

Councils as decision maker on dead or dying trees

Councils may manage all 'dead or dying' vegetation exemptions

The *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* (Vegetation SEPP) identifies certain exemptions from requiring a permit or approval to remove vegetation.

A permit or approval is not required to remove vegetation that is dead or dying if the decision maker is satisfied that:

- the vegetation is dead or dying
- the vegetation is not required as the habitat of native animals.

The Vegetation SEPP identifies that either council or the Native Vegetation Panel may be the decision maker for this exemption (clause 8(2)).

Where a council has existing processes to manage exemptions for removal of dead or dying vegetation, it may assume the role of decision maker for all 'dead or dying' vegetation exemption applications under the Vegetation SEPP. This would include dead or dying vegetation occurring on the Biodiversity Values Map.

Councils who offer this service to landholders can provide a simple and efficient pathway to the lawful clearing of dead or dying trees.

Councils without exemption processes for 'dead or dying' vegetation may review their policies

Landholders who are unable to obtain an exemption from their council for the removal of 'dead and dying' vegetation would need to seek this exemption from the Native Vegetation Panel.

Councils without existing exemption processes may wish to consider providing an alternative pathway to landholders seeking to remove dead or dying vegetation.

Using the Development Control Plan (DCP) to manage exemptions will improve the process for landholders and ensure that decisions are supported by a documented process.

The Vegetation SEPP regulates clearing not ancillary to development consent in metropolitan and urban areas.

Unless there is an exemption, an approval is required under the Vegetation SEPP from the Native Vegetation Panel if the biodiversity offset scheme threshold is exceeded.

Information on the biodiversity offset scheme threshold is available at <https://www.environment.nsw.gov.au/biodiversity/entryrequirements.htm>

Many Councils are already making decisions on dead or dying trees

Councils who already have processes in place for managing dead or dying tree exemptions can provide a useful reference for councils who are reviewing their own policies:

- Armidale Regional Council does not require a permit to remove a dying or dead tree if the tree is not required as the habitat of native fauna. Instead, documentation, including photographs that show the tree is dying or dead, must be forwarded to the Council prior to the tree removal. See DCP Part 2.2(a).
- Hornsby Shire Council requests photographic evidence that shows the tree to be dead or dying and not the habitat of native fauna. See DCP Part 1B.6.1(d).
- Kempsey Shire Council requires written verification from an appropriately qualified person/s (such as an arborist, registered builder or emergency services organisation) to allow removal as an excluded item. See DCP Chapter B10: 1.2 and Appendix B.
- Wollondilly Council has a specific online form and no fee for a permit to remove a dead or dying tree at <https://www.wollondilly.nsw.gov.au/assets/Documents/Resident-Services/Tree-Removal/TR10-Request-for-Permission-to-remove-dead-dying-or-dangerou.pdf>

New contact details for the Native Vegetation Panel

The Native Vegetation Panel has established new contact emails for managing enquiries and applications.

General enquiries

For general enquiries, landowners and potential applicants can:

call the LLS General Enquiry Line on 1300 795 299

send an email to info@nvp.nsw.gov.au

Applications for approval from the Native Vegetation Panel

To lodge an application, applicants can:

send an email to info@nvp.nsw.gov.au

attend in person at a [LLS Regional Office](#).

Creating habitat from dead or dying trees

Read a story on Tweed Shire Council's innovative trial creating fauna habitat from dead trees.

July 2018 - <https://www.echo.net.au/2018/07/tweed-trial-turns-dead-trees-habitat-fauna/>