



northern  
beaches  
council

# **WARRINGAH DEVELOPMENT CONTROL PLAN 2000**

## **Amendment 4**

Adopted by Council on **26 November 2019**

In effect from **1 December 2019**

## Introduction

This DCP applies to all land to which Warringah Local Environmental Plan 2000 applies.

### WARRINGAH DCP 2000 - AMENDMENT SCHEDULE

Amend No.	EDMS	Approved by Council	Commenced	Overview of amendment
1	PEX2015/0002	10/02/2015	21/02/2015	Part Section 2.6 – Notification Removed requirement to send hard copy of plan.
2	SF2893	27/06/2017	08/07/2017	New Northern Beaches Council notification requirements.
3	C001865	25/09/2018	20/10/2018	Tree and Waste Management Amendments
4	PEX2019/0004	26/11/2019	01/12/2019	Removal of Part 1 Exhibition, Advertisement and Notification of Applications to give effect to the Northern Beaches Community Participation Plan

## **Part 2 - Preservation of Trees and Bushland Vegetation**

### **Applies to Land**

This control applies all land, waterways and Bushland covered by the Warringah LEP 2000.

### **Objectives**

- To protect and enhance the urban forest of the Northern Beaches.
- To effectively manage the risks that come with an established urban forest through professional management of trees.
- To minimise soil erosion and to improve air quality, water quality, carbon sequestration, storm water retention, energy conservation and noise reduction.

- To protect, enhance bushland that provides habitat for locally native plant and animal species, threatened species populations and endangered ecological communities.
- To promote the retention and planting of trees which will help enable plant and animal communities to survive in the long-term.
- To protect and enhance the scenic value and character that trees and/or bushland vegetation provide

## Requirements for Vegetation Clearing Permits

- 1 Authority to clear a tree or other vegetation is regulated in this plan in accordance with State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 i.e. 'Vegetation SEPP'. In particular, Part 2 of the Vegetation SEPP sets out the authority to clear vegetation and Part 3 provides for Council to declare under this DCP when a Vegetation Clearing Permit may be issued for clearing of vegetation.

Note: However a permit under Part 3 of the Vegetation SEPP cannot allow the clearing of vegetation that is or forms part of a heritage item or that is within a heritage conservation area, or that is or forms part of an Aboriginal object or that is within an Aboriginal place of heritage significance, unless the council is satisfied that the proposed activity:

- is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area, and
  - would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.
- 2 A person shall not ringbark, cut down, top, lop, remove, poison, injure, or wilfully destroy any tree or bushland vegetation that requires a Vegetation Clearing Permit under the provisions of Part 3 of the Vegetation SEPP. This includes damage to a tree or bushland vegetation by:
    - Damaging or tearing live branches and roots;
    - Damaging the bark, including attachment of objects using invasive fastenings, the fastening of materials around the trunk of trees which may result in a detrimental impact on tree health;
    - Tree topping, where large branches and/or the trunk of the tree is removed from the top of the trees canopy;
    - Tree lopping, where branches are removed to reduce the height and spread of the tree.
    - Damaging the root zone of a tree by way of compaction, including storage and stockpiling materials;
    - Changing of ground levels within the root zone of a tree by way of excavation, trenching, filling or stockpiling;
    - Under scrubbing of bushland vegetation;
    - Burning of vegetation (not part of a Hazard Reduction Certificate); or
    - Any other act or activity that causes the destruction of, the severing of trunks or stems of, or any other substantial damage to, some or all of the bushland vegetation in an area.

An authority to clear vegetation is not required under the Vegetation SEPP:

- if it is clearing authorised by development consent i.e. a 'DA' under Part 4 of the Environmental Planning and Assessment Act 1979. Note: However this authority to clear vegetation without a permit does not extend to clearing merely because it is a

part of or ancillary to the carrying out of exempt development (see clause 8(1) of Vegetation SEPP).

- if it is clearing of a kind that is an activity authorised by an approval, or carried out by a determining authority within the meaning of Part 5 of the Environmental Planning & Assessment Act after compliance with that Part.
- if the clearing was an emergency firefighting act or emergency bush fire hazard reduction work within the meaning of the Rural Fires Act 1997 (the 'Act'), or bush fire hazard reduction work to which section 100C(4) of the Act applies or vegetation clearing work under section 100R of the Act.

3 A Vegetation Clearing Permit is required for:

- a) Removal or cutting down of any tree over 5 metres high;
- b) Pruning of more than 10 percent of a tree canopy.
- c) The removal or cutting down of vegetation in "*Bushland*".

For the purpose of this clause "*Bushland*" means land on which there is vegetation which is either a remainder of the natural vegetation of the land or, if altered, is still representative of the structure and floristics of the natural vegetation (as defined by the *Local Government Act 1993* and *WLEP 2000*).

Note: A description of native vegetation types or communities which constitute "Bushland" is provided in the adopted Warringah Natural Area Survey: Vegetation Communities and Plant Species - August 2005.

4 In applying for a Vegetation Clearing Permit, the applicant must demonstrate that any tree to be removed as part of a Vegetation Clearing Permit meets one or more of the criteria of the Removal of Tree Test in Appendix 1 and the Tree Retention Assessment in Appendix 2. An arborist report may be required to satisfy this requirement.

### **Requirements for Development Applications (DAs)**

When a DA required for clearing vegetation the following requirements apply:

- 5 Development is to be sited and designed to minimise the impact on remnant native vegetation, including canopy trees and understorey vegetation, and on remnant native ground cover species.
- 6 Where the applicant demonstrates that no reasonable alternative design exists and a tree must be removed, suitable compensatory tree planting is required. Details including proposed species and the location of replacement planting are to be provided.
- 7 Development must also avoid any impact on trees on public land.
- 8 For DAs involving the construction of new buildings and works containing Classes 2-9 (BCA), the DA lodgement is to be in accordance with Appendix 3.
- 9 Where trees proposed to be retained may be affected by the construction of new buildings and works of Classes 1 and 10, a Tree Protection Plan is to be submitted in accordance with Appendix 4.

## Exceptions

Council may consider a variation to the requirements where Council is satisfied:

- a tree or other vegetation is dying or dead and is not required as habitat for native fauna.
- a tree or other vegetation is a risk.

## Trees can be removed or pruned without Council's authorisation of a Vegetation Clearing Permit where the trees are:

- In an area in which the Council has authorised their removal as part of a hazard reduction program, where that removal is necessary in order to manage risk
- Required to be removed under other legislation (including the *NSW Rural Fires Act 1997* and the *Environmental Planning and Assessment Act 1979*).
- Removed by Rural Fire Services because they pose or will pose a significant threat to access along required fire trails or to human life, buildings or other property during a bushfire.
- A tree where the immediate removal is essential for emergency access or emergency works by the Council, the State Emergency Service or a public authority.
- A tree in a container, other than in a planter box that forms part of a building, or in a container that is permanently fixed to a structure.
- A field-grown tree propagated as part of a commercial horticultural or agricultural enterprise.

## Council's authorisation of a Tree Permit is not required for:

- The removal of any tree on the Exempt Tree Species List (see Table 1).
- Reasonable maintenance involving trimming and pruning of up to 10 percent of a tree's canopy within a 12 month period (all pruning works must be in accordance with *Australian Standard AS 4373:2007 Pruning of amenity trees*).
- The pruning or removal of hedges (unless required by conditions of a development consent).  
"Hedge" means groups of 2 or more trees that:
  - (a) are planted (whether in the ground or otherwise) so as to form a hedge, and
  - (b) rise to a height of at least 2.5 metres (above existing ground level).
- The removal of deadwood from a tree.
- The removal of a tree, where the base of the trunk of the tree at ground level, is located within 2 metres of an existing approved building (not including decks, pergolas, sheds, patios or the like, even if they are attached to a building).
- Removal of any species of parasite mistletoe or parasitic plant from any part of a tree to ameliorate the effects on the tree from such a parasite
- The removal of trees which are considered a high risk / imminent danger to life and property by a Level 5 qualified arborist. These trees can be removed without Council consent by the owner of the tree subject to the owner obtaining written confirmation from the arborist that clearly states the following:
  - The arborists qualifications: AQF Level 5 Arborist or equivalent;

- That the tree(s) is declared a 'high risk' or is an imminent danger to life and property;
- That immediate removal of the tree(s) is recommended.
- A copy of the report must be sent to Council for record keeping purpose.

**Notes:** A "significant tree" is a tree that is over 5m in height and, that impacts on the streetscape by virtue of its size, appearance, type, age, condition and heritage/cultural significance. It includes hollow-bearing trees and/or trees of conservation significance or habitat value.

The cutting down, pruning or removal by persons other than the owner must have written permission from the owner.

All work must be carried out in accordance with the Australian Standards 4373-2007 "Pruning of Amenity Trees" and in accordance with the current NSW WorkCover Code of Practice - Amenity Tree Industry.

The submission of an arborist's report may be required to satisfy Council that a tree is dead or dying, or is a risk to human life or property.

The impact of development on native vegetation can be minimised by:

- locating buildings to minimise the amount of disturbance of vegetation and landforms;
- providing adequate distance between the drip line of the tree and development. This avoids destabilising and deoxygenating the tree, altering the drainage and helps ensure its preservation;
- avoiding strip footings and slab on ground construction due to the impact on trees in close proximity. Suitable footing alternatives are as follows:
  - stump footings usually associated with lightweight construction on sloping sites; or
  - pier and beam footings as the beams are able to span the root systems and minimise tree root damage. Pier and beam footings also allow trees to be located closer to development where no other alternative exists;
- locating paved areas outside the drip line of trees and minimise paved area impact on the native understorey vegetation or native groundcover species;
- minimising hard surfaces to allow water infiltration to the root system;
- locating trenches outside the drip line of a tree;
- adequately protecting and managing trees and vegetation during construction; and
- protecting tree trunk bases with fencing or a tree barrier during construction.

For vegetation that is known or potential habitat of threatened species, populations or ecological communities see the following for further information:

- Commonwealth legislation: *Environment Protection and Biodiversity Conservation Act (1999)*
- State legislation: *Biodiversity Conservation Act 2016*

Council does not encourage the following species to be planted: *Chamaecyparis* spp. (Cypress pine) and *Cupressus* spp. (Cypress pine).

*Table 1 - Exemption Species: The following Tree species are suitable for removal without consent unless identified as a Heritage item or within a Heritage area.*

**SPECIES NAME**

**COMMON NAME**

<i>Acacia baileyana</i>	Cootamundra Wattle
<i>Acacia saligna</i>	Golden Wreath Wattle, Golden Willow Wattle
<i>Acer negundo</i>	Box Elder
<i>Alianthus altissima</i>	Tree of Heaven
<i>Alnus jorullensis</i>	Evergreen Alder
<i>Araucaria bidwillii</i> . ..... (Not Norfolk Island Pines)	Bunya Bunya Pine
<i>Syagrus (Arecastrum) romanzoffiaa</i>	Cocos Palm
<i>Brachychiton acerifolius</i>	Illawara Flame Tree
<i>Cassia spp</i>	Cassia
<i>Castanospermum australe</i>	Black Bean, Moreton Bay Chestnut
<i>Celtis australis</i>	Hackberry
<i>Cinnamomum camphora</i>	Camphor laurel
<i>Citharexylum spinosum</i>	Fiddlewood
<i>Cotoneaster glaucophyllus</i> .	Cotoneaster
<i>Cupaniopsis laurina</i>	Tuckeroo
<i>Cupressus spp. Cupressocyparis spp. Chamaecyparis spp.</i>	Cypress Pine
<i>Eriobotrya japonica, Carica papaya, Citrus spp., Fortunella spp. Malus, spp. Morus spp. Persea spp. Prunus spp.</i>	All non-native fruit producing trees (Loquat, Paw Paw, Citrus, Kumquat, Apple, Mulberry, Avocado, Apricot, Almond, Chery, Plum, Peach)
<i>Eucalyptus nicholii</i>	Peppermint Gum
<i>Eucalyptus scoparia</i>	Wallangarra White Gum
<i>Erythrina spp</i>	Coral Tree
<i>Fraxinus griffithii</i>	Himalayan Ash/Evergreen Ash/Griffiths Ash
<i>All Ficus spp. (except F.macrophylla, F. rubiginosa, F. coronata)</i>	All Ficus spp. (except Moreton Bay Fig, Port Jackson Fig and Sandpaper Fig)
<i>Gleditsia triacanthos</i>	Honey Locust
<i>Grevillea robusta</i>	Silky Oak
<i>Harpephyllum caffrum</i>	Kaffir Plum
<i>Jacaranda mimosifolia</i>	Jacaranda
<i>Lagerstroemia</i>	Crepe Myrtle

*Lagunaria patersonia*

Norfolk Island Hibiscus

<i>Liquidambar styraciflua</i>	Liquidambar
<i>Ligustrum spp.</i>	Liquidambar
<i>Nerium oleander</i>	Oleander
<i>Olea spp.</i>	Olive
<i>Palms (other than Livistona australis)</i>	Palms other than Cabbage-tree Palm
<i>Paraserianthes lophantha</i>	Crested Wattle
<i>Pinus spp.</i>	Pine
<i>Pittosporum spp. (up to 8m)</i>	Pittosporum
<i>Populus spp.</i>	Poplar
<i>Pyracantha angustifolia</i>	Orange Fire Thorn
<i>Raphiolepis indica</i>	Indian Hawthorn
<i>Robinia pseudoacacia</i>	False Acacia
<i>Salix spp.</i>	Willow
<i>Sapium sebiferum</i>	Chinese tallow
<i>Schefflera actinophylla</i>	Umbrella Tree
<i>Spathodea campanulata</i>	African Tulip Tree
<i>Ulmus parvifolia</i>	Chinese Elm
<i>Cupaniopsis anarcardioides</i>	Griffiths Ash

**Note:** The *Noxious Weed Act* is now superseded by the *Biosecurity Act 2015*. Any species previously identified as noxious, is now called a priority weed species. Refer to Greater Sydney Regional Strategic Weed Management Plan.

### **Part 3 - Waste Management**

Relevant objectives to satisfy in relation to this paragraph include the following:

- To facilitate sustainable waste management in a manner consistent with the principles of Ecologically Sustainable Development (ESD).
- Encourage environmentally protective waste management practices on construction and demolition sites which include:
  - sorting of waste into appropriate receptors (source separation, reuse and recycling) and ensure appropriate storage and collection of waste and to promote quality design of waste facilities;
  - adoption of design standards that complement waste collection and management services offered by Council and private service providers;
  - building designs and demolition and construction management techniques which maximises avoidance, reuse and recycling of building materials and which will minimise disposal of waste to landfill; and
  - appropriately designed waste and recycling receptors are located so as to avoid impact upon surrounding and adjoining neighbours and enclosed in a screened off area.

- Encourage the ongoing minimisation and management of waste handling in the future use of premises.
- To ensure waste storage and collection facilities complement waste collection and management services, offered by Council and the private service providers and support on-going control for such standards and services.
- To minimise risks to health and safety associated with handling and disposal of waste and recycled material, and ensure optimum hygiene.
- To minimise any adverse environmental impacts associated with the storage and collection of waste.
- To discourage illegal dumping.

## **Requirement**

All development that is, or includes, demolition and/or construction, must comply with the appropriate sections of the Waste Management Guidelines and all relevant Development Applications must be accompanied by a Waste Management Plan.

## **Time period for notification over the Christmas/New Year Period**

The period between 20 December and 10 January will not be included in the time period for notification/advertising of applications.

This does not apply to applications where the EP&A Regulation stipulates a maximum notification/advertising period.

## **Consideration of submissions**

All submissions must be made in writing to Council and must reasonably and relevantly relate to the subject of the application.

All submissions will be publicly available on Council's website and may be disclosed to any person requesting information under the *Government Information (Public Access) Act 2009*.

Personal information (eg: phone number, address, name, email address) will be redacted upon request.

Council will consider requests for a whole submission to be confidential. These requests must include reasons as to why the submission should not be released online.

Anonymous correspondence will not be counted as a submission.

Submissions received after the end of the notification period will be accepted at the discretion of Council staff.

All submissions received from the same person will be considered as a single submission.

All submissions received by or on behalf of the same dwelling will be considered as a single submission.

Irrespective of the number of signatories, petitions will be considered as a single submission.

Any person that lodges a submission will be notified of Council's determination of the application. Only the organiser of the petition will be notified of Council's determination of the application.

## **Appendices**

Appendix 1 - Removal of Tree Tests (as per Appendix 8 in Warringah 2011)

Appendix 2 - Tree Retention Assessment (as per Appendix 9 in Warringah 2011)

Appendix 3 - Class 2-9 Buildings (as per Appendix 11 in Warringah 2011)

Appendix 4 - Tree Protection Plan (as per Appendix 12 in Warringah 2011)