



Part E – General Controls – Environmental Controls

Chapter E17: Preservation and Management of Trees and Vegetation

Contents

1	INTRODUCTION	1
2	OBJECTIVES	1
3	DEFINITIONS	1
4	LAND TO WHICH THIS CHAPTER OF THE DCP APPLIES	2
5	OTHER RELEVANT LEGISLATION	2
6	EXEMPTIONS FROM approvals	3
7	TREE MANAGEMENT PERMIT APPLICATION PROCESS	4
7.1	Development Application - Lodgement Requirements	5
7.2	Tree and Vegetation Management as part of a Development Proposal	6
Appendix: 1	EXEMPT TREE SPECIES LIST	8

1 INTRODUCTION

This Chapter of the DCP outlines Council's requirements for the preservation and management of tree(s) and other vegetation (including pruning and removal).

Under clause 5.9 of the *Wollongong Local Environmental Plan 2009*, a person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any prescribed tree or other vegetation, without development consent or a permit being granted by Council. Refer to Part 3 Definitions for the meaning of 'prescribed tree' and 'prescribed other vegetation'.

Two application processes have been established to deal with the assessment and approval for prescribed trees:

- a) Tree Management Permit (generally for individual/small scale tree removal and pruning in urban areas) - refer to Council's website for the Tree Management Permit Policy;
- b) Development consent via either Complying Development or Development Application.

This Chapter of the DCP should be read in conjunction with clauses 5.9 Preservation of trees or vegetation, 5.10 Heritage conservation, 5.11 Bush fire hazard reduction work and 7.2 Natural resource sensitivity – biodiversity of *Wollongong Local Environmental Plan 2009*.

2 OBJECTIVES

1. The objectives of this part of the DCP are to:
 - (a) Protect trees within the City of Wollongong Local Government Area.
 - (b) Protect and enhance native vegetation, habitat for native fauna and biodiversity.
 - (c) Protect and enhance native vegetation for its scenic values and to retain the unique visual identity of the landscape.
 - (d) Conserve trees of ecological, heritage, aesthetic and cultural significance.
 - (e) Conserve significant stands of remnant vegetation.
 - (f) Manage non-native vegetation in accordance with its cultural heritage and landscape significance.
 - (g) Ensure that any new development considers and maximises the protection of existing vegetation in the site planning, design, development, construction and operation of the development.
 - (h) Identify trees and other vegetation that may be pruned or removed without the necessity for a Tree Management Permit or development consent.

3 DEFINITIONS

Habitat tree means any tree which is a nectar feeding tree, roost and nest tree or a hollow-bearing tree which is suitable for nesting birds, arboreal marsupials (possums), micro-bats or which support the growth of locally indigenous epiphytic plants such as orchids.

Height means the distance measure vertically between the horizontal plane of the lowest point of the base of the tree which is immediately above ground and the horizontal plane of the uppermost point of the tree.

Injury means damage to a tree and includes:

- Lopping and topping,
- Poisoning, including applying herbicides and other plant toxic chemicals to a tree or spilling of oil, petroleum, paint, cement, mortar and the like onto the root zone,
- Cutting, tearing, breaking or snapping of braches and roots that is not carried out in accordance with accepted arboricultural practices or is done for invalid reasons, including vandalism,
- Ringbarking, scarring the bark when operating machinery, fixing objects by nails, staples or wire or fastening materials that circle and significantly restrict the normal vascular function of the trunks or branches,
- Damaging a trees root zone by compaction or excavation, asphyxiation including unauthorised land filling or stockpiling of materials around the tree trunk, and / or
- Underscrubbing, unless carried out by hand tools such as brushcutters and the like.

Prescribed other vegetation means any of the following types of indigenous vegetation:

- Trees (including any sapling or shrub, or any scrub),
- Understorey plants,
- Groundcover (being any type of herbaceous vegetation), or
- Plants occurring in a wetland.

Note: For the purposes of this definition, vegetation is “indigenous” if it is of a species of vegetation, or if it comprises species of vegetation, that existed in the State of NSW before European settlement. However, “native vegetation” does not include any mangroves, seagrasses or any other type of marine vegetation to which section 205 of the *Fisheries Management Act 1994* applies.

Prescribed tree is defined as

- a) Are three (3) metres or more in height; or
- b) Have a diameter of 200mm or more at a height of one (1) metre from the ground; or
- c) Have a branch spread of three (3) metres or more,

State Policy means State Environmental Planning Policies, or any other state documents or policy having the same statutory effect, however described.

4 LAND TO WHICH THIS CHAPTER OF THE DCP APPLIES

This chapter of the DCP applies to all lands within the City of Wollongong Local Government Area.

5 OTHER RELEVANT LEGISLATION

Other relevant legislation to be considered in conjunction with this chapter includes but is not limited to:

- SEPP (Exempt and Complying Development Codes) 2008. Note Part 3 General Housing Code and 3A Rural Housing Code.
- Native Vegetation Act 2003.

- Fisheries Management Act 1994.
- National Parks and Wildlife Act 1974.
- Threatened Species Conservation Act 1995.
- Environment Protection and Biodiversity Conservation Act 1999.

* Note that consent may be required in some instances from an authority other than Council.

6 EXEMPTIONS FROM APPROVALS

1. Neither a Tree Management Permit or Development Consent is required for the pruning, removal, or injury of any tree or other vegetation in the following situations:
 - a) Where a complying development application is lodged under and can satisfy the criteria of *SEPP (Exempt and Complying Development Codes) 2008*. Applicants should refer to the SEPP for details. Any removal associated with development or to facilitate development will require a Development Application if it cannot meet the requirements of the SEPP.
 - b) The clearing of native vegetation that is authorised by a development consent or property vegetation plan under the *Native Vegetation Act 2003*, as administered by the relevant Catchment Management Authority.
 - c) The clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the *Native Vegetation Act 2003*) that is authorised by a development consent under the provisions of the *Native Vegetation Conservation Act 1997* as continued in force by that clause.
 - d) Where a prescribed tree has been approved for removal or management under a previous development consent (i.e. where such vegetation is within the building envelope or the surrounding cartilage of the building envelope).
 - e) Where a prescribed tree is included in Council's Exempt Tree Species List in Appendix 1 to this chapter (excluding trees within the cartilage of the heritage item or heritage conservation area).
 - f) Where bushfire hazard reduction work is undertaken, authorised by the NSW Rural Fire Service under the *Rural Fires Act 1997*.
 - g) Where action is required or authorised to be done by or under the *Electricity Supply Act 1995*, the *Roads Act 1993* or the *Surveying and Spatial Information Act 2002* or other Statutory Authorities.
 - h) Where a prescribed tree is identified as a noxious weed under the *Noxious Weeds Act 1993* or any management plan published by the Illawarra District Noxious Weeds Authority.
 - i) Where a prescribed tree is located within a State Forest or on land reserved for sale as a timber forest reserve under the *Forestry Act 1916*.
 - j) Where a prescribed tree within an approved plantation meeting the criteria of the *Plantation and Reafforestation Act 1999*.
 - k) Where action is carried out by Council, State Emergency Service, Rural Fire Service, or another infrastructure authority/emergency service authority in response to an emergency (i.e. where there is an immediate threat of injury to persons or damage to property).

- l) Any works to make safe a prescribed tree where there is an immediate threat of injury to persons or damage to property, either during or within 48 hours following a severe weather event. – Refer to note below.
- m) Where the subject tree has been grown specifically for its edible fruit.
- n) Where the works are undertaken by Council or a contractor acting on behalf of Council on Council owned or controlled land, including but not limited to lands within a sportsground, park, reserve, road reserve, riparian corridor.

Note: A Tree Management Application or Development Application must be lodged with Council for the removal or further pruning of a tree within 72 hours from the date of the emergency pruning works for any tree upon private land.

7 TREE MANAGEMENT PERMIT APPLICATION PROCESS

1. A Tree Management Permit (TMP) is required from Council for cutting down, pruning, removal or injury of any prescribed tree that is not exempt or does not require development consent.
2. A Tree Management Permit is also required for any dead or dying tree.
3. Pruning of major structural roots or anchor roots is also subject to a Tree Management Permit.
4. Each Tree Management Permit is limited to a maximum of five (5) trees per application.
5. A maximum of three (3) Tree Management Applications may be lodged with Council in respect of the relevant land parcel at any one time. Excluding within zones E2 Environmental Conservation, E3 Environmental Management or E4 Environmental Living where a maximum of one (1) TMP may be lodged at any one time.
6. Tree Management Permits are not suitable as a means to facilitate development, complying or otherwise.
7. Tree Management Permits cannot approve the removal of a tree that is required to be retained by a development condition of consent. An application to modify the development consent will be needed in this instance.
8. Applicants should refer to the Tree Management Permit Policy on Council's website or contact Council's Customer Service Centre for further information on the application process and assessment criteria.
9. The lodgement of a Development Application is required for the cutting down, pruning, removal, or injury of tree(s) or other vegetation in the following situations:
 - a) Any development requiring tree removal that cannot be carried out in accordance with *SEPP (Exempt and Complying Development Codes) 2008* including the Part 3 General Housing Code and 3A Rural Housing Code.
 - b) Sixteen (16) or more trees are proposed to be cut down, pruned or removed upon lands, excluding lands zoned either: E2 Environmental Conservation, E3 Environmental Management or E4 Environmental Living.
 - c) Six (6) or more tree(s) and/or the clearing of other native vegetation upon land zoned either: E2 Environmental Conservation, E3 Environmental Management or E4 Environmental Living.

- d) Any tree and/or other vegetation identified as an item of heritage significance or located on land identified as containing an item of heritage significance, in Schedule 5 Part 1 of Wollongong Local Environmental Plan 2009.
- e) Any tree and /or other vegetation which is contained upon any land identified within a Heritage Conservation Area, in Schedule 5 Part 2 of Wollongong Local Environmental Plan 2009.
- f) Tree(s) and/or other vegetation on land affected by *State Environmental Planning Policy No. 14 - Coastal Wetlands* (SEPP 14).
- g) Any tree or vegetation which is contained upon any land containing an endangered ecological community or threatened flora species or fauna habitat under the *Threatened Species Conservation Act 1995*.

Note¹: Under SEPP 14, the consent authority (Council) may only grant development consent to the destruction or removal of native trees or other native vegetation within a coastal wetland, in cases where the Director – General has granted written concurrence to the application.

Note²: Where the clearing, removal or destruction of any threatened flora species, endangered ecological community or critical habitat for a threatened flora or fauna species or ecological community as listed under *Threatened Species Conservation Act 1995* is likely to have a significant effect the concurrence of the Director – General of the NSW Office of Environment and Heritage is required.

7.1 Development Application - Lodgement Requirements

1. The following information is required to be submitted with any Development Application:
 - a. Application form - completed and signed by all relevant property owners. This includes all property owners on land to which the subject tree(s) is situated, they must sign the application form or alternatively, an attached supporting letter must be provided which authorises the lodgement of the application for any works on the subject tree(s).
 - b. Details of the proposed number, species, age and size (i.e. height, trunk diameter, canopy spread) of tree(s) and/or other vegetation proposed to be removed / pruned.
 - c. Full written details as to the reasons for the proposed pruning or removal of the tree(s) and/or other vegetation.
 - d. A full description of existing trees and other vegetation upon the site.
 - e. Payment of the prescribed application fee. Any property owner who receives a pension rate rebate from Council will be exempt from having to pay the application fee as per Council's adopted Fees and Charges
2. If a tree is growing near a common property boundary, ownership will be determined by identifying which side of the boundary the majority of the trunk's diameter exists at ground level.
3. Where a property is in a Strata Plan under the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*, the written consent and Body Corporate seal is required from the Body Corporate which authorises the lodgement of the application for the specific type of works to be undertaken.
4. Council may require additional supporting information for an application, including the following:
 - (a) Arborist's report;

- (b) Tree survey;
 - (c) Flora and fauna impact assessment report;
 - (d) Geotechnical or structural engineer's reports;
 - (e) Bushfire assessment report
 - (f) Plumber's report;
 - (g) Details of proposed root barriers; and/or
 - (h) Medical Certificate from a Medical Practitioner in cases where the removal or pruning of a tree is requested due to quality of life issues (e.g. allergies).
5. An Arborist who can prepare reports is a person who is eligible for membership as a 'Consulting Arborist' with the National Arborists Association of Australia or the Institute of Australian Consulting Arboriculturists and who has obtained a Level 5 Certificate in Horticulture/Arboriculture or equivalent.
6. In cases where a tree has caused damage to a sewer, the application must include written evidence from a licensed plumber stating the extent of the problem. This is necessary given that damage to a sewer is often unidentifiable from the natural ground surface level.
7. In all cases, all costs associated with providing any required additional information shall be borne by the Applicant.

7.2 Tree and Vegetation Management as part of a Development Proposal

1. As part of the assessment of a Development Application for buildings where existing trees or other native vegetation are on the site, Council will determine if the trees should be retained, can be removed or if modifications need to be made to the layout of buildings and driveways. This will be determined using criteria for evaluation of significant trees and vegetation. The Development Application must be supported by an Arborist Report that complies with Council's requirements.
2. Generally for a tree to be retained reference must be made to Australian Standard AS4790-2009 Protection of Trees on Development Sites.
3. Where Council has issued a Development Consent for a structure or building, any tree with its base within 3 metres of that building or structure on the subject land may be removed without further application to Council, provided the Council's Tree Management Officer is satisfied before the tree is removed that its base is within the 3 metre limit.
4. If it has been determined that a tree or trees are to be retained, a tree protection zone must be established. This will include a fenced off area which must be maintained throughout the construction period and shall be exclusive of any buildings, footings, excavation, retaining walls, materials storage, services, level changes or hard surfaces in the zone. Certification from a qualified arborist may also be required at the following stages of the development:
 - (a) Before commencement of construction;
 - (b) At mid point of the construction phase; and
 - (c) At completion of the construction phase.

10. Larger sites should use a Council approved Landscape Management Plan or a Vegetation Management Plan to maintain trees on regular basis. Where an approved Landscape Management Plan (detailing the proposed management methods) does not exist approval should be sought from Council as part of a development application. A Vegetation Management Plan may be required where there is significant vegetation present.

Appendix: 1 EXEMPT TREE SPECIES LIST

Common Name	Botanical Name
African Olive	<i>Olea europaea</i> subsp. <i>cuspidata</i>
Alder	<i>Alnus</i> species
Black Locust	<i>Robina pseudoacacia</i>
Box Elder	<i>Acer negundo</i>
Camphor Laurel	<i>Cinnamomum camphora</i>
Canary Island Date Palm	<i>Phoenix canariensis</i>
<i>Celtis occidentalis</i>	<i>Hackberry</i> or <i>Sugarberry</i>
China Doll	<i>Radermachera sinica</i>
Chinese Tallow	<i>Triadica sebifera</i> [<i>Sapium sebiferum</i>]
Cocos or Queen Palm	<i>Syagrus romanzoffiana</i>
Coral Tree	<i>Erythrina x sykesii</i>
Cotoneaster	<i>Cotoneaster</i> species
Domestic Fruit Trees	
Golden Cypress Pine	<i>Cupressus macrocarpa</i> 'Brunniana'
Honey Locust	<i>Gleditsia triacanthos</i>
Kaffir Plum	<i>Harpephyllum caffrum</i>
<i>Koelreutaria paniculata</i>	<i>Golden Rain Tree</i>
Liquidambar	<i>Liquidambar</i> species
Norfolk Island Hibiscus/Itchy Pod Tree	<i>Lagunaria patersonii</i>
Oleander	<i>Nerium oleander</i>
Pepper Tree	<i>Schinus areira</i>
Poplar	<i>Populus</i> species
Privet	<i>Ligustrum</i> species
Radiata Pine	<i>Pinus radiata</i>
Rubber Tree	<i>Ficus elastica</i>
Silky Oak	<i>Grevillea robusta</i>
Umbrella Tree	<i>Schefflera actinophylla</i>
Willow	<i>Salix</i> species
Yellowwood	<i>Nageia falcatus</i>