



BELLINGEN
SHIRE COUNCIL

Retention and Removal of Vegetation: My Own Property (Urban Areas)

Vegetation removal in urban areas is regulated by [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021](#) and Ch 6 of the [Bellingen Shire Development Control Plan \(DCP\) 2017](#).

In urban areas a permit is required from Council for the removal of both native and non-native vegetation unless an exemption applies.

Exemptions

Exemptions are set out in Ch 6 of the [DCP](#) and summarised below. Please note that Ch 6 prevails over the content of this Fact Sheet in the event of any discrepancy or uncertainty.



Height and width

You do not require a permit where vegetation is less than 3 metres in height, has a girth of less than 300mm and has a branch spread of less than 3 metres. If the tree is on land mapped as preferred koala habitat and is a koala food tree it must be less than 100mm in diameter.

Note: If vegetation to be removed is native to the Bellingen LGA and within 50m of a waterway a permit will be required regardless of size.



Weeds

You do not require a permit for vegetation found in Sch 3 of the [Biosecurity Regulation 2017 \(NSW\)](#) or [priority weeds](#) for the North Coast or vegetation found in Appendix 6.1 of the [Bellingen DCP](#).

Note: Weed removal techniques that constitute excavation works within the meaning of the [Bellingen Local Environment Plan 2010](#) (BLEP) Clause 7.3 (Earthworks) may require development consent.

Urban areas are those zoned:

**R1 General Residential
R5 Large Lot Residential
E1 Local Centre
E4 General Industrial
SP1 Special Activities
SP2 Infrastructure
RE1 Public Recreation
RE2 Private Recreation**
You can check the zoning of your land using the [NSW Planning Portal Spatial Viewer](#).

If you are unsure whether you fit into an exemption contact Council. Heavy penalties apply for clearing vegetation without a permit or exemption.

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Near a house or approved future house

You do not require a permit for vegetation removal where the base of the trunk or stem is within 4 metres of the face of a lawful existing residential building or a proposed residential building authorised by a current development consent.

Note: Clearing vegetation within a heritage conservation area or that forms part of a heritage item requires development consent unless it falls under an exemption in cl 5.10(3) of the [BLEP 2010](#).



Authorised construction work or development

You do not require a permit where vegetation clearing is essential to the carrying out of construction work authorised by a current approval under the Local Government Act 1993 (NSW) or development consent under the Environmental Planning and Assessment Act 1979 (NSW).



Pruning for tree health

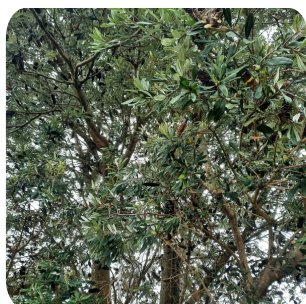
You do not require a permit to remove a maximum of 10% of the canopy of a tree where the work is necessary for the health of the tree and is carried out in accordance with AS 4373-2007 Pruning of amenity trees.



Dead, dying or a risk to life or property

You do not require a permit for removal of vegetation that Council is satisfied is dying or dead and not required as habitat or that Council is satisfied is a risk to human life or property.

Note: To be satisfied Council will usually require written verification from an appropriately qualified person, such as an arborist.



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Permits

If you do not fit into an exemption you will need to apply to Council for a permit to remove vegetation.

Any application received by Council must provide sufficient justification for the vegetation clearing. The following arguments will not normally be sufficient justification:

- falling leaves, flowers, fruit or twigs
- overshadowing, unless the vegetation is located north of the main living areas or a private open space area of an existing dwelling and is significantly affecting access to winter sunlight to these areas
- fear of a healthy tree falling, or
- view creation or preservation.

Applications arguing that a hazard exists will be assessed having regard to the likelihood of the vegetation falling and the risk that would be posed to life or property should that failure occur.

Vegetation forming part of a threatened ecological community will be afforded maximum protection and will not be permitted to be removed except for in the most limited of circumstances where no other alternative exists to mitigate an immediate hazard to human life.

If a potential risk can be mitigated by the relocation of items (eg. seating, play equipment) this option shall generally be given preference by Council in the assessment of applications.

Council may decide to approve an application in its entirety, allow for selective pruning or refuse the application.

Professional reports

Council may request that the applicant provide a professional report from:

- an appropriately qualified arborist, registered builder or similar to further justify a request for removal of the tree, or
- an appropriately qualified flora and fauna consultant should it be considered that the removal of the vegetation is likely to have an adverse impact upon any threatened species of flora and fauna.

Conditions

Council may impose conditions on the permit requiring that any vegetation to be removed is replaced by a suitable species of plant.

In densely settled urban areas preference will be given to replacement species that are either fruit bearing for the human occupants of the house or provide fruits and/or nectar for native wildlife.

