated on the map

For the purposes of this plan, land to which this plan applies shall be within a zone specified hereunder if the land is shown on the map in the manner specified hereunder in relation to that zone:

Zone No 1 (a) (General Rural)—edged heavy black and lettered “1 (a)”.

Zone No 2 (v) (Village)—edged heavy black and lettered “V”.

9 Zone objectives and development control table

- (1) The objectives of a zone are set out in the Table to this clause under the heading “Objectives of Zone” appearing in the matter relating to the zone.
- (2) Except as otherwise provided by this plan, in relation to land within a zone specified in the Table to this clause, the purposes (if any) for which:
 - (a) development may be carried out without development consent,
 - (b) development may be carried out only with development consent, and
 - (c) development is prohibited,are specified under the heading “Without development consent”, “Only with development consent” and “Prohibited”, respectively, appearing in the matter relating to the zone.
- (3) Except as otherwise provided by this plan, the Council shall not grant consent to the carrying out of development on land to which this plan applies unless the Council is of the opinion that the carrying out of the development is consistent with the objectives of the zone within which the development is proposed to be carried out.

Table

Zone No 1 (a) (General Rural)

1 Objectives of zone

The objective of this zone is to promote the proper management and utilisation of resources by:

- (a) protecting, enhancing and conserving:
 - (i) agricultural land in a manner which sustains its efficient and effective agricultural production potential,
 - (ii) soil stability, by controlling and locating development in accordance with soil capability,
 - (iii) forests of existing and potential commercial value for timber productions,
 - (iv) value deposits of minerals, coal, petroleum and extractive materials, by controlling the location of development for other purposes in order to ensure the efficient extraction of those deposits,
 - (v) trees and other vegetation in environmentally sensitive areas, where the conservation of the vegetation is significant to scenic amenity or

- natural wildlife habitat or is likely to control land degradation,
- (vi) water resources for use in the public interest,
 - (vii) areas of significance for nature conservation, including areas with rare plants, wetlands and significant habitat, and
 - (viii) places and buildings of archaeological or heritage significance, including the protection of Aboriginal relics and places,
- (b) preventing the unjustified use of prime crop and pasture land for purposes other than agriculture,
 - (c) facilitating farm adjustments,
 - (d) minimising the cost to the community of:
 - (i) fragmented and isolated development of rural land, and
 - (ii) providing, extending and maintaining public amenities and services,
 - (e) providing land for future urban development, for rural residential development and for development for other non-agricultural purposes, in accordance with the need for that development, and
 - (f) providing areas for establishment of intensive agricultural pursuits and intensive livestock keeping establishments.

2 Without development consent

Agriculture (other than ancillary dwellings and intensive livestock keeping establishments); forestry (other than ancillary dwellings and pine plantations).

3 Only with development consent

Any purpose other than a purpose included in item 2 or 4.

4 Prohibited

Any development that does not meet the objectives of this zone.

Zone No 2 (v) (Village)

1 Objectives of zone

The objective of this zone is to promote development in existing towns and

villages in a manner which is compatible with their urban function.

2 Without development consent

Nil.

3 Only with development consent

Any purpose other than a purpose included in item 4.

4 Prohibited

Extractive industries; intensive livestock keeping establishments; mines; offensive and hazardous industries.

Part 3 Special provisions

10 General considerations for development within rural zones

- (1) The Council shall not consent to the carrying out of development on land within Zone No 1 (a) unless it has taken into consideration, if relevant, the effect of the carrying out of that development on:
 - (i) the present use of the land, the potential use of the land for the purposes of agriculture and the potential of any land which is prime crop and pasture land for sustained agricultural production,
 - (ii) vegetation, timber production, land capability (including soil resources stability) and water resources (including the quantity and stability of water courses and ground water storage and riparian rights),
 - (iii) the future recovery of known or prospective areas of valuable deposits of minerals, coal, petroleum, sand, gravel or other extractive materials,
 - (iv) the protection of areas of significance for nature conservation or of high scenic or recreational value, and places and buildings of archaeological or heritage significance, including Aboriginal relics and places,
 - (v) the cost of providing, extending and maintaining public amenities and services to the development, and
 - (vi) future expansion of settlements in the locality.
- (2) As well as the matters referred to in sub-clause (1), the Council shall take into consideration the relationship of the proposed development to development on adjoining land and on other land in the locality.
- (3) Subclause (1) does not apply to development being:

- (a) an addition to a building or work,
- (b) development ancillary to a purpose for which development may be carried out with the consent of the Council under this plan, or
- (c) the erection of a dwelling house on an allotment of land created in accordance with this plan for the purposes of a dwelling.

11 Subdivision of land generally

- (1) A person shall not subdivide land to which this plan applies except with the consent of the Council.
- (2) The Council shall not consent to an application to subdivide land within Zone No 1 (a) unless it has obtained all relevant information in relation to, and made an assessment of:
 - (a) the primary purpose for which each allotment to be created by the subdivision is intended to be used,
 - (b) whether any allotment to be created by the subdivision is intended to be used primarily for the purposes of agriculture,
 - (c) whether a dwelling is intended to be erected on any allotment to be created by the subdivision and the approximate location of any such dwelling.

12 Subdivision for the purposes of agriculture in Zone No 1 (a)

- (1) This clause applies to land within Zone No 1 (a).
- (2) The Council may consent to the creation of an allotment of any area if the Council is satisfied it will be used for the purposes of agriculture.
- (3) The Council shall not consent to the creation of an allotment if the Council is satisfied it will be used for the purposes of agriculture, the allotment has an area of less than 200 hectares and there is a dwelling on the allotment.
- (4) Notwithstanding subclause (3), the Council may consent to the creation for the purposes of agriculture of one but not more than one allotment from an existing holding on which a dwelling stands if that dwelling was lawfully erected on that land on or before the appointed day.

13 Subdivision for other purposes in Zone No 1 (a)

- (1) The Council shall not consent to an application to subdivide land within Zone No 1 (a) if any allotment to be created by the subdivision is to be used primarily for purposes other than agriculture or a dwelling unless, in the opinion of the Council:
 - (a) none of the land the subject of the application is prime crop and pasture land, and

(b) the area of each allotment to be created by the subdivision is appropriate having regard to the purpose for which it is being created.

(2) Nothing in subclause (1) prevents the Council from granting consent to an application to subdivide land to create an allotment to be used for a purpose other than agriculture or a dwelling if the Council is satisfied that:

(a) the purpose for which the allotment is to be used involves the supply of goods or services for which there is a demand in the locality,

(b) no other land in the locality could reasonably be used for that purpose, and

(c) the level of demand for goods or services which are to be supplied from the allotment and the extent to which that allotment is proposed to be used to meet that demand justifies the creation of the allotment notwithstanding its agriculture value.

14 Subdivision for intensive agriculture pursuits in Zone No 1 (a)

The Council shall not consent to an application to subdivide land within Zone No 1 (a) where any allotment to be created is to be used primarily for the purpose of intensive agricultural pursuits unless, in the opinion of the Council:

(a) each allotment created for that purpose is capable of sustaining a range of intensive agricultural pursuits,

(b) sufficient area is available for the accommodation and disposal of any wastes created by the proposed activity,

(c) an adequate water supply is available to service the proposed activity, and

(d) (Repealed)

15 Subdivision of land in Zone No 2 (v)

A person shall not subdivide land within Zone No 2 (v) to create an allotment to be used for the purposes of a dwelling-house unless the allotment has an area of at least 800 square metres in a sewered area or an area of at least 1000 square metres in an unsewered area.

16 Residential use of rural land

(1) This clause applies to all land within Zone No 1 (a) except prime crop and pasture land.

(2) The Council may consent to the subdivision of land to which this clause applies and the erection of a dwelling-house on each allotment created provided that each allotment has an area of not less than 2 hectares and the Council is satisfied that the land shall be used primarily for residential purposes.

- (3) The Council shall not consent to the subdivision of land as provided by subclause (2) unless it is satisfied that:
- (a) the land is within reasonable proximity to a range of social services and community facilities,
 - (b) the land has reasonable all weather access to a township of 200 people or more,
 - (c) the land is not subject to significant environmental hazards, and
 - (d) the dwelling to be erected on the land:
 - (i) has an adequate water supply for domestic purposes and a bulk water supply for fire fighting, and
 - (ii) has adequate provision for the on-site disposal effluent without detriment to the environment.
- (4) (Repealed)

17 Dwellings in Zone No 1 (a)

A person shall not erect a dwelling on vacant land within Zone No 1 (a) unless:

- (a) the land has an area of 200 hectares or more, or
- (b) the land comprises:
 - (i) an existing holding,
 - (ii) an allotment created under this plan for a purpose other than agriculture,
 - (iii) an allotment created in accordance with a consent granted before the appointed day, being an allotment on which a dwelling could have been lawfully erected immediately before that day, or
 - (iv) an allotment created in accordance with clause 14 for intensive agricultural pursuits.

18 Erection of additional dwellings in Zones Nos 1 (a) and 2 (v)

- (1) The Council may consent to the erection of one additional dwelling on land within Zone No 1 (a) or 2 (v) (including the alteration of an existing dwelling to create 2 dwellings) if:
- (a) a dwelling could be erected on the land in accordance with clause 17 (where the land is within Zone No 1 (a),
 - (b) no additional access to a public road is required from the land,
 - (c) separate ownership of the proposed dwelling can only be achieved by a

subdivision of the land, and

(d) in the opinion of the Council, the dwelling to be erected on the land will not interfere with the purpose for which the land is being used.

(2) The Council shall not consent to the subdivision of land on which one additional dwelling is erected in pursuance of this clause except in accordance with this plan.

19 Rural workers' dwellings

Nothing in this plan shall prevent a person, with the consent of the Council, from erecting additional dwelling-houses on land which is within Zone No 1 (a) and is not vacant, if:

(a) it is satisfied that the needs of existing agriculture genuinely require that rural workers reside on the land,

(b) the additional dwellings are clustered in a location where they will not impair the suitability of the land for agriculture,

(c) any other rural workers' dwellings on the holding are being used by persons substantially engaged in agricultural employment on that land, and

(d) it is satisfied that the rural worker who will occupy the dwelling-house is employed by the owner of the land.

20 Applications that must be advertised

The provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply to and in respect of development described in Schedule 2 in the same way as those provisions apply to and in respect of designated development.

21 Development along arterial roads

(1) The Council shall not consent to an application to carry out development on land which has frontage to an arterial road unless:

(a) access to that land is provided by a road other than the arterial road, wherever practicable, and

(b) in the opinion of Council, the safety and efficiency of the arterial road will not be adversely affected by:

(i) the design of the access to the proposed development,

(ii) the emission of smoke or dust from the proposed development, or

(iii) the nature, volume or frequency of vehicles using the arterial road to gain access to the proposed development.

(2) The Council shall not consent to the carrying out of development on land within Zone

No 1 (a) for the purpose of a building, work, activity or place listed in Schedule 3 if the carrying out of the development will result in vehicles having direct access to:

- (a) an arterial road, or
- (b) a road connecting with an arterial road, if the access that road would be within 90 metres (measured along the road alignment of the connecting road) of the alignment of the arterial road.

22 Environmentally sensitive land

(1) A person shall not, except with the consent of the Council carry out development on environmentally sensitive land for the purposes of:

- (a) intensive livestock keeping,
- (b) junk yards,
- (c) liquid fuel depots,
- (d) offensive or hazardous industries,
- (e) sawmills, or
- (f) stock and sale yards.

(2) A person shall not, except with the consent of the Council, cause the destruction of trees on environmentally sensitive land so as to exceed the general exemption granted under Schedule 4.

(3) The Council shall not consent to an application required by subclause (2) unless it is satisfied that the destruction of trees on the land will be carried out in a manner which, in respect of that land and adjacent land minimises:

- (a) the risk of soil erosion or other land degradation,
- (b) the loss of scenic amenity, and
- (c) the loss of important vegetation systems and natural wildlife habitats.

23 Flood liable land

A person shall not erect a building or carry out a work for any purpose on flood liable land except with the consent of the Council.

24 Land subject to bushfire hazards

The Council shall not grant consent to the subdivision of land or to the erection of a building on land which is subject to bushfire hazards by reason of the vegetation on the land or on any adjacent land unless, in the opinion of Council:

- (a) adequate provision is made for access for fire fighting vehicles,
- (b) adequate safeguards are adopted in the form of fire breaks, reserves and fire radiation zones, and
- (c) adequate water supplies are available for fire fighting purposes.

25 Heritage items

- (1) A person shall not, in respect of a building, work, relic, tree or place that is a heritage item:
 - (a) demolish or alter the building or work,
 - (b) damage or move the relic, or excavate for the purpose of exposing the relic,
 - (c) damage or despoil the place or tree,
 - (d) erect a building on, or subdivide, land on which the building, work or relic is situated or that comprises the place, or
 - (e) damage any tree on land on which the building, work or relic is situated or on the land which comprises the place,except with the consent of the Council.
- (2) The Council shall not grant consent to a development application required by subclause (1) unless it has taken into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the item and any stylistic or horticultural features of its setting.

Note—

The website of the Heritage Branch of the Department of Planning has publications that provide guidance on assessing the impact of proposed development on the heritage significance of items (for example, *Statements of Heritage Impact*).

26 Development in the vicinity of heritage items

The Council shall not grant consent to the carrying out of development on land in the vicinity of a heritage item unless it has made an assessment of the effect the carrying out of that development will have on the heritage significance of the item and its setting.

27 Heritage advertisements

- (1) Except as provided in subclause (2):
 - (a) the provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply to and in respect of the demolition of of building or work that is a heritage item in the same way as those provisions apply to and in respect of designated development, and

(b) (Repealed)

- (2) Subclause (1) does not apply to the partial demolition of a heritage item if, in the opinion of Council, the partial demolition will be of a minor nature and will not adversely affect the heritage significance of the heritage item, in relation to the environmental heritage of Yallaroi Shire.

28 Conservation incentives

- (1) Nothing in this plan prevents the Council from granting consent to an application to the use, for any purpose, of a building that is a heritage item or the land on which the building is erected if it is satisfied that:
- (a) the proposed use would have little or no adverse effect on the amenity of the area, and
 - (b) the conservation of the building depends on the Council granting that consent.
- (2) When considering an application to erect a building on land on which there is situated a building which is a heritage item, the Council may:
- (a) for the purpose of determining the floor space ratio, and
 - (b) for purpose of determining the number of parking spaces to be provided on the site, exclude from its calculation of the floor space of the buildings erected on the land the floor space of the item, but only if the Council is satisfied that the conservation of the building depends upon the Council excluding the floor space.

29 Access roads

A person, other than the Council, shall not construct a road which has access to a public road except with the consent of the Council.

Schedule 1 Heritage items

(Clause 5 (1))

Buildings and places

- (i) Cnr Lot 11 Section 55 22 Geddes Street, Warialda. "Yallambar" Durkin Residence.
- (ii) Lots 4, 6/9 Parts 2 (D) 3 (C) 5 (B) Section 56 Geddes Street—Warialda Roman Catholic Convent School of St Joseph.
- (iii) Part Lot 8 Section 52 Cnr Hope & Stephen Street, Warialda—Courthouse.
- (iv) Part Lot 8 Section 52 Cnr Hope & Stephen Streets, Warialda—Police Residence & Station.
- (v) Lot 7 Section 52 Hope Street, Warialda—Post Office.
- (vi) Lot 1 DP 563119 Hope Street, Warialda—National Bank.

- (vii) Lot 2 Part 1, 3/5 Section 53 & Lot 1 DP 563119 Hope Street, Warialda—Shire Chambers.
- (viii) Part Lot 3 Section 53 Hope Street, Warialda—Single Storey Shop (Newsagency etc).
- (ix) Lot 4 Section 53 Hope Street, Warialda—Crithary’s Building.
- (x) Part Lot 5 Section 53 Hope Street, Warialda—Memorial Hall.
- (xi) Lot 5 Section 60 Hope Street, Warialda Store Shop.
- (xii) Lot 1 DP 741182 Hope Street, Warialda Royal Hotel.
- (xiii) Lot 1 Section 52 Stephen Street, Warialda—Commercial Hotel.
- (xiv) Part Lot 11 Section 52 Stephen Street, Warialda—Carinda House.
- (xv) Located in Parish of Gineroi Portion 1/3, 7/8, 26, 28, 55/57 Gineroi, Warialda—Cemetery.
- (xvi) Stephen Street, Warialda—7 Palm Trees in front of Police Station.
- (xvii) Lot 2 to 6 & 13 to 17 Section 55, Hope Street, Warialda—Warialda Primary School.

Schedule 2 Development to be advertised

(Clause 20)

- 1 The demolition of a building or work that is a heritage item.
- 2 Development for the purposes of boarding houses, hotel/motels or Residential flat buildings.
- 3 Any other development of a kind that the Council has resolved is environmentally sensitive to the community.

Schedule 3 Restriction on access to arterial roads

(Clause 21 (2))

Bulk stores
Caravan parks
Car repair stations
Clubs
Commercial premises
Educational establishments
Hospitals
Hotels
Industries (other than home or rural industries)
Institutions
Junk yards
Liquid fuel depots
Mines
Motels
Places of public assembly
Places of public worship

Recreation establishments
Recreation facilities
Refreshment rooms
Retail plant nurseries
Roadside stalls
Saw mills
Service stations
Stock and sale yards
Transport terminals
Warehouses

Schedule 4 General exemptions relating to tree destruction

(Clause 22 (2))

- (i) Not more than seven trees on any area of one hectare of such protected land in any period of one year.
- (ii) Trees for the purposes of domestic and farm building construction, on not more than 0.5 ha development, if consent has been given to the construction.
- (iii) Trees for the purpose of fence-line construction or fence-line maintenance within a 20 m wide corridor and on the basis that such activity shall not involve any significant disturbance of the soil.
- (iv) Trees for the purpose of maintenance of fire trails.
- (v) Trees for the purpose of maintaining access tracks within a 10 m wide corridor.
- (vi) Trees for the purpose of maintenance of corridors for domestic power lines and domestic Telecom service.
- (vii) Trees for the purpose of maintenance of Elcom, County Council or persons contracted by a Local Government either by topping, lopping or the poisoning or destroying by such person, of any tree no exceeding three metres in height, for the purpose of maintaining necessary safety clearances under or within fifteen metres of existing power lines.
- (viii) Trees comprising a commercial orchard where the ringbarking, cutting down, felling, poisoning or otherwise destroying or the topping, lopping, or removing is necessary for the harvesting of the produce of, or the management of, the orchard.
- (ix) Trees planted for non-Commercial horticultural and/or ornamental purposes.
- (x) Trees growing on an area of not more than half a hectare of protected land for the purpose of dam construction.
- (xi) Trees that are declared by the Governor in pursuance of the [Local Government Act 1919](#), to be noxious plants within that portion of the State which contains the environmentally sensitive land in question, provided that the ringbarking, cutting down, felling, poisoning, or otherwise destroying, topping, lopping, removing or injuring is carried out by a person who is required or authorised to do so under the [Local Government Act](#) and there is not significant disturbance of the soil.

- (xii) Trees where they are White Cypress Pine (*Callitris Columellaria*) or Black Cypress (*Callitris-endilicherry*) on the basis such activity shall not involve disturbance of the soil.