

TREE & VEGETATION REMOVAL – PROTECTED & EXEMPT VEGETATION

FACT SHEET

Under the State Environmental Planning Policy (SEPP (Vegetation in Urban Areas)) and the Penrith Development Control Plan (DCP), it is illegal to cut down, fell, uproot, kill, poison, ringbark, burn or otherwise destroy vegetation, or lop or otherwise remove a substantial part of the vegetation as prescribed in Council's DCP without Council permission. Where the vegetation is native, clearing includes shrubs, ground covers or wetland plants.

PRESCRIBED VEGETATION

Prescribed (protected) vegetation is outlined in the Penrith DCP as:

- 1) Any indigenous tree (both living and dead) or other vegetation that is on land zoned E2 Environmental Conservation in the Penrith LEP 2010 Land Zoning Map or natural resources sensitive land identified in the Penrith LEP 2010 Natural Resources Sensitivity Land Map.
- 2) In residential areas, any tree or other vegetation having a height of 3m or more or a trunk exceeding 100mm Diameter at Breast Height (DBH, measured at approx. 1400mm above ground level).
- 3) In business and industrial areas:
 - a) Any tree or other vegetation having a height of 3m or more or a trunk diameter exceeding 100mm DBH.
- 4) In rural areas:
 - a) Any tree or other vegetation, within 20m of a dwelling house, having a height of 3m or more or a trunk exceeding 100mm DBH.
 - b) Any indigenous tree or vegetation, not within 20m of a dwelling house.
Note: clearing of vegetation will only be considered where it is proposed in conjunction with a use permissible on that land.
 - c) Any introduction vegetation, not within 20m of a dwelling house, having a height of 3m or more or a trunk exceeding 100mm DBH.
- 5) Any tree or other vegetation that is, or forms part of, a heritage item or is within a heritage conservation area.

EXEMPT VEGETATION

You do not need approval for the following:

- 1) a tree or other vegetation that the Council is satisfied is dying or dead and is not required as the habitat for native fauna;
- 2) a tree or other vegetation that the Council is satisfied is a risk or imminent threat to human life or property;
- 3) a tree or other vegetation where the trunk is located within 2m of an existing dwelling, as measured from the main trunk of the tree or other vegetation to an external enclosing wall of the existing dwelling;

- 4) controlled weeds under the *NSW Biosecurity Act 2015* and identified in the *Greater Sydney Regional Strategic Weed Management Plan 2017 - 2022*;
- 5) the removal of trees and other vegetation to maintain approved dams or bushfire asset protection zones.

You can also carry out the following works without permission:

- Remove or prune edible fruit trees (excluding Australian natives), eg. Citrus, apple, mulberry, etc. *Note: Ornamental fruit trees are not exempt.*
- remove fruit and dead leaves (fronds) from palm trees
- prune branches up to 50mm diameter
- prune to remove deadwood and mistletoe
- remove or prune any exempt species (see below)

Exempt Species

- African Olive (*Olea europaea subsp.africana*)
- Cassia (*Senna pendula*)
- Cocos palm (*Syagrus romanzoffianum*)
- Cotoneaster
- Hackberry (*Celtis sinensis*)
- Norfolk Island Hibiscus (*Lagunaria patersonia*)
- Oleander (*Nerium oleander*)
- Privet (*Ligustrum spp.*)
- Rubber Tree (*Ficus elastica*)
- Tree of Heaven (*Ailanthus altissima*)
- Umbrella Tree (*Schefflera actinophylla*)

CLEARING FOR BUSHFIRE PROTECTION – THE “10/50 RULE”

The NSW *Rural Fires Amendment (Vegetation Clearing) Bill 2014* commenced on 1 August 2014, introducing the 10/50 rule. Visit the [Rural Fire Service website](#) for details and to check if your property is in a [10/50 Vegetation Clearing Entitlement Area](#).

The new laws allow property owners in a designated 10/50 Vegetation Clearing Entitlement Area to:

- clear “trees” on their property within 10m of a dwelling wall, without seeking approval* and
- clear underlying vegetation such as shrubs (but not trees) on their property within 50m of a dwelling wall, without seeking approval

Provided it is undertaken in accordance with the [10/50 Code](#), **otherwise the clearing is illegal**. The 10/50 Code specifies that:

- You may not remove trees (or prune more than 25% of the original canopy) on slopes greater than 18 degrees;
- Landowners have a duty of care in the appropriate management of soil erosion and landslip risks when clearing trees and vegetation under the 10/50 Code.
- Herbicides may only be used in accordance with certain conditions.
- Landowners have a duty of care to avoid cruelty and harm to native, introduced or domestic animals when clearing in accordance with the

10/50 Code. It is important that landowners are aware that clearing under the 10/50 Code can result in harm to native animals and loss of their natural habitat and you are *not* exempt from prosecution for harm to protected fauna, or for deliberate cruelty to animals.

- You may not clear vegetation on Wetlands identified in the Sydney Regional Environmental Plan 20 – Hawkesbury Nepean River (No 2 – 1997) as mapped and provided by the Department of Planning and Environment;
- The clearing of vegetation including trees *is not allowed* within 10 metres of a river that is 2 metres or more in width between the highest opposite banks, or within 10 metres of a lake.
- The clearing of vegetation including trees *is not allowed* if it includes records of Critically Endangered Plants as [mapped and provided by the Office of Environment and Heritage](#);
- The following Critically Endangered Ecological Communities found within the Penrith LGA, as [mapped and provided by the Office of Environment and Heritage](#) may not be cleared without approval:
 - Agnes Bank Woodland in the Sydney Basin Bioregion
 - Cumberland Plain Woodland in the Sydney Basin Bioregion
 - Shale Sandstone Transition Forest in the Sydney Basin Bioregion
 - Or any other Critically Endangered Ecological Community, if mapped and provided by OEH.

DEFINITIONS

Native/Indigenous vegetation means one or more plant species of vegetation - including trees, shrubs, understorey plants, groundcovers and any plants occurring in a wetland - that existed in the City of Penrith before European settlement or have regrown through natural or assisted processes. This may include standing dead trees which provide essential habitat for native fauna.

Introduced vegetation means non-native vegetation being one or more plant species of vegetation that did not exist in the City of Penrith before European settlement.

Tree means:

- a) a living perennial plant that has a height of three (3) metres or more or a trunk circumference exceeding 300mm at 400mm above ground level, or
- b) individual trees, gardens or native vegetation listed as Significant Trees and Gardens.

See our website penrithcity.nsw.gov.au for more information. If you are unsure if you need approval, or what type of approval you need, please contact Council on 4732 7777.