

Briefing Paper 9 | October 2021

## Proposed changes to tree preservation

### Overview

This briefing paper summarises the key effects of the changes relating to trees as proposed in the Draft Planning and Building (Amendment No. 8) (Jersey) Law 202-, due to be debated by the Assembly in the States meeting commencing Tuesday 5<sup>th</sup> October 2021.



What effect does the Draft Planning and Building (Amendment No. 8) (Jersey) Law 202- have on tree preservation?

The [Draft Planning and Building \(Amendment No. 8\) \(Jersey\) Law 202-](#) (the ‘Amending Law’) has been brought to the States Assembly following the adoption of the [21st Amendment to the Government Plan 2021-2024 \(P.130/2020\)](#), which requested that funding be allocated to tree preservation measures. The Amending Law is part of the ‘Species and Habitat Protection’ project initiated by the Infrastructure, Housing and Environment Department, and seeks to protect, maintain and enhance Jersey’s current and future tree stock.

If the Assembly adopts the Draft Planning and Building (Amendment No. 8) (Jersey) Law 202- it will result in:

- A more specific definition of what constitutes a ‘tree’ in the Planning and Building (Jersey) Law 2002
- The inclusion of actions involving trees within the meaning of the word ‘develop’.

The Draft Planning and Building (Amendment No. 8) (Jersey) Law 202- marks the first step of several changes that are planned to ensure improved protection of the natural environment. It is important to note that further legislative changes will be necessary should the Assembly decide to adopt this Amending Law, for example, there will need to be an Order from the Minister for the Environment that sets out the definition of ‘works to trees’. This definition is intended to be drafted following stakeholder engagement which is being carried out as part of the ‘Species and Habitat Protection’ project to prepare an Island Tree Strategy. The proposed change to include ‘works to trees’ within the definition of ‘develop’ means that the fine amounts that already apply to breaches of development controls will also apply where a tree has been removed. There are no other proposed change to fine amounts.

### Table summarising key changes in the Amendment that relate to trees:

Content	Current law	Proposed change
Definition of the word ‘tree’	“tree” includes –	“tree” means a tall perennial plant having a permanent woody or fibrous

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	<p>(a) a single tree of whatever age, genus, species, cultivar or variety;</p> <p>(b) a group of trees;</p> <p>(c) a shrub;</p> <p>(d) a bush;</p> <p>(e) a hedge.”</p>	<p>trunk, a root system and a crown of foliage, or such plant of a similar nature as the Minister may by Order prescribe, and includes –</p> <p>(a) a single tree of any age, genus, species, cultivar or variety;</p> <p>(b) a group of trees;</p> <p>(c) a hedgerow.”</p> <p><b>Summary:</b> the definition now includes a description of what constitutes a tree. ‘Shrub’ and ‘bush’ are no longer included within the definition of ‘tree’.</p>
Meaning of the word ‘develop’ in relation to trees	“to remove a hedgerow or banque or other physical feature defining a boundary of the land or of any part of it”	<p>“to remove a tree or banque or other physical feature defining a boundary of the land or of any part of it”</p> <p><b>Summary:</b> ‘Hedgerow’ is not cited separately here because the proposed new definition of ‘tree’ includes ‘hedgerow’.</p> <p>‘Tree’ is now included.</p>
	n/a – brand new sub-paragraph	<p>“(k) to carry out on the land an operation to or involving a tree, such as the Minister may specify by Order.”</p> <p><b>Summary:</b> note that the specifics of any ‘operation to or involving a tree’ is yet to be defined, and as stated, will need to be set out in an Order which will be separate to this particular Amendment.</p>
Article 23 Conditions attached to the grant of planning permission	n/a – brand new sub-paragraph	<p>“(j) the protection and improvement of biodiversity on the land.”</p> <p>Other <b>unchanged</b> sub-paragraphs of this Article that are of relevance to trees:</p> <p>“(f) the preservation and planting of vegetation on the land”</p> <p><i>And</i></p> <p>“(i) the restoration of the land and of any vegetation on it after the development has been carried out”</p>
Definition of ‘protected tree’	Requires the Chief Officer to maintain a list of protected trees that should not, in the interests of the amenity of	N/a - no change proposed in the Amendment.



Content	Current law	Proposed change
	Jersey, be cut down, lopped, or otherwise altered or harmed without the Chief Officer's permission.	
Offences in relation to trees	Offences currently relate only to trees that are listed, or provisionally listed, for their amenity value.	N/a - no change proposed in the Amendment.
Penalties for offences in relation to trees	Protected trees felled, etc. without permission may incur a fine. No level of fine is specified. Fines for defacing or removing planning notices related to trees are level 2 on the <a href="#">standard scale</a> (£1,000).	N/a - no change proposed in the Amendment.