

Flora and Fauna Guarantee Act 1988FLORA AND FAUNA GUARANTEE (TAKING, TRADING IN, KEEPING, MOVING
AND PROCESSING PROTECTED FLORA) ORDER 2004

The Governor in Council makes the following Order:

1. Objective

The objective of this Order is to permit the taking, trading in, keeping, moving and processing of certain protected flora and to specify relevant terms and conditions.

2. Authorising provision

This Order is made under section 48(3) of the **Flora and Fauna Guarantee Act 1988**.

3. Commencement

This Order comes into operation on the day on which it is published in the Government Gazette.

4. Revocation

The Order authorising the taking, trading in, keeping, moving and processing of protected flora made by the Governor in Council on 29 November 1994 and published in Government Gazette No. G 48 on 1 December 1994 (page 3200) is revoked.

5. Definitions

In this Order –

“**grasstree**” means any plant of the taxon *Xanthorrhoea*;

“**potted tree fern**” means a tree fern that –

- (i) has spent its entire life cycle in a pot or artificial container; and
- (ii) has not been truncated at any time;

“**private land**” means land held under freehold title by anyone other than a public authority;

“**regulated tree fern**” means a tree fern with a living crown but does not include a potted tree fern;

“**revoked Order**” means the Order revoked by clause 3;

“**sphagnum moss**” means any plant of the taxon *Sphagnum*;

“**tree fern**” means plants that are members of the taxa –

- (i) *Dicksonia antarctica* (Soft Tree-fern); and
- (ii) *Todea barbara* (Austral King-fern); and
- (iii) *Cyathea australis* (Rough Tree-fern); and
- (iv) *Cyathea cunninghamii* (Slender Tree-fern); and
- (v) *Cyathea leichhardtiana* (Prickly Tree-fern); and
- (iv) *Cyathea X marcescens* (Skirted Tree-fern);

“**truncated**” means, in relation to a potted tree fern, that part of the trunk has been removed;

“**valid tag**” means:

- (a) in relation to a grasstree or a regulated tree fern harvested in Victoria –
 - (i) a tag supplied by the Secretary in accordance with this Order for the purpose of attachment to a grasstree or a regulated tree fern; or
 - (ii) a tag supplied by the Secretary on or after 1 September 2003 in accordance with the revoked Order for the purpose of attachment to a grasstree or a regulated tree fern; and

- (b) in relation to a grasstree or a regulated tree fern harvested outside Victoria –
 - (i) a tag supplied by the Secretary in accordance with this Order for the purpose of attachment to a grasstree or a regulated tree fern; or
 - (ii) a tag supplied by the Secretary on or after 1 September 2003 in accordance with the revoked Order for the purpose of attachment to a grasstree or a tree fern; or
 - (iii) in Tasmania, a tag issued in accordance with the **Forest Practices Act 1985** of Tasmania; or
 - (iv) in Queensland, a tag issued in accordance with the **Nature Conservation Act 1992** of Queensland.

6. Authority to take protected flora from private land

A person may take protected flora, other than tree ferns, grasstrees or sphagnum moss, from private land, for the purpose of sale provided that—

- (a) the flora is not taken for the purpose of controlling; and
- (b) the landholder has authorised the taking of protected flora from that land; and
- (c) the flora is not taken from an area determined to be a critical habitat under section 20 of the **Flora and Fauna Guarantee Act 1988**.

*Note – The taking of protected flora that is propagated from flora which has been lawfully obtained and kept is not an offence – see section 47(2)(d) of the **Flora and Fauna Guarantee Act 1988**.*

7. Authority to trade in, keep, move and process protected flora

A person may, subject to the conditions set out in clause 8, trade in, keep, move or process protected flora if the protected flora has been –

- (a) taken and obtained in Victoria in accordance with the **Flora and Fauna Guarantee Act 1988** or a permit, licence or Order issued under that Act; or
- (b) taken and obtained lawfully outside Victoria and brought into Victoria; or
- (c) propagated from flora which has been lawfully obtained and kept.

8. Conditions of trading

- (1) A person authorised under clause 7 to trade in grasstrees or regulated tree ferns must ensure that –
 - (a) a valid tag is attached to the trunk, if developed, or in other cases, the living crown of any regulated tree fern that is handled for the purpose of trading; and
 - (b) a valid tag is attached to the trunk, if developed, or in other cases, the fronds, of any grasstree that is handled for the purpose of trading; and
 - (c) while a grasstree or a regulated tree fern is in the possession or control of the person authorised to trade in it, a valid tag remains attached to the plant; and
 - (d) if a grasstree or a regulated tree fern is sold by retail by that person, he or she cuts the valid tag in half.
- (2) A person who intends to trade in grasstrees or regulated tree ferns that do not have valid tags attached to them must –
 - (a) apply to the Secretary for the required number of tags; and
 - (b) provide the Secretary with a detailed description of the source of the grasstrees or regulated tree ferns and the identity of the persons and any agents to be used for the handling of that flora; and

- (c) permit authorised officers or any persons nominated by the Secretary to conduct inspections of the land where the grasstrees or regulated tree ferns are stored or are to be harvested to facilitate the verification of the appropriate number of tags to be issued; and
- (d) if tags have been issued by the Secretary, securely affix them to the grasstrees or regulated tree ferns referred to in the application, in accordance with clauses 8(1)(a) and (b); and
- (e) retain a copy of the tag allocation record issued by the Secretary with the tags, for the purpose of possible inspection by an authorised officer, for a period of 2 years from the day the last tags were attached to the grasstrees or regulated tree ferns.

Notes:

1. The cases of taking protected flora that require authorisation under the **Flora and Fauna Guarantee Act 1988**, but are not authorised by this Order, may be authorised by permit or licence under that Act. These cases include –
 - (a) taking protected flora from land that is not private land;
 - (b) taking tree ferns, grasstrees or sphagnum moss for the purpose of sale from private land (where the tree ferns, grasstrees or sphagnum moss have not been propagated from flora which has been lawfully obtained and kept);
 - (c) taking protected flora for the purpose of controlling;
 - (d) taking protected flora from land which is part of the critical habitat of that flora.
2. Tree ferns and grasstrees may need to be tagged as a condition of a permit or licence issued under the **Flora and Fauna Guarantee Act 1988**.

Dated 21 September 2004

Responsible Minister:
JOHN THWAITES
Minister for EnvironmentDIANE CASEY
Clerk of the Executive Council**Local Government Act 1989**

KNOX CITY COUNCIL

Specification of Dates

Order in Council

The Governor in Council under Sections 3, 21, 21A and 22 of the **Local Government Act 1989**
ORDERS THAT:the dates for Knox City Council's Scott Ward by-election to be held on 11 December 2004 shall be:
Friday 24 September 2004 Entitlement date for the purposes of Division 1 of Part 3 of the **Local Government Act 1989**;Tuesday 5 October 2004 The date by which the Electoral Commissioner must supply to the Chief Executive Officer a voters' list for the purposes of section 21(2) of the **Local Government Act 1989**;Wednesday 13 October 2004 The date by which the Chief Executive Officer must make out a voters' list for the purposes of sections 22(2) and 22(2A) of the **Local Government Act 1989**.

Dated 21 September 2004

Responsible Minister
CANDY BROAD MLC
Minister for Local GovernmentDIANE CASEY
Clerk of the Executive Council