

5.03 Vegetation Management

Amendment history

Version Number	Date Adopted by Council	Commencement Date	Amendment Type
1	15/11/2011	15/06/2012	New
2	28/05/2013	10/06/2013	Amended
3	27/08/2013	16/09/2013	Amendment (Newcastle University Callaghan Campus)
4	27/09/2016	24/10/2016	Amended
5	12/12/2017	19/02/2018	Amended

Savings provisions

Any development application lodged but not determined prior to this section coming into effect will be determined taking into consideration the provisions of this section.

Land to which this section applies

This section applies to all land under Newcastle Local Environmental Plan 2012 and to land outside of the Port of Newcastle lease area to which *State Environmental Planning Policy (Three Ports) 2013* applies.

Development (type/s) to which this section applies

This section applies to the clearing or pruning of vegetation in conjunction with *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*.

This section applies to declared vegetation on private land, or within 5m of a development site, or that is likely to be affected by infrastructure works carried out in association with a development proposal.

Applicable environmental planning instruments and legislation

The provisions of the following listed environmental planning instrument/s also apply to development applications to which this section applies:

- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*
- *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*
- *Newcastle Local Environmental Plan 2012.*
- *Biodiversity Conservation Act 2016*
- *Local Land Services Act 2013*
- *Roads Act 1993*

In the event of any inconsistency between this section and the above listed environmental planning instrument, the environmental planning instrument will prevail to the extent of the inconsistency.

Note 1: Additional environmental planning instruments may also apply in addition to those listed above.

Note 2: The *Environmental Planning and Assessment Act 1979* enables an environmental planning instrument to exclude or modify the application of this DCP in whole or part.

Related sections

The following sections of this DCP **may** also apply to development to which this section applies:

- 7.02 Landscape, Open Space and Visual Amenity.

Associated technical manual/s

- Newcastle Urban Forest Technical Manual, Newcastle City Council (check Council website for current version)

Additional information

- *Newcastle Urban Forest Background Paper, 2007, Newcastle City Council*
- *Newcastle Urban Forest Policy, 2008, Newcastle City Council*
- *Street Tree Selection Manual, 2016, Newcastle City Council*
- *Australian Standard AS 4373-2007 Pruning of amenity trees*
- *Australian Standard AS 4970-2009 Protection of trees on development sites*
- *Planning for Bushfire Protection – NSW Rural Fire Service 2006*
- *WorkCover Authority of NSW – Amenity Tree Industry: Code of Practice*
- *Landscape Management Implementation Plan Callaghan Campus, 3 September 2012, prepared by Ecological Australia for the University of Newcastle*

Definitions

A word or expression used in this development control plan has the same meaning as it has in State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 and Newcastle Local Environmental Plan 2012, unless it is otherwise defined in this development control plan.

Other words and expressions referred to within this section are defined within Section 9.00 - Glossary, of this plan, and include:

- **Circumference breast height** - the girth of the supporting stem of a tree at a height of 1.4m above ground level (existing) measured at the trunk centre, and so as to contain the outermost projection of any flanges or buttresses.
- **Clear vegetation-** has the same meaning as in State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

This term is defined to include:

- (a) cut down, fell, uproot, kill, poison, ringbark, burn or otherwise destroy the vegetation, or
- (b) lop or otherwise remove a substantial part of the vegetation.

- **Dead tree:** is where the biological function of the tree has ceased, no leaves are present and visible evidence of trunk, root plate and canopy desiccation
- **Declared vegetation** - trees and shrubs to which Part 3 of State Environmental Planning Policy (Vegetation in Urban Areas) 2017 applies.
- **Dying tree:** demonstrates reduced growth rates, sparse foliage and reduced response to damage or stress over subsequent growing seasons.

- **Greenfield site** - undeveloped land that has been identified, through land use zoning, as having potential for future urban, commercial or industrial development. It is generally found on the fringes of existing developed areas and may contain a large amount of existing vegetation.
- **Native vegetation** - has the same meaning as in State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

This term has the same meaning as in Part 5A of the Local Land Services Act 2013 and means:

any of the following types of plants native to New South Wales:

- (a) trees (including any sapling or shrub or any scrub),
- (b) understorey plants,
- (c) groundcover (being any type of herbaceous vegetation),
- (d) plants occurring in a wetland.

- **Public Tree** - trees/shrubs located on land managed by Council (trees under Council's care and control).
- **Shrub** - a woody perennial plant that is generally smaller than a tree species at maturity and has many main stems or trunks.
- **Street tree vacancy site** - sites identified by Council for future tree planting. The sites have been identified from analysis of the Local Government Area based on criteria in the Tree Asset Management System (TAMS). The information on locations of street tree vacancy sites is available on request from Council.
- **Tree** - a long lived woody perennial plant greater than 3m height (or will be at maturity), with one or relatively few main stems or trunks.
- **Tree retention values** - weighted combination of tree sustainability and landscape significance used to determine how retainable a tree/s is to guide the site analysis and site planning stages of development. Tree retention values are determined using the following three steps further outlined within the Newcastle Urban Forest Technical Manual:
 1. Assess Tree Sustainability
 2. Assess Landscape Significance
 3. Weigh Sustainability and Landscape Significance.
- **Vegetation** - has the same meaning as in State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

This term means

A tree or other vegetation, whether or not it is native vegetation.

Aims of this section

1. To identify declared vegetation under State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.
2. To achieve the objectives of the Newcastle Urban Forest Policy 2008 for development on private land.
3. To ensure existing vegetation on a development site and surrounding sites is considered in the design of the development.

4. To ensure that tree canopy cover is considered in the design of development.
5. To promote the retention of existing vegetation and provide opportunities for appropriate tree growth.
6. To provide guidelines for the management of trees.

5.03.01 Declared vegetation

Objectives

1. To declare the vegetation that requires a permit from Council prior to clearing or pruning.

Note: Clause 9 of *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* provides for Council to declare vegetation that requires a permit for removal in a DCP.

Controls

General controls applying to all development to which this section applies

1. A permit from Council is required prior to clearing or pruning the following:
 - (a) vegetation in a threatened ecological community or a threatened plant species listed under the *Biodiversity Conservation Act 2016* or *Fisheries Management Act 1994*; or
 - (b) vegetation that is or forms part of a heritage item, or that is or forms part of an Aboriginal object or that is within an Aboriginal place of heritage significance, or
 - (c) a tree that is required to be retained or planted as a condition of a complying development certificate or development consent, or
 - (d) a tree that was planted as a replacement tree, or
 - (e) any other native vegetation including understorey plants, groundcovers and plants occurring in a wetland and is less than the biodiversity offsets scheme threshold identified under the *Biodiversity Conservation Act 2016*, or
 - (f) all trees and shrubs, regardless of size, on land managed by a public authority including Council, or
 - (g) all other trees or shrubs that are not listed in (a) to (f) above, unless the tree or shrub:
 - (i) is located within 3m of the wall of an existing principal building (excluding carports, garages, pergolas, fences, retaining walls and the like); or
 - (ii) the tree is less than 3m in height, or with a circumference (measured at 1.4m above ground level), less than 450mm for a single trunk tree, or less than 300mm for each trunk of a multi-trunk tree; or
 - (iii) the shrub is less than 5m in height.

Note 1: All trees and shrubs within Council's road reserve or located on land managed by Council are declared vegetation. The maintenance or removal of these trees and shrubs can only be undertaken by Council.

Note 2: *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* prohibits Council from issuing a permit for the clearing of native vegetation that exceeds the biodiversity offsets scheme threshold. Refer to the *Biodiversity Conservation Act 2016* for further information.

Note 3: The 3m distance is measured from the closest point of the trunk to the footings of the building.

5.03.02 When can declared vegetation be cleared without a permit?

Objectives

1. To identify the circumstances where declared vegetation on private land can be cleared without a permit being issued by Council.

Controls

The following controls apply to the clearing of declared vegetation on private land (see Figure 1)

1. A permit from Council is not required to clear declared vegetation (see clause 5.03.01) on private land if:
 - (a) clearing of the vegetation has been authorised under other legislation; or
 - (b) the tree or shrub:
 - (i) poses an immediate risk to life or property due to a demonstrated sudden change to its structure as a result of severe storm or wind events, and meets the requirements of section 3.3 of the Urban Forest Technical Manual, or
 - (ii) the tree is dying or dead and is not required as the habitat of native animals; and
 - (c) if the dead, dying or storm damaged tree is a heritage item or forms part of an Aboriginal object or is within an Aboriginal place of heritage significance Council is notified within 5 working days of the tree removal, by supplying the completed form in appendix 6 of the Urban Forest Technical Manual; and
 - (d) the landowners consent has been obtained.

Note 1: Trees or shrubs on public land cannot be removed in these circumstances. If a tree or shrub on public land appears to be damaged by a storm, it must be referred to council who will carry out the required works.

Note 2: Tree removal on private land under the bushfire 10/50 rules is to be undertaken in accordance with the requirements of the NSW Rural Fire Service and does not require a Council permit.

Note 3: Clearing of native vegetation that exceeds the biodiversity offsets scheme threshold can only be undertaken with the prior approval of the Native Vegetation Panel. Refer to *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* and the *Biodiversity Conservation Act 2016* for further information.

5.03.03 When can declared vegetation be pruned without a permit?

The following controls apply to the pruning of declared vegetation on private land, excluding vegetation in a threatened ecological community or a threatened plant species listed under the Biodiversity Conservation Act 2016; or Fisheries Management Act 1994; or vegetation that is or forms part of a heritage item, or that is or forms part of an Aboriginal object or within a place of Aboriginal significance (see Figure 2)

1. A permit from Council is not required to prune declared vegetation on private land referred to in clause 5.03.01(c) to (g) if:
 - (a) landowners consent has been obtained; and
 - (b) for a tree or shrub greater than 5m in height:
 - (i) the pruning is undertaken in accordance with the Australian Standard AS4373 - 2007, and
 - (ii) a pruning specification is completed in accordance with section 2 of the Urban Forest Technical Manual, or

Note: An application to Council is not required for this pruning. However, pruning must be specified and undertaken by a suitably qualified arborist, and the pruning specification must be kept by the landowner. See Part A, section 2.0 of the Urban Forest Technical Manual and Appendix 5 Tree Pruning Specification form for further detail.

- (c) for pruning of individual branches from a tree/shrub that overhangs a dwelling, formal path or driveway, where:
 - (i) the pruning is to remove branches that are within 1m of the dwelling, formal path or driveway, and
 - (ii) the pruning does not alter the overall shape or structure of the tree, and
 - (iii) the branches removed are less than 100mm in diameter at the final cut, and
 - (iv) the final cut is at a branch collar or appropriate growth point (see section 2.3 Urban Forest Technical Manual), or

Note: An application to Council is not required for this pruning. A pruning specification is not required for this pruning.

- (d) for shrub/s less than 5m in height,
 - (i) it is maintained without reducing the height, or
 - (ii) is pruned for the purposes of hedging, topiary, clearing of driveways or formal pathways, or similar.

Note: An application to Council is not required for this pruning. A pruning specification is not required for this pruning.

Figure 1 - Do I need a permit from Council to clear a tree or shrub?

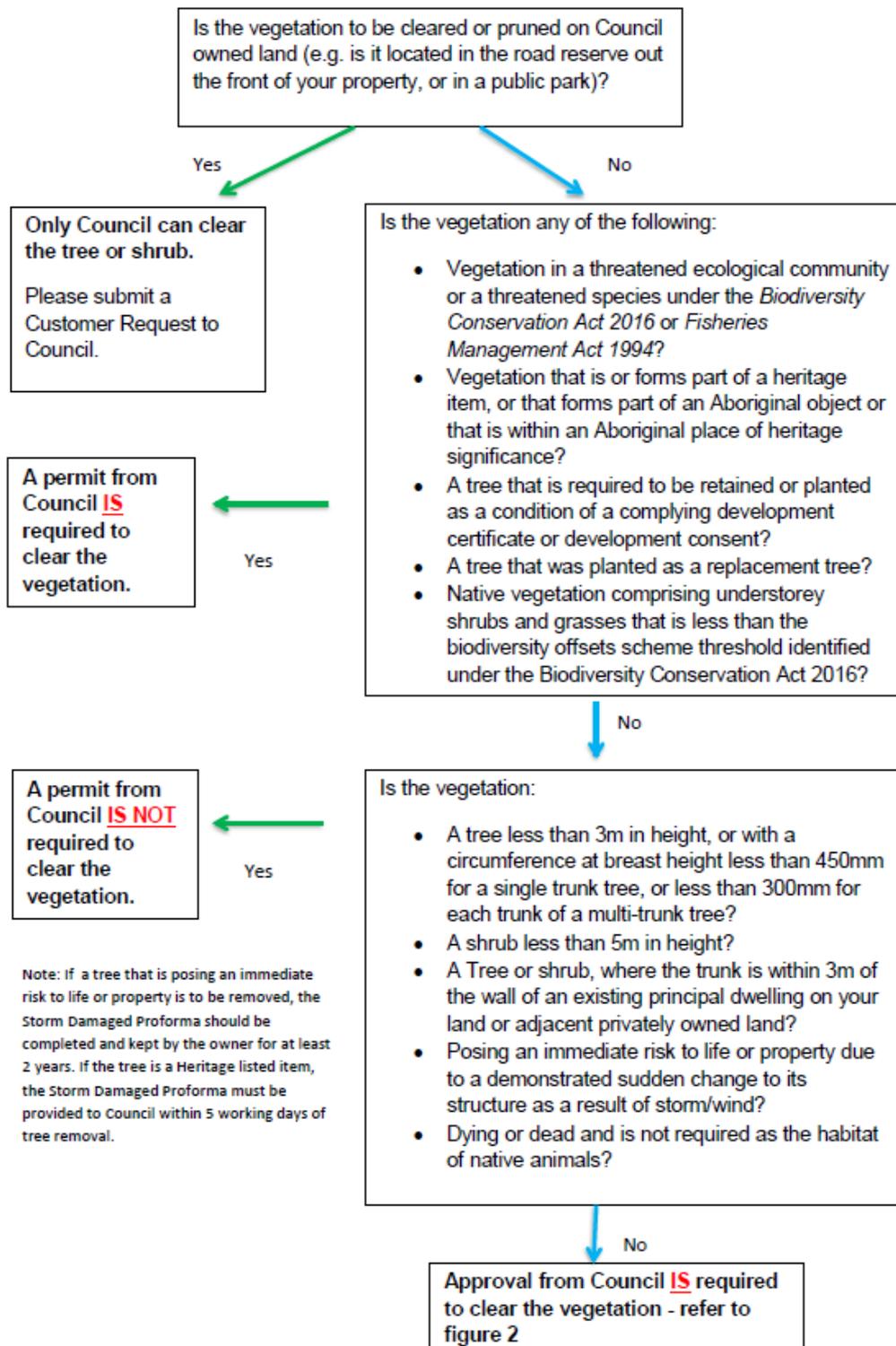
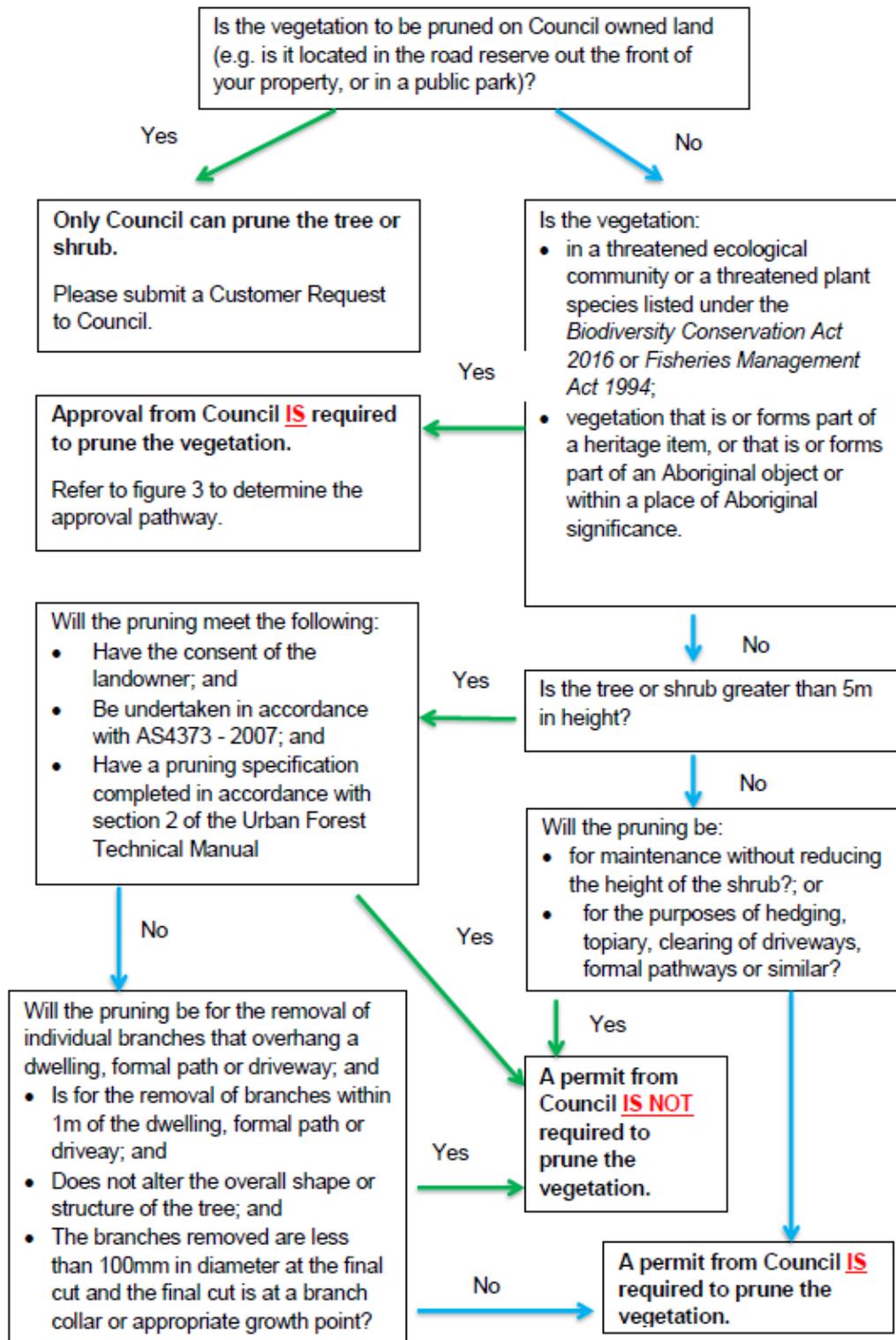


Figure 2 - Do I need a permit from Council to prune a tree or shrub?



5.03.04 Clearing of declared vegetation on private land not associated with a development application

A. Clearing or pruning of declared vegetation - heritage items, Aboriginal objects and places of heritage significance

The following controls apply to the clearing or pruning of declared vegetation on private land that is not associated with any other work that requires development consent and that is or forms part of a heritage item or that is or forms part of an Aboriginal object; or that is within an Aboriginal place of heritage significance.

Objectives

1. To ensure vegetation removal meets the Urban Forest Policy goals and objectives of sustaining and maximising canopy cover on an intergenerational basis.
2. To ensure vegetation removal is carried out in accordance with best practice methods.
3. To justify removal or damage to existing trees and outline compensatory measures to offset such loss.

Controls

1. A completed Heritage Minor Works Notification form is to be submitted to and approved by Council before the clearing or pruning of vegetation that is or forms part of:
 - (a) a heritage item; or
 - (b) an Aboriginal object or that is within an Aboriginal place of heritage significance;
2. The removal of vegetation can only be considered under this section if the works are of a minor nature, or are for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance, and do not adversely affect the significance of the item, object, or place.

Note 1: The Heritage Minor Works Notification form can be obtained from Council's website.

Note 2: If the vegetation clearing or pruning does not meet the requirements of control 2, a Development Application will need to be submitted and approved by Council.

B. Clearing of declared vegetation - all other sites

The following controls apply to the clearing of up to three (3) trees or shrubs on privately owned land and the planting of at least one (1) replacement tree on the land

Note 1: In accordance with clause 7 of *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* a permit is required from Council to remove declared vegetation on private land.

Note 2: This permit process may apply to land managed by public authorities other than Council, where the public authority's relevant legislation does not provide for tree removal.

1. Where it is proposed to remove up to three (3) trees or shrubs and plant at least one (1) tree (with additional replacement trees as space permits) with a suitable tree species on the same site, a permit application for tree removal is to include the following:

- (a) a completed application form (see Council's website); and
 - (b) a site map which identifies the location of the vegetation to be removed and the location of replacement plantings in relation to the principal building and other ancillary structures; and
 - (c) the botanical and common name of the replacement tree species.
2. Replacement tree planting is to be undertaken in accordance with sections 8 and 9 of the Urban Forest Technical Manual. The preferred planting location is within the front setback of the property.

Note 1: The planting location is to take into account the location of services and other infrastructure, and is to be offset a minimum 1.5m from the front boundary when planted within the front setback.

Note 2: An arborist report of any kind is not required under this section.

The following controls apply to all other applications for the removal of more than three (3) trees or shrubs, or where no replacement tree planting is proposed on privately owned land

3. Where it is proposed to remove more than three (3) trees or shrubs, or where no replacement tree planting is proposed, a permit application for tree removal is to include the following:
- (a) a completed application form (see Council's website); and
 - (b) a site map which identifies the location of the tree/s or shrubs to be removed, and location of replacement plantings (where proposed) in relation to the principal building and other ancillary structures; and
 - (c) the botanical and common name of the replacement tree or shrub species.
 - (d) a completed Arborist Report form (see Appendix 7 of the Urban Forest Technical Manual) from a consulting arborist (AQF5) that:
 - (i) demonstrates that at least one of the tree assessment tests under Part A section 3.4.4 of the Urban Forest Technical Manual has been met, and
 - (ii) is prepared in accordance with Part A, section 6 of the Urban Forest Technical Manual.

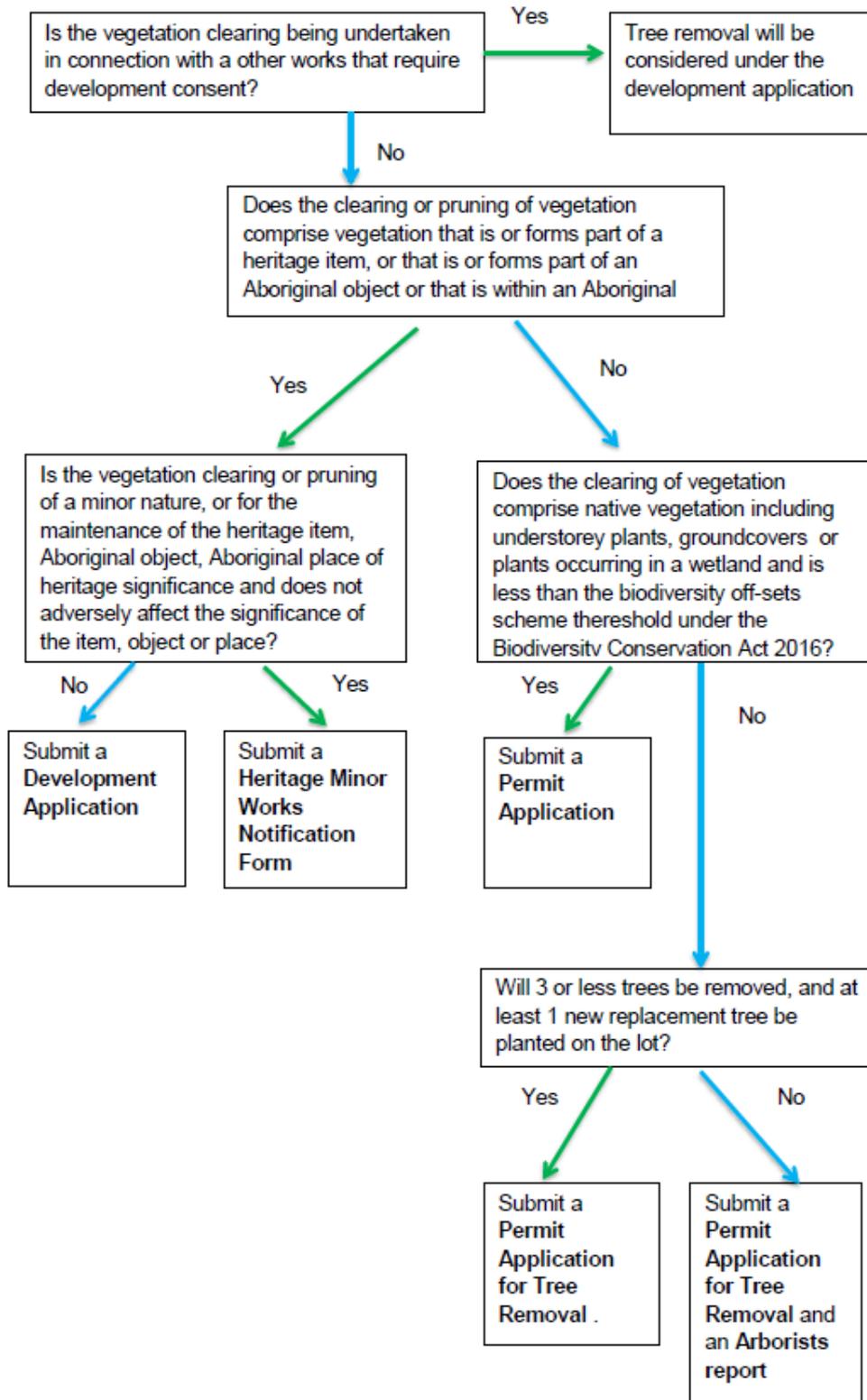
Note 1: If replacement planting is proposed, it is to be undertaken in accordance with section 8 and 9 of the Urban Forest Technical Manual.

The following controls apply to the clearing of all other native vegetation on privately owned land

4. Where it is proposed to clear any other native vegetation, including understorey plants, groundcovers and plants occurring in a wetland, a permit application is to include the following:
- (a) a completed application form (see Council's website); and
 - (b) a site map which identifies the location of the native vegetation to be cleared and any retained vegetation at the site; and

- (c) description of the native vegetation community and /or list of the native vegetation species to be cleared; and
- (d) description of why the native vegetation is proposed to be cleared; and
- (e) a flora and fauna impact assessment prepared by a suitably qualified ecologist if the clearing of native vegetation exceeds more than 1000m² or clearing is within a riparian zone and/or wetland area.

Figure 3 - What type of authorisation do I need from Council for tree removal or pruning?



5.03.05 Clearing or pruning of declared vegetation associated with a development application

The following controls apply to the clearing or pruning of trees or shrubs on private land associated with other works that require development consent.

Objectives

1. To ensure that vegetation removal meets the Urban Forest Policy goals and objectives of sustaining and maximising canopy cover on an intergenerational basis.
2. Ensure existing vegetation is identified and assessed in the development process.
3. Incorporate new street and park trees into greenfield subdivision design.
4. Incorporate native vegetation into subdivision design.
5. Ensure retention of trees on existing greenfield estate lots is undertaken in a responsible manner.
6. To ensure retained public trees are protected during demolition or construction

General controls applying to all development (excluding greenfield sites)

1. Where the development including any ancillary development, or associated excavation, affects declared vegetation located on the site, or where the trunk of a tree is located within 5m of the development footprint, (including any ancillary development or associated excavation, the following information is to be submitted with the development application:
 - (a) a report from a consulting arborist (AQF5) that:
 - (i) incorporates a tree retention value assessment in accordance with section 4.1 of the Urban Forest Technical Manual, and
 - (ii) defines tree protection zone offsets and protection requirements in accordance with section 7 of Urban Forest Technical Manual, and
 - (iii) is prepared in accordance with Part A, section 6 of the Urban Forest Technical Manual.
 - (b) where it is demonstrated that the development design cannot retain trees, a landscape concept plan for the site that identifies suitable locations and species for compensatory tree planting within the site.

Note: Where space permits, the preferred planting location is within the front of the property. The planting location should take into account services and other infrastructure. Planting is to be offset a minimum 1.5m from the front property boundary.

2. Trees retained as part of a development consent are to be protected in accordance with the tree protection plan, during the demolition and construction phase.

The following controls apply to development of greenfield sites

Note: Greenfield sites are defined as undeveloped land that has been identified, through land use zoning, as having potential for future urban, commercial or industrial development. These sites are generally found on the fringes of existing developed areas and may contain a large amount of existing vegetation. Separate processes for the assessment of large scale vegetation removal are outlined under the *Biodiversity Conservation Act 2016*.

3. A development application for a development of a greenfield site is to include:
 - (a) a detailed site plan and report that identifies:
 - (i) vegetation to be retained, and defines tree protection zone offsets and protection requirements in accordance with section 7 of Urban Forest Technical Manual, and
 - (ii) defined bushfire asset protection zones and relationship to vegetation to be retained, and
 - (iii) the location of habitat trees (to be retained and removed), and
 - (iv) a separate plan layer identifying locations of proposed street and park tree plantings, and nominated species selected in accordance with Council's Street Tree Selection Manual 2016.
 - (b) a report prepared by a consulting arborist (AQF5) where individual trees are to be retained on residential zoned lots or public land that:
 - (i) includes a Tree Impact Assessment, which assesses the condition of the trees, determines the impacts from clearing of adjacent vegetation, and identifies trees suitable for retention, and
 - (ii) identifies individual trees along fringes of bushland that are compromised by the development works and require removal, and
 - (iii) defines tree protection zone offsets and protection requirements in accordance with section 7 of Urban Forest Technical Manual, and
 - (iv) is prepared in accordance with Part A, section 6 of the Urban Forest Technical Manual.

5.03.06 Declared vegetation on public land

A. Clearing or pruning of public trees not associated with a development application

Objectives

1. To ensure vegetation management meets the Urban Forest Policy goals and objectives of sustaining and maximising canopy cover on an intergenerational basis.

2. To ensure existing public trees are retained except where it can be demonstrated that no practical alternative is available.
3. To ensure pruning and retention of public trees is carried out in accordance with best practice methods and relevant Australian Standards.

Controls

The following controls apply to the clearing or pruning of trees or shrubs on public land that is not associated with any other works that require development consent

1. Public tree maintenance activities including clearing and pruning can only be undertaken by Council.

Note 1: Requests for inspection of public trees by Council can be made via Council's website or customer service centre.

Note 2: An application to Council under Section 138 of the *Roads Act 1993* is required for clearing or pruning of public trees in connection with complying development proposed under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. For information on the matters that will be considered in determining whether or not Council will support pruning or clearing of a public tree refer to section 5.03.06 B - Clearing or pruning of public trees associated with a development application.

2. Inspections will be undertaken by Council's arborists who will determine appropriate works in accordance with relevant Australian Standards, City Wide Maintenance Procedure, Urban Forest Technical Manual and best practice.
3. All public tree maintenance activities are undertaken by Council in accordance with relevant Australian Standards, City Wide Maintenance Procedure, Urban Forest Technical Manual and best practice.

B. Clearing or pruning of public trees associated with a development application

Objectives

1. To ensure vegetation management meets the Urban Forest Policy goals and objectives of sustaining and maximising canopy cover on an intergenerational basis.
2. To ensure public trees and public tree vacancy sites are considered in the design of the development.
3. To ensure existing public trees are retained except where it can be demonstrated that no practical alternative is available to allow for efficient development of the site.
4. To ensure retained public trees are protected during demolition or construction.

Controls

The following controls apply to the clearing or pruning of trees or shrubs on public land associated with other works that require development consent

1. Where a public tree is located within 5m of the development property boundary the following information is to be submitted with the development application:
 - (a) identify the location of public trees and street tree vacancy sites within 5m of the property boundary on the site plans (contact Council to obtain location/s of street tree vacancy sites), and
 - (b) consider design options and feasibility to achieve the required offsets in accordance with Part B, section 2 of Council's Urban Forest Technical Manual, and
2. Council will specify the tree protection requirements for public trees that are to be retained as part of the conditions of consent.

Note: Public trees are assessed by Council and an Arborist report is not required to consider impacts on public trees.

5.03.07 Newcastle University Callaghan Campus

Objectives

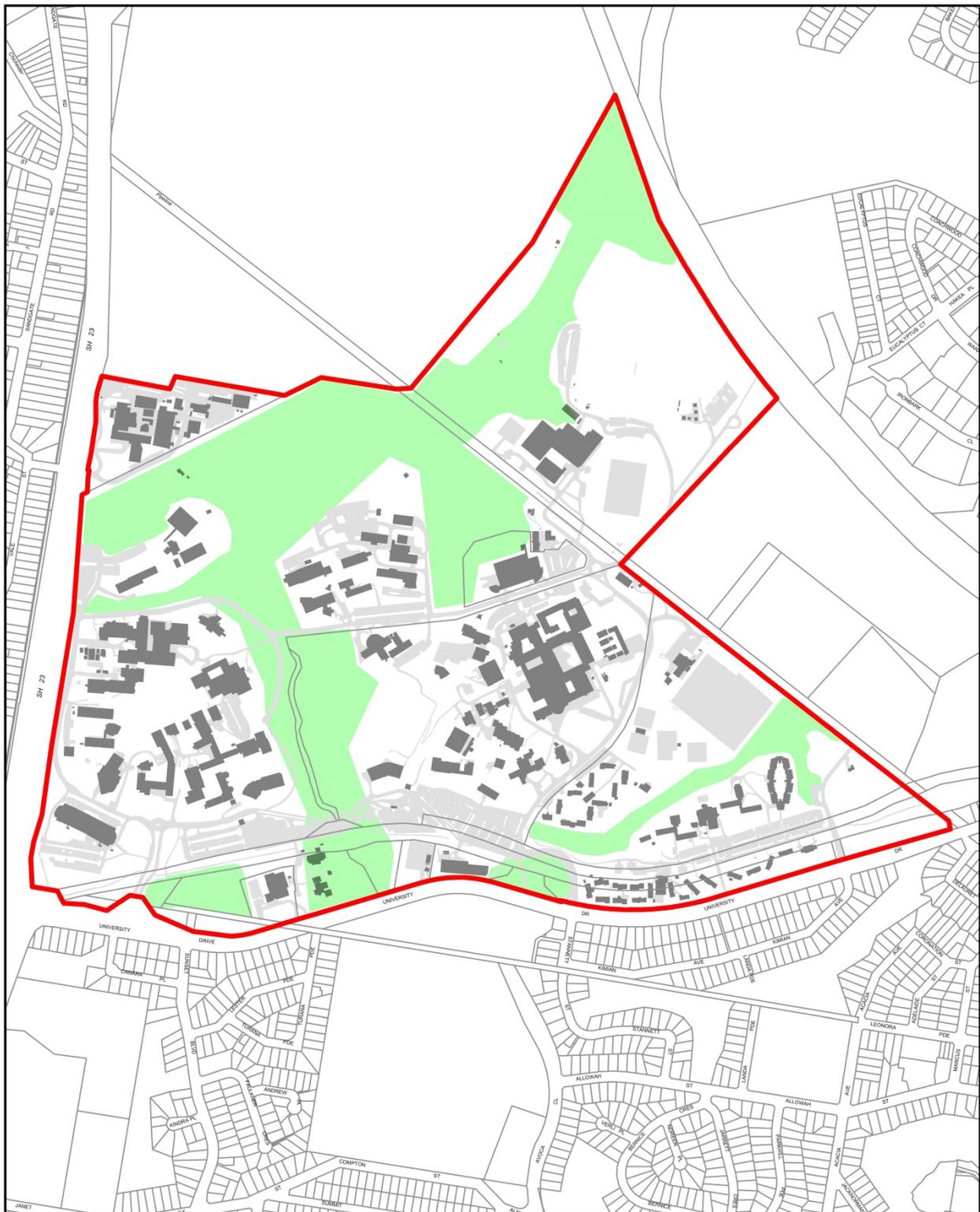
1. To improve the quality of vegetation on the Callaghan Campus.
2. To maintain the 'bushland campus' identity of the Callaghan Campus.
3. To ensure appropriate regeneration works are undertaken for vegetation which is removed or pruned for the purpose of a development.

Controls

The following controls apply to all land identified as the University of Newcastle Callaghan Campus as identified in Map 1

1. Compensatory works for the clearing or pruning of vegetation is to be undertaken in accordance with the provisions for the Callaghan Campus in the Urban Forest Technical Manual. The works are to be undertaken in a specific Bushland Management Zone as identified in the Landscape Management Implementation Plan Callaghan Campus 3 September 2012. The management zone where compensatory works will be undertaken is to be nominated in the development application.

Map 1: Callaghan Campus

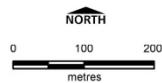


CALLAGHAN CAMPUS

Legend

- Callaghan Campus
- Main Body of Vegetation
- Impervious Surfaces within Callaghan Campus
- Buildings within Callaghan Campus

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