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How to Determine if You Need Council Approval to Remove or Lop Trees

On 16 June 2010, Wingecarribee Shire Council adopted a new Local Environmental Plan (WLEP 2010). Clause 5.9 of WLEP 2010 replaced Council's Tree Preservation Order. Clause 5.9 now provides controls for the preservation of trees and other vegetation throughout the **whole** of the Shire where as the previous Tree Preservation Order only applied to certain zones and vegetation types. This new clause specifically states that a person must not ring bark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation without either a permit granted by Council or a development consent issued by Council.

The recently adopted Development Control Plans (DCP's) which accompany and support Council's new Local Environmental Plan now relate to specific towns, localities or groups of land use zones. Each individual DCP also provides the guidelines and controls for the preservation of trees and other vegetation for the relevant town, locality or group of land use zones. Prior to any action taking place (as listed above in Clause 5.9), property owners must now locate the appropriate DCP for their local area and review the specific details regarding the requirements for permits or development consent.

Each DCP also provides a list of exemptions plus information on Council's objectives for tree and vegetation preservation and Council's assessment considerations for each of the applicable areas.

Removal of native trees and vegetation within the following rural and environmental zones, and which are not associated with an activity or work requiring development consent from Council, **only** requires consent under the Native Vegetation Act:

RU1, RU2, RU4, R5, SP1, SP2, SP3, E2, E3 and E4 (See WLEP 2010 zoning maps).

Applications for the removal of such trees and vegetation must be applied for through the Hawkesbury Nepean Catchment Management Authority (See contact details for the Authority below).

The flow chart on the following page has been prepared to assist you to determine whether approval is required for the removal of trees and other vegetation.

Contacts

- Wingecarribee Council Town Planning Staff (see separate staff contacts table)**
- Hawkesbury Nepean Catchment Management Authority**
4/9 Clarence St PO BOX 957 Moss Vale NSW 2577
Ph: (02) 4861 9010 Fax: (02) 4868 3588

HOW TO DETERMINE IF YOU NEED COUNCIL APPROVAL TO REMOVE / LOP TREES

Question 1	Is the tree or vegetation native <u>and</u> located within the following zones: RU1, RU2, RU4, R5, SP1, SP2, SP3, E2, E3 or E4 (See WLEP 2010 zoning maps) and the removal is not associated with an activity or development which requires development consent from Council?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
		Approval is only required under the Native Vegetation Act. Refer to Hawkesbury Nepean Catchment Management Authority	Go to Q2

Question 2	Is the tree or vegetation proposed to be removed or lopped included in the list of exemptions on the back of this form? Please note that these exemptions do not apply within Heritage Conservation Areas or within properties listed as an Item of Heritage(See WLEP 2010 zoning maps).	Yes <input type="checkbox"/>	No <input type="checkbox"/>
		Approval is not required.	Go to Q3

Question 3	<u>Trees</u>	<u>Vegetation</u>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Is the tree more than 6 meters in height and greater than 500mm in circumference measured at 1 meter above the ground <u>or</u> does the tree have a branch and foliage crown spread of more than 4 meters?	Is the vegetation defined as "other vegetation" (see below for clarification).	Go to Q4	Approval is not required.

Question 4	Is tree or vegetation located within a Heritage Conservation Area or form part of a Heritage Item? (See WLEP 2010 zoning maps).	Yes <input type="checkbox"/>	No <input type="checkbox"/>
		A Development Application may be required. Please contact Councils Environment Assessment Branch on 48680888 for clarification (See Clause 5.9.(9) of WLEP 2010)	An application for a tree removal/ lopping permit is required.

Note: If you are proposing to remove trees or vegetation as part of a development, a separate permit for tree or vegetation removal in the majority of cases will not be accepted. Applications for removal will be considered during assessment of the development application. You will need to show the proposed tree and vegetation removal on your plans and mention this in your development application and Statement of Environmental Effects.

Exemptions

Approval is not required for the removal of trees or vegetation when the purpose of the removal is for:

- (a) emergency bushfire hazard reduction within the meaning of the Rural Fires Act 1997,
- (b) compliance with a Bushfire Hazard Reduction Certificate issued within the meaning of the Rural Fires Act 1997, in accordance with the Bushfire Environmental Assessment Code or a Section 66 Notice issued within the meaning of the Rural Fires Act 1997,
- (c) to maintain an approved bushfire hazard asset protection zone within the meaning of the Planning for Bush Fire Protection guideline,
- (d) emergency fire fighting, emergency access or emergency works undertaken by a public authority within the meaning of the State Emergency Rescue and Management Act,
- (e) work that a qualified representative from Council is satisfied is necessary to protect a person or property from imminent physical danger attributable to vegetation,
- (f) work ordinarily incidental to the use, operation and management of a lawful development, the maintenance of garden and landscaped areas, excepting work involving the removal or lopping of a tree, as defined,
- (g) action required or authorised to be done by or under the Electricity Supply Act 1995, the Roads Act 1993 or the Surveying Act 2002,
- (h) clearing of native vegetation that is authorised by a development consent or property vegetation plan under the Native Vegetation Act 2003, or that is otherwise permitted under division 2 or 3 of part 3 of that Act,
- (i) 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,
- (j) compliance with any development approved pursuant to Part 5 of the Environmental Planning and Assessment Act 1979,
- (k) to protect or maintain existing public utilities (associated with the provision of power lines, transmission of electricity, water, gas, sewer mains, electronic communication or the like),
- (l) to destroy or remove declared noxious weeds, a current list of which may be obtained from Council,
- (m) except in the case of Items of Heritage, or in Heritage Conservation Areas, to destroy or remove declared environmental weeds, a current list of which may be obtained from Council
- (n) to transplant field grown trees propagated for sale as advanced specimens growing on land occupied by an approved plant nursery,
- (o) works on the same land parcel, within three (3) metres of the foundation walls of an approved habitable building or in ground pool,
- (p) works on trees or other vegetation within a State Forest or land reserved from sale as a timber reserve under the Forestry Act 1916,
- (q) a tree that Council is satisfied is dying or dead and is not required as the habitat of native fauna,
- (r) a tree which is identified for removal in a Land Use Approval under the Environmental Planning & Assessment Act 1979.
- (s) pruning, as defined in A5.1.5 above.

Other vegetation - means any plant life not defined as a tree (as above) and includes any sapling, shrub, scrub, understorey plants, groundcover (being any type of herbaceous vegetation) and plants occurring in a wetland;

- where it provides habitat or likely habitat for threatened species, populations and endangered ecological communities as defined within the Threatened Species Conservation Act,
- where it is in the riparian zone associated with a creek, river, watercourse wetland, stream, or other aquatic habitat as delineated in the Natural Resources Sensitivity Maps of the LEP,
- where it is within a wildlife corridor as delineated in the Natural Resources Sensitivity Maps of the LEP,
- where the land is koala habitat, or
- where it is on land owned by Council or under its care, control or management, including road reserves.