

1. POLICY OBJECTIVES

1.1 The objectives of this policy are:

- To promote and recognise the value of trees and significant vegetation as essential assets for current and future generations.
- To maximize the preservation, protection, maintenance and management of trees, especially those with environmental, heritage, social and cultural significance. This will contribute to the amenity, visual quality, climate resilience and healthy environment of the Shire.
- To protect and conserve important biodiversity and wildlife corridors within the confines of the legislative framework at the State and Commonwealth level.
- To recognize the importance of tree canopy and increase the extent of tree canopy throughout the Shire through the planting of appropriately selected trees in streets, bushland and public open space, as well as on private land.
- To improve ecological functions by increasing the species diversity, age diversity, quality and quantity of tree canopy on private and public land.
- To effectively manage existing and potential threats to public safety and Council assets and infrastructure.
- To outline the responsibilities of Council and others in managing trees and vegetation.
- To provide guidance for the management of trees on private and public land, including monitoring, pruning, removal and subsequent replacement.

2. BACKGROUND

2.1 Wollondilly Shire's rural character and bushland beauty are features worth protecting. Within our growing townships, there is a need to manage development, especially to protect existing remnant native trees and vegetation, as well as develop the amenity and liveability of these townships. Trees deliver significant environmental, economic and social benefits to our community including:

- Enhancing neighbourhood aesthetics and thereby improving property values.
- Providing shading of buildings in summer, reducing the need for air conditioning and lowering energy costs.
- Enhancing levels of biodiversity and the range of habitats for endangered species.
- Providing shade for streets and footpaths while their leaves reflect and absorb sunlight, minimising the heat absorbed by the built environment during the day.
- Reducing stormwater flows and nutrient loads into our natural waterways.
- Releasing oxygen, absorbing carbon dioxide and improving air quality.
- Providing a sense of place and creation of local identity.
- Encouraging outdoor activity.
- Reconnecting children with nature.
- Reducing people's exposure to the sun and harmful radiation.
- Reducing heat-related illnesses, especially for vulnerable people.
- Improving physical and mental health.

- 2.2 The Wollondilly Community Strategic Plan (CSP) prioritises protecting the environment through strategies under the 'Caring for the Environment' theme. The CSP includes:
- Strategy EN1 – Protect and enhance biodiversity, waterways and groundwaters.
 - Strategy EN2 – Protect the environment from development pressures.
 - Strategy EN3 – Vegetation management.
 - Strategy EN4 – Community involvement.
 - Strategy EN5 – Environmental awareness.
 - Strategy EN6 – Sustainable practices.

3. APPLICABILITY

- 3.1 This Policy and the associated plans and protocols applies or has relevance to:
- All areas of Wollondilly including new developments.
 - Members of the public who are considering planting, pruning or removing trees or other significant vegetation on private land.
 - Members of the public who are interested or concerned about the planting, pruning or removing of trees or other significant vegetation on public land controlled by the Council.
 - Council activities which impact on trees or other significant vegetation in public space including street trees, parks and reserves.
- 3.2 No person may plant, disturb, remove or interfere with (including prune) a tree or vegetation on public land, including on a road reserve, without the express approval of an authorised Council officer.

4. GUIDELINES

4.1 Tree Definition

Wollondilly Council defines a Tree in clause 5.9(3) of the Wollondilly Local Environmental Plan and clause 10.2 of the Wollondilly Development Control Plan 2016 as:

- Greater than 3 metres in height; or
- The trunk has a circumference of 450mm or more at a height of one metre from the ground level; or
- Having a branch span of 3 metres or more.

In addition to the above the tree(s) having the potential to achieve the above specifications.

4.2 Tree Assessment

- 4.2.1 Visual Tree Assessment of trees within Wollondilly Shire are conducted from ground level and do not include specialised assessments, such as sonic tomography or resistograph tree decay tests, aerial inspections, or pathology diagnosis of any pests or diseases.
- 4.2.2 Visual Tree Assessment (VTA) is a world-wide arboricultural industry standard of assessing a tree from ground level to look for any external signs of decay, physical damage or growth related structural defects. Council may apply a risk management approach to Hazard Assessment such as Quantified Tree Risk Assessment (QTRA) and Tree Risk Assessment Qualification (TRAQ).
- 4.2.3 The VTA method ascertains whether there are grounds for removal or if there is a need for a more detailed inspection of any part of the tree, which may include specialist reports or tests. All tree inspections are to be carried out by an AQF (Australian Qualification Framework) Level 5 (Diploma) Consulting Arborist.

Removal or Pruning of Trees on Private Land

4.3 Removal of Dead Trees

Under the provisions of the *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* (Vegetation SEPP), approval is not required to remove a tree that is dead if Council is satisfied that:

- The tree or vegetation is dead or dying.
- The tree or vegetation is not required as habitat for native animals.

4.4 Tree Pruning or Removal

- 4.4.1 The Wollondilly Development Control Plan 2016 requires the submission, assessment and determination of applications for the pruning and removal of tree(s) and other vegetation on non-rural zoned private property under the *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* (Vegetation SEPP).
- 4.4.2 Local Land Services (LLS) is the consent authority for tree and vegetation removals or pruning on rural zoned land when the clearing is not related or ancillary to development.
- 4.4.3 For trees and vegetation species endemic to the local area, Council may require consent and permit holders to collect seeds/cuttings for propagation at the Council's nursery.
- 4.4.4 Any person acting on a consent or permit issued by Council must comply with all conditions of that consent or permit.
- 4.4.5 Any person who contravenes, causes or permits the contravention of *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* (Vegetation SEPP) is guilty of an offence under the *Environmental Planning & Assessment Act 1979*, and a penalty notice or court proceedings may apply.

4.5 Tree Pruning Works

- 4.5.1 Tree pruning works must be undertaken by a minimum AQF Level 3 arborist and all pruning works must comply with Australian Standard AS4373-2007 Pruning of Amenity Trees.
- 4.5.2 Selective pruning of up to a total of 10% of the crown of an indigenous tree and up to a total of 20% of the crown of an exotic tree species over a 12 month period is allowed. Branches no greater than 150 mm in diameter may be pruned without approval from Council.
- 4.5.3 Council is not responsible for maintenance of trees and vegetation on land not owned or managed by Council.

4.6 Tree Management Application, Determination and Review

- 4.6.1 A Tree Management Application is required to be lodged with Council for any tree or vegetation works on non-rural land and that is not ancillary to a development application.
- 4.6.2 The permits are in accordance with the thresholds described in Chapter 10 of the Wollondilly Development Control Plan 2016 and the cost is accordance with Council's Adopted Fees and Charges for Tree Removal.
- 4.6.3 There is currently on fee for 1 to 5 trees (inclusive) and up to 50m² of vegetation and another fee for 6 trees and Greater than 51m² of vegetation.
- 4.6.4 Tree Management Permits are valid for 12 months from date of issue on the determination letter.
- 4.6.5 The land owner's consent is required for a Tree Management Application to be submitted and assessed.
- 4.6.6 Council may condition the replacement planting of any tree removals.
- 4.6.7 If an applicant is dissatisfied with Council's assessment of their tree permit application, the applicant can submit an application for Review of Tree Determination. The applicant shall provide a report from an AQF Level 5 (Diploma) Consulting Arborist with any additional reports requested by Council relevant to the stated problem e.g. a structural engineer or licensed plumber report.
- 4.6.8 The review of the original permit application determination will then be conducted by another Council official or consent authority. Should the review uphold the original determination, there is a right to appeal the decision in the Land & Environment Court. A fee may apply for the review of a tree determination.

4.7 Arboricultural Impact Assessment Reports

- 4.7.1 Council may require an arboricultural impact assessment report to be submitted with any development that impacts on existing trees within the development site and/or neighbouring properties. These will only be accepted if written by an AQF Level 5 (Diploma) Consulting Arborist.

4.8 Tree Removal and Replacement

4.8.1 When a tree is removed it must be replaced with between two to four advanced approved species (25 litre or greater) which is to be maintained until establishment. The replacement number shall be determined by council. All trees must be grown to Australian Standard AS2303-2018 Tree Stock for Landscape Use.

4.9 Tree Removal for Complying Development Certificates (CDC)

4.9.1 Under the *State Environmental Planning Policy (Exempt and Complying Development) 2008*, a Private Certifier or Council can issue a CDC. A Private Certifier can approve the removal of trees only when it is required to accommodate the proposed development, if the following conditions are met:

- The tree is not listed on a Significant Tree Register or register of significant trees kept by the Council.
- The tree or vegetation is within 3m of the development.
- The tree or vegetation has a height that is less than 8m.

4.9.2 If the above conditions cannot be met, then the tree or vegetation removal will require consent through the Development Application process.

4.10 Rural Fire Service (RFS) 10/50 Vegetation Clearing Scheme

Trees or vegetation to be removed by the application of the Rural Fire Service 10/50 Vegetation Clearing Scheme may require Council approval.

A property owner may not clear trees or other vegetation under the 10/50 Code contrary to conditions set out in a Development Consent or other approvals under the *Environmental Planning and Assessment Act 1979*. For example, if a Development Consent requires you to retain specified trees or vegetation they cannot be cleared under the 10/50 clearing scheme.

It is the responsibility of the property owner to check if their property is located within a 10/50 Vegetation Clearing Entitlement Area, if the entitlement applies and whether there are any other restrictions that may apply.

Clearing under the 10/50 Vegetation Clearing Scheme must comply with the guidelines set out in the RFS 10/50 Vegetation Clearing Code of Practice.

Any clearing outside of the RFS 10/50 Vegetation Clearing Code of Practice is considered to be unauthorised and may result in penalties.

4.11 Unauthorised Pruning or Removal

4.11.1 No pruning, removal or damage to trees or vegetation on Council managed land is to be undertaken without prior approval by an authorised Council officer.

- 4.11.2 Anyone found to have damaged, disturbed or removed a tree or vegetation without consent may be fined or prosecuted, which may result in penalties and a civil action in accordance with *Local Government Act 1993*, *Environmental Planning and Assessment Act 1979* or *Protection of the Environment Operations Act 1997*.

Public Tree Pruning and Removal

- 4.12 For trees on public land, residents may apply to have a tree(s)/vegetation pruned or removed. Residents will need to contact Council with the location and reason for why the tree(s)/vegetation needs to be pruned or removed.
- 4.13 The tree or trees/vegetation shall be assessed by Council's Tree Management Officer as outlined in section 4.2.
- 4.14 All works carried out on trees in public spaces shall be carried out by Council or a Council appointed contractor and meet all requirements set out in 4.5.

4.15 Unauthorised Pruning or Removal

- 4.15.1 No pruning, removal or damage to trees or vegetation on Council managed land is to be undertaken without prior approval by an authorised Council officer.
- 4.15.2 Anyone found to have damaged, disturbed or removed a tree or vegetation without consent may be fined or prosecuted, which may result in penalties and a civil action in accordance with *Local Government Act 1993*, *Environmental Planning and Assessment Act 1979* or *Protection of the Environment Operations Act 1997*.

4.16 Appeals

- 4.16.1 If an applicant is dissatisfied with Council's assessment of their tree application, the applicant can submit an application for Review of Tree Determination. The applicant shall provide a report from an AQF Level 5 (Diploma) Consulting Arborist with any additional reports requested by Council relevant to the stated problem e.g. a structural engineer or licensed plumber report.
- 4.16.2 The review of the original application determination will then be conducted by another Council official or consent authority. Should the review uphold the original determination, there is a right to appeal the decision in the Land & Environment Court. A fee may apply for the review of a tree determination.

4.17 Tree Planting and Distances

- 4.17.1 All planting and maintenance work will be performed using best horticultural practices in accordance with the appropriate guidelines and Australian Standards. Reference should also be made to Austroads standards when developing landscape and street tree planting plans.

4.17.2 The following distances should be allowed when planting trees in new developments and existing locations where Austroads standards are not met:

- Driveway – 3 metres from edge.
- Power pole – 8 metres from centre of pole.
- Street corner – 25 metres from intersection in all directions, unless supported by a sight distance assessment with absolute minimum of 10 metres.
- Street light – 8 metres from centre of street light pole.
- Kerb and gutter – minimum of 1 metre from back of kerb.
- Nature strip with no kerb and gutter – planting to be centrally located between road edge and property boundary.

4.18 Non-Valid and valid Tree Removal Considerations

4.18.1 Non valid tree removal considerations

The following are generally not considered to be adequate reasons for the pruning or removal of a tree:

- Improving views.
- Leaf, seed, bark, flower or branch drop.
- Shading of lawn or property.
- Overhanging branches.
- Dislike for particular tree(s).
- Agistment of animals.
- Exposed roots.
- Minor damage to Council infrastructure.
- Damage to fences and driveways.
- Possible future development.

4.18.2 Valid Tree Removal Considerations

Council will take into account any one or more (but not limited to) of the following when assessing a tree for pruning or removal, (this however does not guarantee the removal or pruning of the tree or vegetation):

- Public safety.
- Species unsuitability for location.
- Location of tree to buildings, amenities, structures, sight lines for traffic and pedestrians.
- Heritage or cultural significance.
- Tree significance.
- Whether the tree(s) or vegetation is remnant, endemic, an endangered population or threatened species.
- Location or proximity to an endangered ecological community.
- Tree health, structural stability and vigour.
- The useful life expectancy (ULE) of the tree or vegetation.

- Tree risk rating using QTRA or TRAQ methods.
- Structural damage to infrastructure or dwellings.
- Any relevant development consent conditions.
- Pedestrian access.
- Motorists vision from vehicles in driveways.
- Habitat value.
- Amenity value.
- Bushfire hazard reduction.
- Solar panel shading - assessed on a case by case basis.

4.19 Tree Protection Zones

Trees to be retained must be protected in accordance with Australian Standard AS4970 - 2009 – Protection of Trees on Development Sites where practical.

Trees to be retained must be protected with appropriate Tree Protection Zones (TPZ) which must be implemented prior to any development or demolition occurring near any tree(s), including trees on neighbouring properties that will be impacted by development.

No more than a 10% incursion into the protected root zone area is allowed without consent from Council or a project arborist.

4.20 Arborist Reports

Property owners may seek advice and/or reports from independent arborists to assist in planning, assessing, monitoring, species selection and other tree management decisions. The level of qualification for any report submitted to Council is to be from a minimum AQF Level 5 (Diploma) Consulting Arborist. This will then be reviewed by Council's Tree Management Officer and Environmental Team.

4.21 Habitat Trees

Where the opportunity exists to reasonably and safely remedially prune a tree into a habitat stag, then retention of a tree for future use by native animals within the local area will be priority. A sign may be placed onto tree to identify the habitat stag tree.

4.22 Tree Planting

Council's Tree Planting and Maintenance Program

4.22.1 Council's tree planting and maintenance program will be prioritised based on the level of funding and resources available. The program aims to develop the urban tree canopy within Council owned land including parks, reserves and streetscapes. Tree planting by persons other than Council officers in roads and public land requires authorisation by Council.

4.22.2 Resident requests for a tree to be planted on public land will be considered on its merits within the context of this policy.

4.22.3 Where a tree has been planted on public land and an appropriately qualified or experienced officer is of the view that the species and/or site of the planting is inconsistent with this policy, the officer, after consulting a manager, may remove the tree.

Tree Species Selection

4.22.4 Tree species selected for planting will be reviewed periodically to ensure species selection remains up-to-date via the introduction of new tree species. Non-performing species or species where undesirable attributes have become apparent will be withdrawn from use.

4.22.5 Council will consider the following characteristics and values when selecting tree species:

- Habitat value.
- Amenity value.
- Remnant or endemic species.
- Part of an endangered threatened ecological community or threatened species.
- Species suitability for location and climate.
- Potential damage to infrastructure and properties.
- Excessive leaf, seed, bark, flower or branch drop which may cause public safety concerns.

4.23 Determining Tree Ownership

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.

4.24 Fallen Trees onto Public Land

Where a tree on privately owned land is felled or falls and obstructs a public road or land resulting in the fallen tree to be removed by Council, Council may seek to recover the cost of such removal from the owner of the property from which the tree originated. Such cost may include:

- Labour charge
- Cartage
- Chipping/Disposal
- Damage to public property (such as street trees and infrastructure)
- Cost of any contracts.

4.25 Trees on Neighbouring Properties

4.24.1 Council does not mediate neighbourhood disputes regarding trees on private property.

4.25.2 Property owners should consult with neighbours prior to any works on trees or significant vegetation. The *Trees (Disputes Between Neighbours) Act 2006* allows the owner of an adjoining property(s) to seek legal resolution, if necessary.

4.25.3 All tree works must comply with AS4373-2007 Pruning of Amenity Trees, where practical.

4.26 Removal of Trees Posing Imminent Danger

4.26.1 In situations where a tree poses an immediate and obvious threat of injury to persons or damage to privately owned land, the tree(s) may be pruned or removed to make safe without a current Tree Management Permit.

4.26.2 The land owner must still lodge a Tree Management Application with Council within 72 hours of emergency works, inclusive of documentary evidence in the form of an AQF Level 5 (Diploma) Consulting Arborists report with images which proves that the tree was dangerous to human life or property.

4.26.3 Note that minimum works are permitted (refer to point 4.4.5 of this policy) without prior approval by Council, persons undertaking excessive works may be guilty of an offence under the *Environmental Planning & Assessment Act 1979* and a penalty notice or court proceedings may apply.

4.26.4 Remedial pruning can be carried out to make a tree(s) safe by Council, State Emergency Service, Rural Fire Service or other emergency service authorities in response to an emergency event on public land.

4.27 Storm Events

Where a storm event occurs resulting in significant clean up requirements in respect to trees and vegetation, Council will prioritise the works on Council-owned land in the following order:

- Clearance of roads
- Matters of public safety
- Danger to property
- Street trees
- Parks and reserve trees.

4.28 Tree Roots in Underground Pipes

4.28.1 Tree root tips are very small and cannot break, drill, crack or destroy pipes from the root tip as the root grows. Tree roots grow in response to available moisture and nutrients in the soil.

4.28.2 When tree roots enter pipes it is often a plumbing fault caused by poorly sealed, joined or previously damaged pipes, particularly in older terracotta pipes. Council does not accept liability when a tree root enters a pipe where there is a plumbing fault.

4.28.3 If a property owner believes that a plumbing fault is not the cause, then the pipes need to be exposed by the property owner for inspection by Council.

4.29 Pests in Trees

4.29.1 Council will address matters of pests in trees on a case-by-case basis with priority of treatment given to significant trees and residential areas for treatment. Trees posing imminent failure will be assessed and appropriate action will be taken.

4.29.2 Trees containing pests in rural areas are generally not considered for treatment.

4.30 Significant Trees and Significant Roadside Vegetation

A Significant Tree Register, procedures for managing the Register and for preserving significant trees will be implemented when resources become available.

4.31 External Authorities/Agencies

Other authorities/agencies have responsibility for managing their own infrastructure on public land including the management of trees and services.

4.32 Public and Private Power Line Clearance

4.32.1 Council is not responsible for maintaining appropriate distances for tree branches to public or private power lines. Approval is granted for this pruning in accordance with the energy supplier's specifications - Section 48 of the *Electricity Supply Act 1995* and AS4373-2007 Pruning of Amenity Trees.

4.32.2 Pruning works within 3m of power lines can only be carried out by suitably qualified personnel.

4.33 Wilful or Neglectful Damage to Trees or Vegetation

The Wollondilly Development Control Plan 2016 prohibits the ringbarking, cutting down, topping, lopping, removing, injuring or wilful destruction of any tree or vegetation without prior Development Consent or a permit from Council.

Wilful destruction includes neglectful damage from deliberate inattention by a property owner/tenant who allows the destruction of trees or vegetation to occur by persons or non-native animals, such as livestock.

5. RESPONSIBILITY/ACCOUNTABILITY

- 5.1 Manager Environmental Outcomes
- 5.2 Open Space Team Leader
- 5.3 Tree Management Officer

6. RELATED POLICIES/PROTOCOLS

- 6.1 Biodiversity Strategy 2004.

7. RELATED PROCEDURES

- 7.1 Nil

8. RELATED LEGISLATION

- 8.1 Biodiversity Conservation Act 2016
- 8.2 Biosecurity Act 2017
- 8.3 Civil Liability Act 2002
- 8.4 Crown Land Management Act 2016
- 8.5 Electricity Supply Act 1995
- 8.6 Environment Planning and Assessment Act 1979
- 8.7 Environmental Protection and Biodiversity Conservation Act 1999 (Commonwealth)
- 8.8 Heritage Act 1977
- 8.9 Local Government Act 1993
- 8.10 Protection of the Environment Operations Act 1997
- 8.11 Roads Act 1993
- 8.12 Rural Fires Act 1997
- 8.13 State Emergency and Rescue Management Act 1989
- 8.14 Trees (Dispute Between Neighbours) Act 2006
- 8.15 10/50 Vegetation Clearing Code of Practice for New South Wales
- 8.16 Wollondilly Local Environmental Plan (LEP) 2011
- 8.17 Wollondilly Development Control Plan (DCP) 2016

9. ATTACHMENTS

9.1 Nil

10. RESOURCES

- 10.1 Australian Standard AS4373-2007 Pruning of Amenity Trees
- 10.2 Australian Standard AS4970-2009 Protection of Trees on Development Sites
- 10.3 Australian Standard AS2303-2018 Tree Stock for Landscape Use
- 10.4 Bush Fire Environmental Assessment Code (Rural Fire Services 2016)
- 10.5 Endeavour Energy Tree Management Plan 2014
- 10.6 Wollondilly Tree Risk Management Plan 2010

11. IMPLEMENTATION STATEMENT

- 11.1 To ensure this policy is implemented effectively, Council will employ a variety of strategies involving awareness, education and training. These strategies will be aimed at Councillors, staff and council representatives and will involve:
- 11.1.1 The Policy will be introduced to the relevant sections of council through meetings and power point presentations.
 - 11.1.2 The Policy is available on Council's website.
 - 11.1.3 Relevant new staff will be introduced to the Policy through specific induction sessions.

12. POLICY HISTORY

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|---------------------------|--------------------------------|
| 12.1 Date First Adopted | ## / ## / ## |
| 12.2 Most Recent Adoption | ## / ## / ## |
| 12.3 Next Review Date | ## / ## / ## |
| 12.4 Responsible Officer | Manager Environmental Outcomes |