

CHAPTER 3.6 PRESERVATION OF TREES OR VEGETATION

1.0 INTRODUCTION

1.1 Land to which the Chapter Applies

This chapter applies to all land in the Central Coast Local Government Area except land covered by Clause 5.9(8) of Wyong Local Environmental Plan (LEP) 2013 and land covered by Acts other than the Environmental Planning and Assessment Act relating to tree or vegetation removal.

1.2 Purpose of this Chapter

The purpose of this chapter is to prescribe, in conjunction with the provisions of Clause 5.9 of Wyong LEP 2013 or the provisions of any other relevant planning instrument when development consent or a tree works permit from Council is required for the actions of ringbarking, cutting down, topping, lopping, removal, injuring or wilfully destroying species of tree(s) or other vegetation.

Note: If tree(s) or other vegetation are not covered by this plan, development consent or a permit granted by Council is not required to undertake the above actions.

1.3 Aims of the Chapter

- To specify the species or types of tree(s) or vegetation that require development consent or a tree works permit granted by Council for their ringbarking, cutting down, topping, lopping, removal, injuring or wilful destruction.
- To provide a framework for the protection of trees and native vegetation within the Central Coast Local Government Area.
- To protect and enhance the environmental amenity, special landscape characteristics, unique vegetation qualities and ecological values of the Central Coast Local Government Area;
- To outline a series of requirements and guidelines related to miscellaneous matters associated with the operation of this Chapter.

1.4 Objectives of the Chapter

- To preserve the amenity of the Central Coast Local Government Area through the preservation trees and other vegetation.
- To define Council's responsibilities and requirements with respect to the protection, retention and replacement of trees and native vegetation.

- To ensure proper consideration is given to trees and vegetation in planning, designing and constructing development.
- To minimise unnecessary injury to, or destruction of, trees and vegetation.
- To facilitate the removal of undesirable exotic plants, noxious weeds, dangerous trees and other inappropriate plantings.
- To specify the requirements for the submission of sufficient and relevant information by those who wish to ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation.

1.5 Application of the Chapter

A **Tree Works Permit** will be required for the ringbarking, cutting down, topping, lopping, pruning, removal, injuring or wilfully destroying of tree(s) (as defined in the Definitions Section of this plan) that is ancillary to the consented use of the land.

Development consent will be required from Council for the ringbarking, cutting down, topping, lopping, pruning, removal, injuring or wilfully destroying of vegetation and tree(s) that is not ancillary to the consented use of the land nor is part of a development application for a development permitted with the consent of Council in the zone that applies to the land.

A **Complying Development** certificate is taken to satisfy any requirement for a permit or development consent to remove or prune a tree or other vegetation if the tree or vegetation:

- a is within 3 metres of the proposed development, and
- b is less than 6 metres high, and
- c is not listed on Council's Significant Tree Register.

Heritage Trees - Development consent is required from Council for the ringbarking, cutting down, topping, lopping, removal, injuring or wilful destruction of trees listed as a heritage item or are located within a heritage conservation area.

Significant Trees - Proposals for the ringbarking, cutting down, topping, lopping, removal, injuring or wilful destruction of listed Significant Trees require a Tree Works permit. All applications must be supported by a detailed arboriculture report that is to consider and discuss all options (unless Council is satisfied it is a risk to human life or property). If consent is to be granted a report is to be forwarded to senior management for determination. Refer to Council's Significant Tree Register. See link below.

www.centralcoast.nsw.gov.au/environment/trees/significant_tree_register

Exempt Tree Removal and Pruning - Council consent may be assumed for removal and/or pruning of the following:

- a trees within three (3) metres of an approved building (measured one (1) metre above ground level and between the face of the wall and the part of the trunk nearest the building), providing the tree species is not:
 - i. a threatened species; or
 - ii. listed on Council's Significant Tree Register; or
 - iii. is or is part of a Heritage Item;
- b dead trees or pruning of dead branches;
- c tree species listed in Appendices 1 or 2;
- d branches directly overhanging the roofline of an approved building (in accordance with Australian Standard AS4373);
- e branches within 1 metre around electricity and/or telecommunication wires.

2.0 DEFINITIONS

Approved building - A building or part of a building which has been approved by Council under the Environmental Planning and Assessment Act or Local Government Act, or has otherwise been lawfully constructed, but doesn't include:

- a A manufactured home, movable dwelling or associated structure;
- b A temporary structure within the meaning of the Local Government Act; or
- c Any structures included in the list of "exempt development".

Clearing is defined as cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting, underscrubbing or burning native vegetation.

Native 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**.

Tree Long lived woody perennial plant greater than 3 metres in height with one or relatively few main stems or trunks.

3.0 APPLICATION MATTERS

3.1 Information Requirements

The following information is required to be submitted:

- a with an application for those activities requiring a development application; and
- b with a Tree Works Application, if upon review of the Tree Works Application, Council's Tree Management Officers consider such information is necessary for the assessment of the application.

3.2 Tree Locations and Schedule

Tree Locations & Schedule is required when a Development Application involves works which may affect trees on the property, and/or trees within 5 metres of the proposal on an adjoining property. An accurate *Tree Locations & Schedule* is necessary as it can form the basis of a tree removal/retention condition of consent.

A *Tree Locations & Schedule* locates, identifies and provides basic data on existing trees on and adjacent to a site. It must include all trees that maybe affected by proposed buildings, access, services and bushfire asset protection zones.

The *Tree Locations & Schedule* is to indicate the proposed action of the identified trees (remove or retain). Crown spread of trees is to be drawn on the plan and shown as a dashed line for trees to be removed, or an unbroken line for trees to be retained.

All trees are to be plotted (by land survey) and numbered on Development Applications; Site Analysis plan, Survey plan and Landscape plan. The tree schedule (sample below) can be on the plan or attached to the applications documentation. The number of each tree on the plan is to correspond with the numbered tree schedule and the tag of each tree on site.

Sample tree schedule corresponding to survey plan

No	Botanical Name	Common Name	Height (m)	DBH (mm)	Action
1	Eucalyptus punctata	Grey Gum	12	600	Remove
2	Corymbia maculata	Spotted Gum	22	700	Retain
3	Eucalyptus robusta	Swamp Mahogany	18	900	Retain

3.3 Arborist's Report

An Arborist's Report provides technical comment on specific tree-related issues, particularly regarding the health and condition of trees and can include recommended strategies for retaining and protecting trees close to proposed developments.

An Arboriculture Report can provide supporting evidence of defects in trees to justify an application for removal.

For development proposals an arboricultural report must consider Section 2 of *Australian Standard Protection of trees on development sites (AS 4970-2009)* and is required when:

- More than ten (10) trees (over 3 metres in height) are nominated for removal;
- Works are to occur within 5 metres of trees to be retained, that have a DBH (Diameter at Breast Height) greater than 500mm;
- As requested by Council's Tree Assessment Officer.

An Arboricultural Report must be prepared by a qualified arborist, suitably experienced and competent in arboriculture, having acquired through training, qualification (minimum Australian Qualification Framework (AQF) Level 5, Diploma of Horticulture (arboriculture) where deemed necessary by the Assessing Officer.

3.4 Flora and Fauna Impact Assessment Report

Where the clearing of trees and native vegetation is proposed a Flora & Fauna Impact Assessment Report that addresses *Section 5A of the Environmental Planning and Assessment Act 1979* may be required.

The Flora & Fauna Impact Assessment Report is to be prepared in accordance with *Flora and Fauna Survey Guidelines: Lower Hunter Central Coast Region (2002)* (*Lower Hunter Central Coast Regional Environmental Management Strategy*) or any guidelines prepared by the NSW State Government for assessment of matters under the *Threatened Species Conservation Act 1995*.

4.0 ASSESSMENT CRITERIA

The following provides the basis by which Council will assess Development Applications or Tree Works Permit Applications.

4.1 Assessment Criteria for a Development Application and Tree Works Permit Applications

- a Whether sufficient supporting information (as per 3.0) has been provided.
- b Whether the development has an impact on:-
 - i. native flora and fauna and its habitat, and
 - ii. threatened species, critically and endangered ecological communities, populations and their habitats, and
 - iii. regionally significant vegetation and
 - iv. a habitat corridor, waterways, riparian land or wetland.
- c Whether the development is designed, sited and managed to avoid potential adverse environmental impacts;
- d If a potential adverse environmental impact cannot be avoided, has the development;
- e been designed and sited so as to have minimum adverse impact, and
- f incorporated effective measures so as to have minimal adverse impacts, and
- g mitigated any residual adverse environmental impact through the restoration of any existing disturbed or modified area on the site.
- h Whether the trees or other vegetation contributes to the natural or desired character of the area as identified in the Character chapter in this DCP;
- i Has considered the provisions of relevant legislation and relevant Council plans and policies;
- j Whether the trees or other vegetation forms part of a heritage item, or is within a heritage conservation area.
- k The potential hazard to persons or property in the context of;
 - i. the structural soundness of the particular tree, and/or
 - ii. the characteristics and history of the particular species, and/or
 - iii. such other conditions such as ground conditions, building proximity, etc which may give rise to a hazardous situation.
- l The vitality, condition and useful life expectancy (ULE) of the tree in respect to the practicality of remedial actions;
- m The existence of potential for visual or sight hazard as a result of proximity to a roadway, intersection or a driveway, where pruning is inappropriate;

- n The demonstrated need for reasonable solar access to dwellings, solar appliances and clothes drying areas;
- o The replacement or pruning of a tree given its location or proximity to utility lines such as overhead power wires, sewer pipes, etc;
- p Whether the tree is an ornamental or fruiting variety and is no longer fulfilling its original purpose in the location in which it had been planted;
- q Species which by natural propagation methods are likely to create a threat to the landscape environment;
- r Any additional or replacement planting which has been or is to be undertaken on the land;
- s Whether removal or pruning of trees has been proposed to minimize impacts on better quality trees to be retained;
- t Whether the establishment and/or maintenance of a Bushfire Asset Protection Zone has been supported by a report from the Rural Fire Service or qualified bushfire consultant.
- u Provided that no significant hazard or other safety issues also apply, the following shall not generally be considered as valid reasons to remove a tree:
 - i. Leaf drop (into gutters and downpipes – pools, lawns and the like);
 - ii. To increase natural light;
 - iii. To improve street lighting of private property;
 - iv. To enhance views;
 - v. To reduce shade;
 - vi. To reduce fruit, resin or bird droppings on cars;
 - vii. Minor lifting of driveways, brick fences and paths by tree roots;
 - viii. To erect a fence;
 - ix. Bushfire hazard control which has not been verified by Council;
 - x. Potential damage to sewer mains unless supported by written expert advice and only where reasonable alternatives are not feasible (e.g.: relocate, sleeving);
 - xi. Termite damage to trees unless supported by written expert advice from a qualified pest controller and only where reasonable alternatives are not feasible (eg: treatment of pest).

4.2 Underscrubbing subject of a Development Application

Where an application for tree or other vegetation removal consisting of underscrubbing is made the following conditions will be included:

- a Underscrubbing is to be carried out with the use of rubber tyred machinery only;
- b Provision for exclusion zones for intermittent or permanent watercourses;
- c Provision for retention of all trees greater than 3 metres in height;

- d Substantial clumps of vegetation to be retained in cleared areas. These will be required to be fenced off to prevent intrusion by stock and/or machinery;
- e Fallen timber is to be recycled (such as through chipping, grinding, mulching), and left on site or otherwise removed from the site for an approved recycling process. Temporary windrows or heaps are to be placed across contours and be a minimum of 20 metres from any vegetation which is to be retained;
- f No vegetation is to be pushed into those areas of no disturbance (exclusion zones), particularly drainage lines;
- g Removal of noxious weeds (see Appendix 2) is to be by hand implements only in those areas to be retained (i.e. in the exclusion zones);
- h Windbreaks will not be permitted to be incorporated into the clearing scheme except where identified in an approved Rehabilitation Plan;
- i All erosion control measures to be in place prior to clearing;
- j If there is to be a time lapse between clearing and sowing or planting, then a suitable cover crop shall be required to be planted.

5.0 GENERAL PROVISIONS

5.1 Tree Protection on Development Sites

Council recommends that *Australian Standard - Protection of Trees on Development Sites (AS4970, 2009)*, be used for guidance in regard to integration between trees and construction. The document is considered to describe the best practices for planning and protection of trees on development sites.

5.2 Tree Replenishment

Where trees are proposed for removal or there are no other existing canopy trees on site, Council expects a degree of tree replenishment to occur where practical. Each site should contain tree(s) capable of achieving a minimum height of 10 metres. Where sufficient existing canopy trees are to be retained, tree replenishment is not expected. All applications for tree removal should nominate and locate tree replenishment. Where opportunities exist for street tree planting or for sites with limited area to support trees, street tree planting on the adjoining road reserve is to be considered. Council may also condition consent to address tree replenishment.

5.3 Undesirable Species and Noxious Weeds

These are plants that have undesirable characteristics such as the potential to invade bushland areas, or that have brittle and dangerous wood, or that are declared noxious weeds.

Noxious weeds are those plants declared under the *Noxious Weeds Act 1993*. Removal or control of declared noxious weeds on private land is the landowner's responsibility. See Appendix 1 for listed Undesirable species and Appendix 2 for declared Noxious Weeds.

5.4 Evidence for Dead and/or Dangerous Vegetation

Except for specified emergency situations, expert advice should always be obtained with respect to dead or dangerous trees to confirm their condition and to ensure that they do not provide habitat for threatened species. Where a dead or dangerous tree is removed due to obvious instability or hazard, (e.g. following storm damage), evidence of the tree's condition should be retained for a period of at least six (6) months after the event and produced at Council's request if needed. Such evidence should include:

- photographs of the tree in situ, and
- a report by a suitably qualified and experience person, or
- a written statement from the State Emergency Service, if the Service carried out the works.

5.5 Buffer Zones

The implementation of prescribed buffer zones to protect critically and endangered ecological communities, regionally significant vegetation, rainforests, wetlands, creeks, riparian vegetation and any significant natural environmental feature may be applied by Council under any consent granted for the clearing of native vegetation. Prescribed buffer widths will be determined by Council based on site characteristics including but not limited to the following:

- Existing native vegetation;
- Soils and geology;
- Topography;
- Aspect;
- Scale of the development proposal;
- Extent of any existing weed infestation or disturbance.

5.6 Bushland Management Plans

Bushland Management Plans may be applied by Council under any consent granted for the clearing of native vegetation to protect and manage critically and endangered ecological communities, regionally significant vegetation, rainforests, wetlands, creeks, riparian vegetation and any significant natural environmental feature.

6.0 APPENDICES

APPENDIX 1 - Undesirable Species in Central Coast LGA

Botanic Name	Common Name
Cupressus macrocarpa 'Brunniana Aurea'	Brunnings Golden Cypress
Cinnamomum camphora	Camphor Laurel
Erythrina species	Coral Tree
Ficus elastica	Rubber Tree
Lantana camara	Lantana
Ligustrum ovalifolium	Narrow Leaved Privet
Ligustrum lucidum	Broad Leaved Privet
Pinus radiata	Radiata Pine
Phyllostachys spp	Bamboo
Ricinus communis	Castor Oil Plant
Robinia pseudoacacia	Black Locust/False Acacia
Salix spp. (all species except S.stricta)	Willows
Schefflera actinophylla	Umbrella Tree
Syagrus romanzofianum	Cocos palm (formally Arecastrum romanzofianum)
Tecoma stans	Tecoma
	Non-native fruit trees

APPENDIX 2 - Noxious Plants

As declared Noxious by the order of the Minister for Agriculture and gazetted in accordance with the Noxious Weeds Act 1993.

Botanical Name	Common Name
Acacia karoo	Karoo Thorn
Ageratina adenophora	Crofton Weed
Ageratina riparia	Mistflower
Alternanthera philoxeroides	Alligator Weed
Cambomba spp. (not Cabomba furcata)	Cabomba (not Pink Cabomba)
Cenchrus incertus & Cenchrus longispinus	Spiny Burr Grass

<i>Centaurea nigra</i>	Black Napweed
<i>Centaurea maculosa</i>	Spotted Napweed
<i>Cestrum parqui</i>	Green Cestrum
<i>Chromolaena odorata</i>	Siam Weed
<i>Chrysanthemoides monilifera</i> subsp. <i>monilifera</i>	Boneseed
<i>Chrysanthemoides monilifera</i> subsp. <i>rotunda</i>	Bitou Bush
<i>Cuscuta campestris.</i>	Golden Dodder
<i>Eichornia crassipes</i>	Water Hyacinth
<i>Emex australis</i>	Spiny Emex
<i>Equisetum</i> spp.	Horsetail
<i>Gymnocoronis spilanthoides</i>	Senegal Tea Plant
<i>Harrisia</i> spp.	Harrisia Cactus
<i>Hieracium</i> spp.	Hawkweed
<i>Hypericum perforatum</i>	St Johns Wort
<i>Kochia scoparia</i> (not <i>K scoparia</i> subsp. <i>Tricophylla</i>)	Kochia
<i>Lagarosiphon major</i>	Lagarosiphon
<i>Ludwigia peruviana</i>	Peruvian Water Primrose
<i>Lycium ferocissimum</i>	African Boxthorn
<i>Miconia</i> spp	Miconia
<i>Nassella tenuissima</i> syn <i>Stipa</i>	Mexican Feather Grass
<i>Opuntia</i> spp.	Prickly Pear
<i>Orobanche</i> spp	Broomrape
<i>Parietaria judaica</i>	Pellitory/Asthma Weed
<i>Parthenium hysterophorus</i>	Parthenium Weed
<i>Pistia stratiotes</i>	Water Lettuce
<i>Rubus fruticosus</i> (agg. spp.)	Blackberry
<i>Salvinia molesta</i>	Salvinia
<i>Sorghum x alnum</i>	Columbus Grass
<i>Sorghum halepense</i>	Johnson Grass
<i>Sporobolus indicus</i> var <i>major</i>	Giant Parramatta Grass
<i>Toxicodendron succedaneum</i>	Rhus Tree
<i>Ulex europaeus</i>	Gorse
<i>Xanthium</i> spp.	Burrs - Noogoora, California, Bathurst, Cockle

APPENDIX 3 - Regionally Significant Vegetation

Regionally Significant Vegetation (Comparable Communities and Sub-Communities in Central Coast LGA)	Vegetation Community Description (Bell 2004)
Coastal Headland Gully Scrub	E51e
Coastal Headland Low Forest	E51c
Coastal Headland Shrubland	E51b
Coastal Narrabeen Ironbark Forest	E6b
Coastal Narrabeen Moist Forest - Acacia regrowth	E6aiii
Coastal Narrabeen Moist Forest - Basalt variant	E6aiii
Coastal Sand Banksia Scrub	E50b
Coastal Sand Foredune Scrub	E50a
Coastal Sand Wallum - Heath	E34ai
Coastal Sand Wallum - Heath - intermediate variant	E34aii
Coastal Headland Paperbark Scrub	E51d
Coastal Sand Beach Spinifex	E53
Estuarine Mangrove Scrub	E47
Hawkesbury Dwarf Apple Woodland	E28
Katandra Hawkesbury Woodland	E26b
Killcare Hawkesbury Woodland	E26c
Narrabeen Coastal Peppermint Forest	E22c
Sandstone Ranges Gully Rainforest	E2
Somersby Plateau Forest	E26d
Swamp Paperbark Thicket	E100
Tumbi Spotted Gum Ironbark Forest	E15ai
Tumbi Spotted Gum Ironbark Forest - Acacia regrowth	E15aii
Wamberal Low Open Heath Forest	E101

Bell S.A.J. (2004) *The Natural Vegetation of the Gosford Local Government Area, Central Coast, New South Wales: Vegetation Community Profiles* Unpublished Report to Gosford City Council, April 2004, Eastcoast Flora Survey.