



Flora and Fauna

When is consent required for tree or native vegetation removal?

Development consent is needed to clear, injure, remove, ring bark, cut down, top, lop, or willfully destroy:

- native vegetation (any species of vegetation that existed in NSW prior to European settlement)
- a tree listed in Council's Significant Tree Register (Section 10.2 [Tree-Preservation-and-Native-Vegetation-Management-Guidelines \(4\).pdf](#))
- tree/s or native vegetation listed as heritage items or located within a Heritage Conservation Area
- a Norfolk Island Pine Tree (*Araucaria heterophylla*) greater than 3m in height, or with a trunk diameter of 75mm or greater, measured at ground level.

There are some circumstances when consent is not needed. Exemptions can be found in:

- section 2.2 of Council's [Tree-Preservation-and-Native-Vegetation-Management-Guidelines \(4\).pdf](#)
- [Land management in NSW - Website - Local Land Services](#)

How do I apply to remove trees or native vegetation?

Lodge a tree application or development application with Council to apply to remove trees or native vegetation.

A **tree application** is a streamlined form of development application that can be lodged for the proposed removal of up to twenty trees, subject to ecological constraints and other environmental factors.

A **development application** (DA) is needed for the removal of native vegetation and/or more than twenty trees. The proposed removal of trees for a particular development, for example, a dwelling, will be assessed as part of a development application for that development.

When is a flora and fauna report required?

When a development application is lodged for clearing of native vegetation and/or fauna habitat, a flora and fauna report is needed to address biodiversity legislation. Such legislation includes the *Biodiversity Conservation (BC) Act*, *State Environmental Planning Policy (SEPP) Koala Habitat Protection*, *SEPP Coastal Management*, *Water Management Act* and *Fisheries Management Act*.

Biodiversity Conservation Act 2016

The *Biodiversity Conservation Act 2016* (BC Act) requires development applications that propose to clear native vegetation to include either a:

- Biodiversity Assessment Report (BAR), or
- Biodiversity Development Assessment Report (BDAR).

BARs generally demonstrate that development:

- is not in an area of Biodiversity Value (BV)
- will not exceed the site clearing threshold
- is unlikely to significantly impact threatened species/Endangered Ecological Communities (EEC)
- has avoided and minimised impacts.

You can complete a preliminary assessment to find out if a BAR is a suitable level of assessment using the Department of Planning, Industry and Environment's [Biodiversity Values Map and Threshold Tool](#).

A BDAR is needed if clearing is within a BV area, exceeds the site clearing threshold or is likely to significantly impact threatened species and/or EECs. For more information see [When does the Biodiversity Offsets Scheme apply? | NSW Environment, Energy and Science](#) and [Threatened species test of significance | NSW Environment, Energy and Science](#).

BDARs are completed in accordance with the [Biodiversity Assessment Method | NSW Environment, Energy and Science](#) (BAM) by an [Accredited Assessor \(nsw.gov.au\)](#).

The BDAR will:

- adopt avoid and minimise principles as per the BAM, including:
 - avoiding significant habitat (for example, threatened species or habitat trees)
 - adopting sensitive design principles (for example, perimeter roads)
 - managing indirect impacts (for example, maintain existing hydrological flows)
 - managing vegetation to be retained (see DCP Environment Vegetation Management Plan guidelines [Local Planning Controls - Lake Macquarie City Council](#))
- demonstrate avoidance of [Serious and irreversible impacts of development on biodiversity | NSW Environment, Energy and Science](#)
- identify offsetting and biodiversity credit obligations [How does the Biodiversity Offsets Scheme work? | NSW Environment, Energy and Science](#).

BDARs are required to be lodged via [Biodiversity Offsets and Agreement Management System | NSW Environment, Energy and Science](#).

State Environmental Planning Policy (Koala Habitat Protection) 2021

The [Koala Habitat Protection SEPP - \(nsw.gov.au\)](#) applies if:

- the size of your land, including any adjoining parcels of land you own, is more than 1 hectare, and
- the development you propose requires development consent from council.

The *Koala Habitat Protection SEPP 2021* does not apply to land zoned RU1 primary production, RU2 rural landscape or RU3 forestry. For these land types, *State Environmental Planning Policy (Koala Habitat Protection) 2020* applies.

State Environmental Planning Policy (Coastal Management) 2018 and Coastal Management Act 2016

The [Coastal Management SEPP - \(nsw.gov.au\)](#) and [Coastal Management Act 2016 No 20 - NSW Legislation](#) applies if the development you propose is likely to impact a coastal wetland, littoral rainforest or coastal vulnerability, environmental or use areas.

Water Management Act 2000

The *Water Management Act 2000* applies if the development you propose is identified as a controlled activity carried out in, on or under waterfront land. For more information see:

- [Development on waterfront land may require additional approval | NSW Fair Trading](#)
- [Guidelines for riparian corridors on waterfront land \(nsw.gov.au\)](#).

Fisheries Management Act 1994

The *Fisheries Management Act 1994* (FM Act) applies if the development you propose needs a permit for:

- aquaculture
- dredging or reclamation work
- cutting, removing, damaging or destroying marine vegetation on public water land or the foreshore of such land or on an aquaculture lease
- obstructing the free passage of fish.

For further information see:

- Clause 4.46 [Environmental Planning and Assessment Act 1979 No 203 - NSW Legislation](#)
- [Integrated Development Guidelines \(nsw.gov.au\)](#)

Other links that may help

NSW Department of Planning, Industry and Environment

- [NSW Biodiversity Offsets Scheme and Land Management Framework: Biodiversity Assessment and Approval Pathways for Local Government](#)
- [Threatened biodiversity survey and assessment | NSW Environment, Energy and Science](#)
- [Vegetation State Environmental Planning Policy - \(nsw.gov.au\)](#)

NSW Biodiversity Conservation Trust

- [Pay into the fund to offset development | BCT \(nsw.gov.au\)](#)

Lake Macquarie City Council

- [Types of development and applications - Lake Macquarie City Council](#)
- [Natural Environmental Guidelines and DCP Environment Guidelines](#)

Note: Council's Flora and Fauna Survey Guidelines (2013) are currently under review and refer to superseded legislation.

Environmental Protection and Biodiversity Conservation Act 1999

- [Assessment Bilateral Agreement | NSW Environment, Energy and Science](#)
- [Environment assessment and approval process - DAWE](#)

Need help?

If you have any questions, please contact Council's Duty Planner on 4921 0333 or email dutyplanner@lakemac.nsw.gov.au.

Disclaimer

This fact sheet provides a summary of key elements of flora and fauna assessment. Any person using this document must do so on the basis that not every scenario and issue can be addressed, and discussion with Council should be undertaken. This document is subject to change without notice.

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