
EcoNetwork – Port Stephens Inc.

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Re: Port Stephens Council Tree Management Draft changes to Development Control Plan

EcoNetwork-Port Stephens is a grassroots community-based environmental and sustainability network comprising 26 community and environment groups and eco-businesses with a focus on sustainable planning. We are non-party political and do not donate to political parties.

EcoNetwork puts a high value on trees, both in forested and urban settings. The trees that line our streets, parks, playgrounds and backyards create a peaceful, aesthetically pleasing environment. We gather under the cool shade they provide during outdoor activities with family and friends. They increase our quality of life by bringing nature and wildlife into urban settings. They are vital to the character of Port Stephens and are an essential component of carbon storage.

EcoNetwork understands that the draft amendment to the Port Stephens Development Control Plan 2014 – Chapter B1 Tree Management is aimed at aligning DCP 2014 the State Environment Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP).

The Aims of the Vegetation SEPP policy as spelt out under the Environmental Planning and Assessment Act 1979 are:

- (a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and
- (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

The objective is clearly to regulate, not facilitate tree removal, and implicitly favours retention wherever possible, which needs to be expressly recognised by Council.

We understand and agree that in circumstances where there is an immediate threat to human life or property (such as after a catastrophic storm) the development control plan already enables removal without approval. These are rare circumstances and such removal is covered under the existing policy.

However, in other circumstances it seems the draft amendment makes tree removal easier, increasing the risk of removal for arbitrary or indiscriminate reasons, and therefore not adequately supporting the objective of the 2017 NSW Government policy to preserve and protect trees.

It therefore weakens Council's ability to perform its legislated role under the 2017 policy.

This is because Council proposes the introduction of 'self-certification', without the need to obtain advice from a qualified arborist, in situations where it is claimed a tree presents a risk to property or life.

In Chapter B1 of the proposed amendments a new provision specifies that Council approval is not required for removal or pruning of a tree or other vegetation when Council is provided with a tree removal notification 10 days prior to removal. This is supposed to align with Clause 8(3) of the SEPP, which specifies that 'An authority is not required under this Policy for the removal of vegetation that the Council is satisfied is a risk to human life or property'.

How to satisfy Council?

The onus is put on the proponent to satisfy Council using a prescribed self-certification form, that the tree presents a risk to property or life. Confirmation is not required by a professional arborist.

Only when a tree is dead or dying and is not required as the habitat of native animals, is there a requirement for a report from a professional arborist with AQF Level 3 qualifications.

We also note that an arborist report is required for removal of any tree listed on the Significant Trees Register.

EcoNetwork contends that private landowners, with little or no expert knowledge may not be able or may neglect to provide required evidence that a tree poses a threat to property or life. We therefore insist that a qualified arborist be engaged to supply a report to support any claim that a tree presents a risk to property or life (not just in the case of trees listed on the Significant Trees Register).

Furthermore, we contend that advance notice should be extended from 10 days to 15 days to give Council adequate time to assess the application.

We are also concerned that the 12-month moratorium on the need to obtain pre-approval for the removal of trees or vegetation where there is a risk to human life and/or property, agreed to by Council on 10 March 2020, will, via the proposed amendments, segue into permanent removal of requirements.

The report outlining the draft Amendment says there are no policy changes proposed. We contend that the introduction of 'self-certification' is a major policy change.

We believe the DCP should encourage concerned landowners to consider less drastic (and cheaper) solutions such as trimming and/or retaining some branches encourage hollows, rather than complete removal of a tree.

Self-certification

The Draft Tree Fact Sheet 'Removing Trees without Council Permission' mentions in exemption B the relationship of the height of a tree to the distance from any 'at-risk' structure or area and other site factors (such as ground slope, soil condition, and exposure to extreme weather) that contribute to risk. We contend that these are simple indicators of risk and that only a qualified arborist can provide assessment to satisfy removal without Council permission.

Conclusion

In our view the draft amendments:

- make tree removal easier, increasing the risk of removal for inappropriate reasons
- do not adequately support the objective of the 2017 State Government Policy to preserve and protect trees
- weaken Council's ability to perform its legislated role under the 2017 Policy

We believe that changes need to be made to the DCP to emphasise that the objective is the protection and preservation of trees, that exemptions are intended to apply only where necessary and that less drastic solutions should be encouraged.

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