

**DRAFT AMENDMENTS TO WOLLONDILLY DEVELOPMENT
CONTROL PLAN 2016**

**REVISIONS TO VEGETATION REMOVAL CONTROLS IN
VOLUME 1 PART 10 OF WDCP 2016**

FOR COMMENT

**EXHIBITION DATE: 26 SEPTEMBER, 2018 TO 24 OCTOBER,
2018**

EXPLANATORY NOTE:

The proposed amendments include revisions to the vegetation removal controls in the plan. The amendments are required to that the controls in Council's Development Control Plan are consistent with the new Biodiversity Conservation Act 2016, the Local Land Services Amendment Act 2016 and the State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2016.

The proposed amendments also provide an opportunity for Council to make other amendments to its vegetation removal controls and determining what types of vegetation removal/activities can be undertaken without a permit from Council and what types of vegetation removal/activities may only be undertaken subject to the issue of a permit from Council.

PART 10 – Tree removal

10.1 General

This section applies to vegetation (native and exotic) clearing carried out under the *State Environmental Planning Policy (SEPP) (Vegetation in Non-Rural Areas) 2017*. This SEPP enables Council through its development control plan to identify vegetation on non-rural land that can be removed without the need for a permit and vegetation that can only be removed if a permit is issued by Council. Non-Rural Land is any land not having a rural zone.

This Part of the DCP does not apply to:

- Any vegetation clearance on Rural zoned land. For any clearing on rural zoned land, **Please contact the Native Vegetation Panel.**
- Any vegetation clearance that is directly related or is ancillary to use of land or activity that requires development consent from Council (**Refer to Section 9 Environment Protection of this Development Control Plan for requirements regarding any such clearance**).
- Any removal of native vegetation as defined by Section 60B of the Local Land Services Act 2016

<https://www.legislation.nsw.gov.au/#/view/act/2013/51/part5a/div1/sec60b>

that exceeds the biodiversity offsets scheme threshold under the *Biodiversity Conservation Act 2016*. Any clearance that exceeds the threshold criteria in column 3 below requires approval from the Native Vegetation Panel.

Minimum Lot Size of the Land (refer to the minimum lot size map within WLEP 2011 to determine the minimum lot size)	Maximum Area of Clearing for which Council can issue a Permit for removal	Area vegetation removal that requires approval from the Native Vegetation Panel
Less than 1 hectare	Less than 0.25 hectares	0.25 hectares or more
Less than 40 hectares but not less than 1 hectare	Less than 0.5 hectares	0.5 hectares or more
Less than 1000 hectares but not less than 40 hectares	Less than 1 hectare	1 hectare or more
1000 hectares or more	Less than 2 hectares	2 hectares or more

Table 1

- The removal of native vegetation carried out on land directly located on the Sensitive Biodiversity Values Land Map. Vegetation removal on part of a property not covered by this Map and which is below the thresholds in column 3 of table 1 above is subject to the Council Permit approval process and does not require approval from the Native Vegetation Panel. The biodiversity sensitive land values map can be accessed via the following link: <https://www.lmbc.nsw.gov.au/Maps/index.html?viewer=BVMap>

Tree/vegetation removal on Biocertified Land

Note, the proposed removal of native vegetation (as defined by the LLS Act) does not require approval from the Native Vegetation Panel if occurring on land that has been

biocertified even if the site of the proposed clearing is located on the Biodiversity Sensitive Land Map. Any vegetation/tree removal in such areas requires assessment by Council in accordance with Section 10.4 of this Section of the Development Control Plan. There is no biocertified land within the Wollondilly LGA at the time of public exhibition of this revised Tree Section, (Part 10), of the Development Control Plan.

10.2 Objectives

The objectives of this part are as follows:

1. To protect areas of native vegetation/trees and heritage items/landscape (European and Indigenous) of recognised high value.
2. To identify vegetation in non-rural areas of the Shire which may be removed without a permit or can only be removed by obtaining a permit from Council, or where applicable, a Biodiversity Conservation Licence issued by the Office of Environment and Heritage.
3. To satisfy the requirements of *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* and related requirements of the *Biodiversity Conservation Act 2016* and *Local Land Services Act 2016*.

10.3 Interpretation

Amenity Pruning means pruning (other than lopping or pollarding) done in accordance with AS 4373 that:

- a) Only involves removing dead wood; or
- b) Does not involve removing any limbs that have a diameter greater than 50mm; or
- c) Is the first pruning in the calendar year, affects less than 10 per cent of the canopy and does not alter the overall shape of the canopy.

Biodiversity Conservation Licence means a licence issued by the Office of Environment and Heritage under Part 2 of the Biodiversity Conservation Act 2016. Note, the issuing of a Permit by Council for vegetation clearance under this Section of the Development Control Plan provides exemptions from requirements within the Biodiversity Conservation Act for a Biodiversity Conservation Licence.

Biodiversity Offsets Scheme Threshold means the biodiversity offsets scheme threshold referred to in section 7.4 of the *Biodiversity Conservation Act 2016* and Part 7 of the *Biodiversity Conservation Regulation 2016*.

Driveway Crossover is that part of a **driveway** from the edge of the road pavement to the boundary of a property (i.e. council controlled land, footpath or road reserve).

Dwelling means an approved room or suite of rooms occupied or used or so adapted as to be capable of being occupied or used as a separate domicile.

European Heritage item means an item that is listed in Schedule 5 of Wollondilly Shire Council Local Environmental Plan, 2011.

Exempt Tree/Vegetation Removal means trees or vegetation that may be removed without the need for a permit or approval from the Native Vegetation Panel or in accordance with a Biodiversity Conservation Licence issued by the Office of Environment and Heritage.

Item of Aboriginal Heritage means an item that is registered on the AHIMS Data base.

Native Vegetation as defined in Local Land Services Act Part 5A section 60B.

Non-rural area means land the Wollondilly Local Government Area within the following land use zones:

Zone RU5 Village, Zone R1 General Residential, Zone R2 Low Density Residential, Zone R3 Medium Density Residential, Zone R4 High Density Residential, Zone R5 Large Lot Residential, Zone B1 Neighbourhood Centre, Zone B2 Local Centre, Zone B3 Commercial Core, Zone B4 Mixed Use, Zone B5 Business Development, Zone B6 Enterprise Corridor, Zone B7 Business Park, Zone B8 Metropolitan Centre, Zone IN1 General Industrial, Zone IN2 Light Industrial, Zone IN3 heavy Industrial, Zone IN4 Working Waterfront, Zone SP1 Special Activities, Zone SP2 Infrastructure, Zone SP3 Tourist, Zone RE1 Public Recreation, Zone RE2 Private recreation, Zone E2 Environmental Conservation, Zone E3 Environmental Management, Zone E4 Environmental Living or Zone W3 Working Waterways.

Sensitive land for the purpose of this Part refers to land which:

- a) Is within 10m of a watercourse over 2m wide, measured from the top of two opposing banks, and includes land between these banks
- b) Has a slope of 30 degrees or greater

Tree is considered to be any woody plant which meets one or more of the following:

- a) Is greater than 4 metres in height; or
- b) has a combined stem diameter of 150mm or more at 1m from the ground; or
- c) has a branch span of greater than 3 metres.

however, if any tree is proposed for removal under the Rural Fire Service 10/50 Code of Practice, then the definition of tree within that Code should be applied for that activity.

Vegetation means a tree or other vegetation comprised of tree, understorey and groundcover plants, whether or not it is native vegetation, but excluding exotic turf grasses

10.4 Approval Requirements for Vegetation Removal

This part identifies vegetation that can be removed without the need for a permit, and vegetation that may only be removed following a permit being issued by Council. If the removal of the vegetation is not exempt, then either a Tier 1 or Tier 2 permit application will be required depending on the level of vegetation proposed to be removed.

Control:

A person must not remove any tree or native vegetation, or any vegetation growing on sensitive land, to which this plan applies unless granted a permit to do so by Council, unless the tree or vegetation is subject to an exemption detailed in 10.4.1:

The process for identifying whether a Tier 1 or Tier 2 permit is required is outlined in the flow chart below (and summarised in Table 2):

This Flow Chart applies to the process in obtaining a Permit from Council

Step 1. Is a permit required for tree/vegetation removal?

Does one or more exemption under clause 10.4.1 apply?



No permit required



Carry out vegetation removal in accordance with exemptions, taking photographic evidence

Step 2. Apply for a permit from council

Is vegetation clearing more than 100 square metres?

NO



Apply for tree permit (clause 10.4.2)



Permit issued.

YES



Carry out tree/vegetation removal in accordance with permit conditions

YES



Apply for tier 2 permit (clause 10.4.2)

NO



Step 3. If permit is not issued by council

Is vegetation clearing within a mapped threatened ecological community or containing a threatened species recorded on the NSW atlas or wildlife.

YES



Contact Office of Environment and Heritage regarding a biodiversity conservation license (www.environment.nsw.gov.au/contact/)



Permit or license application refused



Vegetation is to be retained if a permit/and/or BCL has not been issued

NO



Contact Council for any enquiries or dispute over

Any person proposing to undertake vegetation removal should refer to the table below to determine whether the removal of the vegetation is exempt (i.e. does not require a permit from Council), or whether a permit is required. The table below should be read in conjunction with the specific exemption requirements for the removal of vegetation under Part 10.4.1 below.

Note: Should the removal of vegetation meet an exemption in the table but require written confirmation from Council, then a TR10 tree removal application form should be completed and submitted to Council for written confirmation to be obtained. The TR10 application form can be obtained from Council's website.

Table 2: Exemption Criteria

<i>Nature of Vegetation Removal</i>	Land Use zoning of the land where vegetation will be removed				
	Residential (R2 to R5)	Environment Protection	Commercial	Industrial	Heritage (All Zones)
Removal of dead tree(s) not containing hollows	Exempt – take photographic record	Exempt subject to written confirmation from Council.	Exempt – take photographic record	Exempt – take photographic record	Exempt subject to written confirmation from Council.
Removal of dead tree(s) containing hollows	Exempt subject to written confirmation from Council.	Exempt subject to written confirmation from Council.	Exempt subject to written confirmation from Council.	Exempt subject to written confirmation from Council.	Exempt subject to written confirmation from Council.
Removal of tree(s) that are dying or dangerous	Exempt - subject to written confirmation from Council	Exempt subject to written confirmation from Council.	Exempt subject to written confirmation from Council.	Exempt subject to written confirmation from Council.	Exempt subject to written confirmation from Council.
Amenity tree pruning within Australian Standards AS4373-2007	Exempt	Exempt	Exempt	Exempt	Exempt subject to written confirmation from Council.
Removal of a tree that is of a species listed under section 10.2	Exempt – take photographic record	Exempt – take photographic record	Exempt – take photographic record	Exempt – take photographic record	Exempt subject to written confirmation from Council.
Vegetation clearing associated with other development requiring	Development Application Required	Development Application Required	Development Application Required	Development Application Required	Development Application Required

Nature of Vegetation Removal	Land Use zoning of the land where vegetation will be removed				
	Residential (R2 to R5)	Environment Protection	Commercial	Industrial	Heritage (All Zones)
consent eg house, pool, shed, track etc					
Vegetation removal carried out by public agencies or emergency service authorities	Exempt provided that the removal is authorized by another EPI. The public authority undertaking the removal may need to carry out their own assessment under Part 5 of the EP&A Act, 1979.	Exempt provided that the removal is authorized by another EPI, the public authority undertaking the removal may need to carry out their own assessment under Part 5 of the EP&A Act, 1979.	Exempt provided that the removal is authorized by another EPI, the public authority undertaking the removal may need to carry out their own assessment under Part 5 of the EP&A Act, 1979.	Exempt provided that the removal is authorized by another EPI, the public authority undertaking the removal may need to carry out their own assessment under Part 5 of the EP&A Act, 1979.	Exempt provided that the removal is authorized by another EPI, the public authority undertaking the removal may need to carry out their own assessment under Part 5 of the EP&A Act, 1979.
Removing Weeds listed in endorsed Local and Regional Weed Management Plans	Exempt – take photographic record	Exempt – take photographic record	Exempt – take photographic record	Exempt – take photographic record	Council confirmation required (TR10)
Removal of native vegetation up to 100m2 area or 5 trees	Tier 1 Permit required	Tier 1 Permit Required	Tier 1 permit required	Tier 1 Permit required	Tier 1 Permit required
Removal of native vegetation greater than 100m2 or 5 trees but less than applicable area threshold as defined in Column 3 of Table 1.	Tier 2 Permit required	Tier 2 Permit required	Tier 2 Permit required	Tier 2 Permit required	Tier 2 Permit required
Removal of native vegetation – area greater than applicable area	Native Vegetation Panel approval required	Native Vegetation Panel approval required	Native Vegetation Panel approval required	Native Vegetation Panel approval required	Native Vegetation Panel approval required

Nature of Vegetation Removal	Land Use zoning of the land where vegetation will be removed				
	Residential (R2 to R5)	Environment Protection	Commercial	Industrial	Heritage (All Zones)
threshold as defined in Column 3 of Table 1.					
Removal of native tree(s) or vegetation on land identified on the sensitive biodiversity land values map	Native Vegetation Panel approval required	Native Vegetation Panel approval required	Native Vegetation Panel approval required	Native Vegetation Panel approval required	Native Vegetation Panel approval required
Removal of exotic vegetation less than 4m tall or 3m wide or 150mm total stem diameter at 1m from ground.	Exempt – take photographic record	Exempt – take photographic record	Exempt – take photographic record	Exempt – take photographic record	Tier 1 Permit required
Removal of vegetation greater than 4m tall or 3m wide or 150mm total stem diameter at 1m above ground – up to 100m ² or 10 trees	Tier 1 Permit required	Tier 1 Permit required	Tier 1 Permit required	Tier 1 Permit required	Tier 1 Permit required
Removal of vegetation greater than 4m tall or 3m wide or 150mm total stem diameter at 1m above ground – over 100 m ² or 10 trees	Tier 2 Permit required	Tier 2 Permit required	Tier 2 Permit required	Tier 2 Permit required	Tier 2 Permit required
Clearing undertaken in accordance with 10/50 code of practice	Exempt – Must read and comply with code. take photographic record	Exempt – Must read and comply with code. take photographic record	Exempt – Must read and comply with code. take photographic record	Exempt – Must read and comply with code. take photographic record	Tier 1 Permit required

Nature of Vegetation Removal	Land Use zoning of the land where vegetation will be removed				
	Residential (R2 to R5)	Environment Protection	Commercial	Industrial	Heritage (All Zones)
Clearing undertaken in accordance with Hazard Reduction Certificate issued by Rural Fire Service	Exempt – Provide copy of Hazard Reduction Certificate to Council	Exempt – Provide copy of Hazard Reduction Certificate to Council	Exempt – Provide copy of Hazard Reduction Certificate to Council	Exempt – Provide copy of Hazard Reduction Certificate to Council	Exempt – Provide copy of Hazard Reduction Certificate to Council
Clearing approved through Development Consent	No additional Council approval required	No additional Council approval required	No additional Council approval required	No additional Council approval required	No additional Council approval required
Clearing carried out in accordance with an order issued by the Land and Environment Court	Exempt	Exempt	Exempt	Exempt	Exempt
Clearing of exempt vegetation on sensitive land.	Tier 1 Permit required	Tier 1 Permit required	Tier 1 Permit required	Tier 1 Permit required	Tier 1 Permit required
Mechanical clearing of exempt vegetation on slopes greater than 18 degrees.	Tier 1 Permit required	Tier 1 Permit required	Tier 1 Permit required	Tier 1 Permit required	Tier 1 Permit required
Clearing in accordance with other legislation listed in section 10.5. a-h of this section.	Exempt provided that the activity is carried out in accordance with an authorisation or exemption under the relevant Act of Legislation.	Exempt provided that the activity is carried out in accordance with an authorisation or exemption under the relevant Act of Legislation.	Exempt provided that the activity is carried out in accordance with an authorisation or exemption under the relevant Act of Legislation.	Exempt provided that the activity is carried out in accordance with an authorisation or exemption under the relevant Act of Legislation.	Exempt provided that the activity is carried out in accordance with an authorisation or exemption under the relevant Act of Legislation.

<i>Nature of Vegetation Removal</i>	Land Use zoning of the land where vegetation will be removed				
	Residential (R2 to R5)	Environment Protection	Commercial	Industrial	Heritage (All Zones)
Clearing on rural zoned properties (RU1, RU2, RU4)	Managed by Local Land Services	Managed by Local Land Services	Managed by Local Land Services	Managed by Local Land Services	Managed by Local Land Services
Clearing on council land for installation of boundary fence or property entrance – All Zones	Tier 1 Permit required	Tier 1 Permit required	Tier 1 Permit required	Tier 1 Permit required	Tier 1 Permit required
Clearing of vegetation planted or protected under a Development Consent condition, remediation order, 88b covenant or conservation agreement	Tier 2 Permit required (However, unlikely to be supported by Council)	Tier 2 Permit required (However, unlikely to be supported by Council)	Tier 2 Permit required (However, unlikely to be supported by Council)	Tier 2 Permit required (However, unlikely to be supported by Council)	Tier 2 Permit required (However, unlikely to be supported by Council)

10.4 Vegetation that maybe removed without a Permit (i.e. exempt)

Any of the following vegetation/tree removal activities may be carried out without the need to obtain a permit from Council:

1. Removal of a tree or any other vegetation that is listed as a priority weed in the Greater Sydney Region Strategic Weed Management Plan, under the Local Land Services Act 2013; or is subject to an approved biosecurity undertaking or direction under the Biosecurity Act 2015; or is listed in a Council approved Local Weed Management Plan; or is a species listed below, regardless of size,

1. African Olive (*Olea European*)
2. Bamboo (*Phyllostachys spp. bambusa spp, Aundanaria*)
3. Black locust (*Robinia pseudoacacia spp*)
4. Blackberry (*Rubus fruticosus*)
5. Box Elder (*Acer negundo*)
6. Camphor Laurel <20 metres in height only (*Cinnamomum camphora*)
7. Canary Island Date Palm (*Phoenix canariensis*)
8. Cassia (*Senna pendula*)
9. Chinese Celtis (*Celtis sinensis*)
10. Cocos palm/queen palm (*Syagrus romanzoffiana*)
11. Leighton's green Pine (*Cupressocyparis x leylandii*)
12. Cootamundra wattle (*Acacia baileyana*)
13. Coral Tree (*Erythrina x sykesii* and *Crista galli*)
14. Cotoneaster (*Cotoneaster spp.*)
15. Date Palm (*Phoenix dactylifera*)
16. Evergreen Alder (*Alnus jorulensis*)
17. Evergreen Ash (*Fraxinus griffithii*)
18. Fire thorn (*Pyracantha hawthorn*)
19. Golden wreath wattle (*Acacia saligna*)
20. Honey Locust (*Gleditsia triacanthos*)
21. Lantana (*Lantana camara*)
22. Oleander (*Nerium oleander*)
23. Peppercorn (*Schinus spp*)
24. Privet (*Ligustrum spp*)
25. Radiata Pine <20 metres in height only (*Pinus Radiata*)
26. Poplar <20 metres in height only (*Populus spp.*)
27. Queensland Silver Wattle (*Acacia podalyriifolia*)
28. Rhus (*Toxicodendron succedaneum*)
29. Robinia (*Robinia pseudoacacia* varieties)
30. Rubber Tree (*Ficus elastica*)
31. Silky Oak (*Grevillea robusta*)
32. Slash Pine (*Pinus elliottii*)
33. Sweet Pittosporum (*Pittosporum undulatum*)
34. Tree Lucern (*Tagasaste Chamaecytisus palmensis*)
35. Tree of Heaven (*Ailanthus altissima*)
36. Umbrella Tree (*Schefflera actinophylla*)
37. Wild Tobacco Tree (*Solanum mauritianum*)
38. Willow (*Salix spp.*)
39. Yellow Bells (*Tecoma stans*).

Note: These above exemptions do not apply to sensitive lands. For clearing of this vegetation on sensitive land a Tier 1 Permit will be required. Mechanical clearing of

this vegetation on slopes greater than 18 degrees will also require a Tier 1 Permit but other clearing methods are permitted without approval.

2. Removal of a tree or other form of vegetation that is located within 3 metres of an existing, lawful dwelling or a driveway crossover unless required to be retained by an issued Development consent or Permit (In this control, a tree is to be measured from the nearest external part of the trunk to the wall of the building or edge of the access driveway).

Note: *This exemption does not impose any obligation on a person to remove vegetation on their land which is within 3 metres of a dwelling on adjoining land.*

3. Removal of any tree or other form of native vegetation that Council is satisfied is dying or dead. The tree/native vegetation of this kind which contains tree hollows must only be removed following written confirmation from Council. A report from a qualified arborist confirming that the vegetation is dead or dying may be requested from Council prior to providing such written confirmation.
4. Removal of a tree or other form of native vegetation that Council is satisfied is a significant imminent risk to human life or property. Works must not be undertaken until Council has provided written advice that it is satisfied that the tree or vegetation poses an immediate danger to people or property that cannot be adequately remedied by other means.
5. Any removal of native vegetation as defined by the *Local Land Services Act 2016* which has received approval from the Native Vegetation Panel under Part 4 of the *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*.
6. Removal of a tree or other form of vegetation being carried out under the following legislation:
 - a) Action required, or authorised to be carried out under the *Electricity Supply Act 1995*, the *Roads Act, 1993* or the *Surveying and Spatial Information Act 2002*.
 - b) Functions as required to protect persons from dangers to their safety and health, and to protect property from destruction or damage, arising from floods and storms under the *State Emergency Services Act, 1989*.
 - c) Works for which an order or permit has been issued by the NSW Rural Fire Services under the *Rural Fires Act, 1997*.
 - d) Any removal authorised for removal from the NSW Rural Fire Service 10/50 Vegetation Clearing Code of Practice for NSW.
 - f) Removal carried out in accordance with a license, permit, authority or approval under the *Water Act, 1912* or the *Water Management Act, 2000*.
 - g) Removal for the purpose of the construction, operation and maintenance of infrastructure by Water NSW in the exercise of its land management activities within SP2 zones, including roads, tracks, viewing platforms, signs and recreation facilities.
 - h) Removal on Crown Lands within the meaning of the *Crown Lands Act, 1993* or on crown public roads within the meaning of the *Roads Act, 1993*,

where removal is being undertaken or authorised by the Department of Lands.

- i) Any clearing carried out in accordance with an order issued by the Land and Environment Court, such as those issued under the Trees (Disputes between Neighbours) Act, 2006
- j) Any removal authorised by a Biodiversity Conservation Licence issued by the NSW Office of Environment and Heritage under the Biodiversity Conservation Act 2016.
- k) Trees or other form of vegetation to be pruned as part of routine pruning of fruit trees, or commercial horticulture or forestry operations.

7. Amenity Pruning in accordance with Australian Standards AS 4373-2007.

10.5 Vegetation that requires a permit for removal

Any removal of vegetation identified under this Part of the DCP and does not meet one or more of the exemptions in part 10.1 requires a Permit from Council. A person proposing to clear Native Vegetation will be required to obtain either a Tier 1 or Tier 2 permit from Council prior to removing the vegetation. The two level Permit system has been introduced as a result of potential environmental impacts of vegetation clearance which does not satisfy the biodiversity offset scheme threshold criteria.

For the purposes of calculating the area of vegetation removed, the canopy of any trees proposed to be removed should be included in the area calculation. The area of vegetation to be removed should not solely rely on ground coverage.

Tier 1: Tree /vegetation removal

Tier 1 applies to the clearance of vegetation which does not satisfy exemptions listed in Section 10.4 of this Part of the DCP, which is no greater than 100 square metres in area and where there is 5 trees or less proposed to be removed. It applies to exotic vegetation that is not covered by exemptions listed in Section 10.4.1

A Tier 1 Permit Application is to be submitted to Council for any removal of vegetation that satisfies the above criteria.

Tier 2: Tree removal/vegetation

Tier 2 applies to the clearance of trees and vegetation as defined by this Part of the Development Control Plan and does not satisfy Exemptions listed in Section 10.4 of this Part of the DCP that is:

- Greater than 100 square metres in area or more than 5 trees; or
- Located on land covered by Council's Natural Resources Biodiversity Layer (or equivalent mapping) under Section 7.2 of Council's Local Environmental Plan 2011. *This criteria is included as the Sensitive Biodiversity Values Land Map under the Biodiversity Conservation Act 29016 may not always be consistent with Council mapping.*

Tier 2 vegetation clearance may involve a varying range of impacts based on the intended area of clearing and environmental and heritage values of the site. It is recommended that Council be contacted when proposing to remove native vegetation

classified as Tier 2 to obtain requirements for the application. Any removal of vegetation that is authorised by a permit must comply with any conditions imposed on that permit. Failure to comply with all permit conditions invalidated the permit approval and penalties may apply.

If multiple permits are issued for a lot within a 10 year period, then the cumulative total of the area authorised to be cleared by all of these permits shall be considered in whether a Tier 1 or Tier 2 Permit is required for further clearing. The cumulative total is to be included in determining whether the Biodiversity Offset Scheme threshold in table 1 is exceeded.

10.6 Protection of Heritage (European and Indigenous Items)

Council may refuse to issue a permit application to remove the clearing of vegetation:

- (a) That is, or forms part of a heritage item or that it within a heritage conservation area; or
- (b) 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:

- a) 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
- b) Would not adversely affect the heritage significance of the heritage item, aboriginal object aboriginal place of heritage significance or heritage conservation area.

Note: Please refer to the exemption table (table 2) above to establish Consent requirements for properties where the vegetation forms part of a heritage item or is within a heritage conservation area.

If the removal of vegetation forms part of a heritage or is within a heritage conservation area, it is recommended that Council be consulted on the information requirements for a permit application. This may include consultation with Council's Heritage Advisory Service.

10.7 Requirements for a Biodiversity Conservation Licence

A Biodiversity Conservation Licence under Part 2 of the **Biodiversity Conservation Act 2016**, may be required if the removal of vegetation is likely to result in:

- harm to an animal that is a threatened species or part of an ecological community;
- picking a plant that is a threatened species or part of an ecological community;
- damage to a habitat of a threatened species or ecological community; or
- damage to a declared area of outstanding biodiversity conservation value

Note, the lodgement of an application to the Office of Environment and Heritage to obtain a Biodiversity Conservation Licence for vegetation

clearance listed above provides a potential alternate approach if Council has refused to issue a Permit for the proposed clearance.

A list of threatened species can be viewed in Schedule 1 of the *Biodiversity Conservation Act 2016* and a list of threatened ecological communities can be viewed in Schedule 2 of the *Biodiversity Conservation Act 2016*. The location of observed threatened species can be viewed on the Bionet Section of the website of the NSW Office of Environment and Heritage at <http://www.bionet.nsw.gov.au/>. (Details of the threatened ecological community occurring on the site will be provided with the permit notification).

Section 2.8(1) of the *Biodiversity Conservation Act 2016* states that a Biodiversity Conservation Licence is not required if the “*act (vegetation clearance), was picking plants and was authorised by a permit or other authorisation under an environmental planning instrument made under section 26 (4) of the [Environmental Planning and Assessment Act 1979](#)*”. This Section means that native vegetation removal approved by a Permit issued under this Section of the DCP does not require a Biodiversity Conservation Licence.

Note, there is no protection for prosecution under the *Biodiversity Conservation Act 2016* for vegetation clearance if a permit from Council or a Licence from OEHL has not been obtained and the removal of vegetation is likely to result in:

- Harm to an animal that is a threatened species or part of an ecological community;
- Picking a plant that is a threatened species or part of an ecological community;
- Damage to a habitat of a threatened species or ecological community; and/or
- Damage to a declared area of outstanding biodiversity conservation value