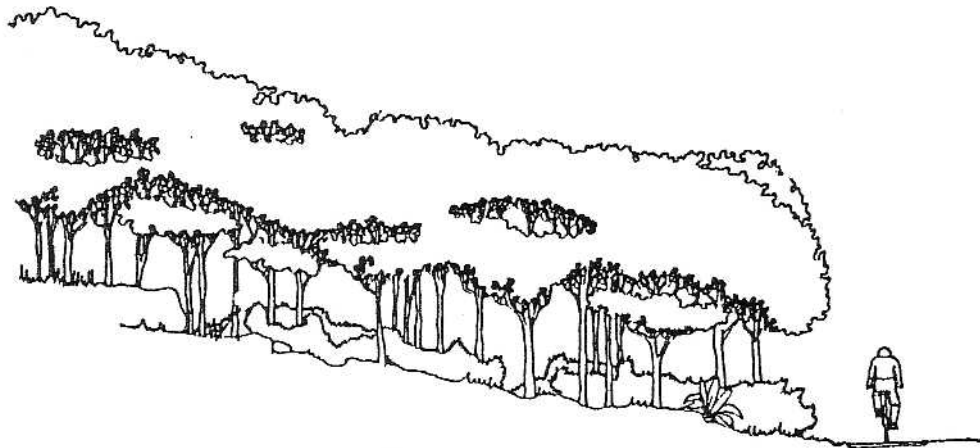


Ballina Shire Combined Development Control Plan
Chapter 1 – Urban Land

Policy Statement No.9
Vegetation Management



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POLICY STATEMENT NO. 9
VEGETATION MANAGEMENT

1. PREAMBLE

1.1 This component of the Ballina Shire Combined DCP relates to the preservation of certain vegetation in the Shire.

1.2 This part of the plan may be cited as Policy Statement No. 9 – Vegetation Management.

2. RELATED STATUTES & REFERENCES

- * Ballina Local Environmental Plan, 1987, CL 23 and 24.
- * State Environmental Planning Policy No.14 - Coastal Wetlands.
- * State Environmental Planning Policy No.26 - Littoral Rainforests.
- * State Environmental Planning Policy No.44 - Koala Habitat.
- * National Parks & Wildlife Service Act.
- * Threatened Species Conservation Act, 1995.
- * Fisheries Management Act, 1994 .
- * Native Vegetation Amendment Act, 2003

3. GENERAL BACKGROUND INFORMATION

3.1 Why is Native Vegetation Important

Ballina Shire's natural environment is part of what makes the area an attractive place to live in or to visit. Native trees and vegetation are important elements of the natural environment. Some of their benefits include:

- Providing habitat for native animals, birds and insects;
- Providing improved residential amenity in the towns and villages, particularly in the hot summer months;
- Contributing to the scenic character of the landscape; and
- Helping to manage soil erosion and air pollution and maintain slope stability.

3.2 Do I need consent to remove trees and vegetation?

The rules that control the removal of vegetation in the Shire are mainly contained in the Ballina Local Environmental Plan, 1987 (BLEP). The BLEP divides the Shire into a number of zones and specifies planning requirements for each of the different zones. There is also a special set of controls that apply to land within Lennox Head and Headlands Estate in Skennars Head, which are contained in the Lennox Head Vegetation Management Order (VMO).

More information regarding the provisions of the LEP and VMO is provided below. However, in most instances, development consent is required from Council to remove vegetation which is native to New South Wales, including trees, shrubs, ferns, vines, herbs and grasses. In Lennox Head, consent is usually required to remove vegetation that is native to Australia. In addition, consent is usually required to remove any tree (including exotic species) in environmental protection and urban investigation zones. Gardening or landscaping associated with an approved land use is often, but not always, exempt from requiring consent.

If you are wanting to do any work that is likely to impact on native vegetation, you should contact one of the Town Planners in Council's Regulatory Services Group. They will let you know what rules apply and, if needed, how to lodge an application.

3.3 What if vegetation really needs to be removed?

Council understands there are times when it may be appropriate and necessary to remove vegetation. When assessing your circumstances, Council will consider issues such as:

- The location, type and extent of vegetation to be removed;
- Whether the tree or vegetation is dangerous, unhealthy or dead;
- Whether the tree or vegetation is causing, or is likely to cause, damage to a building;
- Whether some of the trees or vegetation can be retained or regenerated; and
- Whether replacement plantings can occur in an alternate location on the property.

If prior consent is required, there are legal penalties for removing vegetation without obtaining prior consent.

4. VEGETATION MANAGEMENT PROVISIONS (EXCEPT FOR LENNOX HEAD AND HEADLANDS ESTATE)

4.1 Introduction

The rules that control the removal of vegetation in the Shire are mainly contained in Clauses 23 and 24 of the Ballina Local Environmental Plan, 1987 (LEP). The LEP divides the Shire into a number of zones and specifies planning requirements for each of the different zones. A summary of the vegetation management controls contained in the LEP is provided below for information purposes.

Note: *There is also a special set of controls that apply to land within Lennox Head and the Headlands Estate in Skennars Head, which are contained in the Lennox Head Vegetation Management Order. These controls are summarised in Part 5 of this Policy Statement.*

4.2 Rural Zoned Land

- 1(a1) - Rural (Plateau Lands Agriculture) Zone;
- 1(a2) - Rural (Coastal Lands Agriculture) Zone; or
- 1(b) - Rural (Secondary Agricultural Land) Zone.

The consent of Council is required for the clearing (destruction or removal) in any manner of native plants including trees, shrubs, ferns, vines, herbs and grasses indigenous to NSW.

Exemptions: Development consent is not required to remove native plants grown for commercial purposes (such as planted windbreaks, commercial nurseries or commercial crops). Gardening or landscaping associated with an approved land use is often, but not always, exempt from requiring consent.

4.3 Environmental Protection Zones and Urban Investigation Zones

- 1(d) – Rural (Urban Investigation) Zone;
- 7(a) – Environmental Protection (Wetlands) Zone;
- 7(c) – Environmental Protection (Water Catchment) Zone;
- 7(d) – Environmental Protection (Scenic / Escarpment) Zone;
- 7(d1) – Environmental Protection (Newrybar Scenic / Escarpment) Zone;
- 7(f) – Environmental Protection (Coastal Lands) Zone;
- 7(i) – Environmental Protection (Urban Buffer) Zone; or
- 7(l) – Environmental Protection (Habitat) Zone.

Development consent from Council is required to cut down, top, lop or otherwise destroy or remove any tree (native or otherwise) or any shrub, fern, vine, herb or grass indigenous to NSW.

Exemptions: Development consent is not required to remove trees planted for landscaping purposes or native plants grown for commercial purposes (such as planted windbreaks, commercial nurseries or commercial crops). In zones 1(d), 7(c), 7(d), 7(d1) and 7(i) gardening or landscaping associated with an approved land use is often, but not always, exempt from requiring consent.

4.4 Urban Zoned Land

- 2(a) - Living Area Zone;
- 2(b) - Village Area Zone;
- 2(t) - Tourist Area Zone;
- 3 - Business Zone;
- 4 - Industrial Zone; or
- 6(a) - Open Space Zone.

Consent of Council is required for the clearing, destruction or removal in any manner of native plants including trees, shrubs, ferns, vines, herbs and grasses indigenous to NSW.

Exemptions: Development consent is not required to remove native plants grown for commercial purposes (such as planted windbreaks, commercial nurseries or commercial crops). Gardening or landscaping associated with an approved land use is often, but not always, exempt from requiring consent.

4.5 All Other Zones

- 1(e) - Rural (Extractive and Mineral Resources) Zone;
- 8(a) - National Parks and Nature Reserves Zone;
- 9(a) - Roads (Main Road Proposed) Zone; or
- 9(b) - Roads (Local Roads Proposed) Zone.

Consent of Council is required for the clearing, destruction or removal in any manner of native plants including trees, shrubs, ferns, vines, herbs and grasses indigenous to NSW.

Exemptions: Development consent is not required to remove trees planted for landscaping purposes or native plants grown for commercial purposes (such as planted windbreaks, commercial nurseries or commercial crops). In zone 1(e) gardening or landscaping associated with an approved land use is often, but not always, exempt from requiring consent.

5. VEGETATION MANAGEMENT PROVISIONS IN THE LENNOX HEAD VEGETATION MANAGEMENT ORDER (VMO)

5.1 Introduction

During the preparation of the Lennox Head Strategic Plan, the Lennox Head community identified that the protection and enhancement of the natural environment was of particular importance to the existing and future character of Lennox Head. As a result, one of the very high priority Actions in the Strategic Plan involved the introduction of a Vegetation Management Order (VMO). The VMO came into effect on 6th December, 2003 and applies in all parts of Lennox Head including Headlands Estate at Skennars Head.

The VMO generally requires development consent to be obtained prior to the removal or destruction of native vegetation (being vegetation native to Australia). In environmental protection and urban investigation zones development consent is also usually required to remove non-native trees. The VMO also contains a number of exemptions, where development consent is not required.

A summary of the vegetation management controls contained in the VMO is provided below for information purposes.

5.2 On all land

Development consent from Council is required to:

- Remove or destroy any species of native plant of any height within an ecological community described as heath, littoral rainforest, mangrove, salt marsh or sedge land; or
- Remove or destroy any tree listed on Council's Significant Tree Register.

5.3 In Environmental Protection and Urban Investigation Zones

- 1(d) – Rural (Urban Investigation) Zone;
- 7(a) – Environmental Protection (Wetlands) Zone;
- 7(c) – Environmental Protection (Water Catchment) Zone;
- 7(d) – Environmental Protection (Scenic / Escarpment) Zone;
- 7(f) – Environmental Protection (Coastal Lands) Zone;
- 7(i) – Environmental Protection (Urban Buffer) Zone; or
- 7(l) – Environmental Protection (Habitat) Zone.

Development consent from Council is required to cut down, top, lop or otherwise destroy or remove any tree (other than a tree planted for commercial or landscaping purposes);

Exemptions: Development consent is not required to remove trees planted for landscaping purposes or native plants grown for commercial purposes (such as planted windbreaks, commercial nurseries or commercial crops). In zones 1(d), 7(c), 7(d), 7(d1) and 7(i) gardening or landscaping associated with an approved land use is often, but not always, exempt from requiring consent.

5.4 In all other Zones

- 2(a) - Living Area Zone;
- 2(b) - Village Area Zone;
- 2(t) - Tourist Area Zone;
- 3 - Business Zone;
- 4 - Industrial Zone;
- 6(a) - Open Space Zone
- 1(a1) - Rural (Plateau Lands Agriculture) Zone;
- 1(a2) - Rural (Coastal Lands Agriculture) Zone;
- 1(b) - Rural (Secondary Agricultural Land) Zone.
- 1(e) - Rural (Extractive and Mineral Resources) Zone;
- 8(a) - National Parks and Nature Reserves Zone; or
- 9(a) - Roads (Main Road Proposed) Zone;
- 9(b) Roads (Local Roads Proposed) Zone.

Development consent from Council is required to remove or destroy any species of native tree, fern or palm exceeding three (3) metres in height, with the following exceptions:

- The pruning of planted trees associated with regular garden establishment and maintenance;
- Trees forming part of an orchard or horticultural enterprise including those planted as part of a windbreak;
- Trees planted for commercial wood lots or farm forestry for which consent has been granted;
- Trees listed as Environmental Weeds in the VMO;
- Trees within three (3) metres of the footprint of an existing building or work, or a proposed building or work for which a Development Consent or a Construction Certificate has been issued;
- Trees which, in the view of a utility service provider, warrant removal to maintain safety or to provide practicable access to that provider's infrastructure; and
- Trees which, in the opinion of Council, are dangerous or unsound due to ill-health or damage.

Trees on development sites within urban areas are to be retained where practical and desirable. Development Plans are required to illustrate the location and species of trees on sites and to indicate proposed protection measures and extent of clearing for assessment by Council.

6. OTHER STATUTES

Land affected by S.E.P.P. No. 14 -Coastal Wetlands or S.E.P.P. No. 26 Littoral Rainforest can only be cleared with development consent, which Council cannot grant without the concurrence of the Director of Urban Affairs and Planning.

S.E.P.P. No. 44 - Koala Habitat Protection as the name suggests, seeks to protect koala habitats. The Policy requires a plan of management to be prepared for an area identified as “core koala habitat” prior to the granting of any development consent in respect of such land.

A number of NSW Statutes also protect vegetation or require approvals prior to the removal of vegetation. These Statutes include the following:

- the Threatened Species Conservation Act, 1995 administered by National Parks and Wildlife Service;
- the Fisheries Management Act, 1994 (in respect of aquatic species), administered NSW Fisheries; and
- the Richmond Regional Vegetation Management Plan administered by the Catchment Management Authority.

7. SUBDIVISION DESIGN

Trees on development sites within urban areas are to be retained where practical and desirable. Development Plans are required to illustrate the location and species of trees on sites and to indicate proposed protection measures and extent of clearing for assessment by Council.

Remember: If you are wanting to do any work that is likely to impact on native vegetation, you should contact one of the Town Planners in Council’s Regulatory Services Group. They will let you know what rules apply and, if needed, how to lodge an application. If prior consent is required, there are legal penalties for removing vegetation without obtaining prior consent.