

Trees in Maitland Local Government Area are protected under the provisions of Clause 5.10 of the Maitland Local Environmental Plan 2011 (LEP), and Chapter 2 of State Environmental Planning Policy (Biodiversity and Conservation) 2021.

### DEFINITIONS

Tree	Long lived woody perennial plant greater than 3m in height (or will be at maturity), with one or relatively few main stems or trunks.
Shrub	A woody perennial plant, multi-stemmed at the base (or within 750mm from ground level). Usually, less than 6m tall when mature.
Pruning	Pruning for the purpose of this document refers to more than 10% of foliage or approximately 12 months growth.

### VEGETATION CLEARING WITHIN RURAL ZONES

Removal of trees or clearing vegetation on land within RU1 Primary Production or RU2 Rural Landscape zones is administered through Local Land Services (Hunter). Council cannot issue approval for clearance on non-urban land.

### VEGETATION CLEARING WITHIN NON-RURAL ZONES

Council can issue consent for the clearance of land, which is below the Biodiversity Offset Scheme Threshold (see Part 7.2 of the Biodiversity Conservation Regulation 2017). For clearance of land above this threshold, please contact Council's Environmental Sustainability Team, for further information.

### VEGETATION CLEARING WITHIN HERITAGE CONSERVATION AREAS AND ON HERITAGE ITEMS

Council's consent is also required for clearing any vegetation to which Clause 5.10 of the Maitland Local Environmental Plan 2011 applies.

### WHEN COUNCIL CONSENT IS REQUIRED

Vegetation within a Heritage Conservation Area or vegetation on land which contains a heritage item.

Vegetation that is a part of a threatened ecological community or is identified as a threatened plant species by a government authority.

Tree(s) required to be retained or planted as a condition of consent (including approved 'Landscape Plans' and trees which were required to be planted to replace a tree which was removed).

Native vegetation (including understory plants and ground covers) within a defined wetland which is less than the biodiversity offsets scheme threshold identified under the Biodiversity Conservation Act 2016.

All other trees which are 3m or greater in height or has a diameter of 100mm or more at 1.3m above ground, and shrubs which are 5m or greater in height, unless any one of the following applies:

- A tree or shrub may be removed without consent that is located within 3m to a principal building (excludes carports, garages, pergolas, fences and the like) Note: measured trunk to outer wall\*.
- A tree which is used to grow fruit or nuts may be removed without consent.
- Trees which are dying or dead and not required as habitat for native animals may be removed without consent\*\*.

- The tree or shrub is an exotic species which is considered to be an invasive species by the NSW Government may be removed without consent.

If Consent is required, applications must address all relevant provisions under Part B5 of the Maitland Development Control Plan (DCP) 2011. The DCP may be viewed at [maitland.nsw.gov.au/services/planning-development/planning-strategies](http://maitland.nsw.gov.au/services/planning-development/planning-strategies)

Where a Complying Development Certificate has been issued, Consent may not be required under some circumstances. Refer to Clauses 3.6A, 5A.2(3) and 5A.3 of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

**Note: As of 31 December 2020, all Development Applications must be lodged via the NSW Planning Portal.**

## URGENT REMOVALS

With the exception of trees in Heritage Conservation Areas or vegetation on land, which is a heritage item, Council consent is not required for the removal of trees in circumstances where there is a significant risk to life or property where Council is provided with a Tree Removal Notification\*\*\* 10 days prior to removal. If a tree requires urgent removal on account of immediate failure it may be removed without consent on condition that Council is provided with a Tree Removal Notification within 48 hours of removal.

\* The onus of providing evidence, when requested by Council staff, is on the landowner. Landowners are encouraged to submit photos to Council, for record keeping purposes, showing before and after removal.

\*\* Council is to receive a tree removal notification 10 working days prior to removal.

\*\*\* Tree removal notification should include the following details at minimum:

- A site plan identifying the locations of the subject tree(s) with reference to other trees or structures at the property.
- Photographs showing the subject tree (before removal) for the 10 day notification requirement, or
- Photographs showing the site **before and after removal of the tree for the 48 hour notification.**

## NEIGHBOURING TREES AND TREES OVER BOUNDARIES

Where a tree on an adjoining property overhangs your boundary and the consent of the owner cannot be obtained for pruning works, Council may approve pruning of the tree to the common property boundary only. Where the consent of an owner cannot be obtained to remove a tree that is causing a nuisance on an adjoining property, the Trees (Disputes Between Neighbours) Act 2006 contains provisions which may help to resolve the matter.

**PRIVACY STATEMENT:** Maitland City Council complies with the Privacy Code of Practice for Local Government in dealing with all personal information that is required to be supplied when an applicant completes this application. However, some of the personal information which is set out in this form will become part of the public record which Council is required to keep pursuant to the Local Government and Environmental Planning and Assessment Acts. This information may be divulged to others in accordance with the provisions of those Acts. Furthermore, Council may be required to divulge some personal information pursuant to the Government Information (Public Access) Act 2009 (NSW).