

Junee Shire Council
Belmore St (PO Box 93)
Junee, NSW 2663



Protection of Council Land and Roadside Vegetation and Habitat

POLICY

Adopted: 28 June 2016
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1. Introduction

Councils are responsible for the management and protection of public lands that are under the care and control of a Council. This may include parks, reserves, operational land and road reserves.

Roadside reserves often contain significant biodiversity, including remnant vegetation that is absent in other areas of the landscape due to land-use changes. Because they are often continuous, particularly in rural areas, road reserves provide invaluable habitat corridors, allowing for native animals and plants to migrate across the landscape. This aspect is particularly important to protect if we are concerned with preserving some level of resilience in the face of threats such as climate change, feral predation/competition etc.

Vegetation on land under the care or control of Junee Shire Council may be threatened by inappropriate activities that reduce the extent and quality of native and other vegetation and wildlife habitats.

The Council, as a land manager, has a responsibility to ensure activities do not have a detrimental impact on protected or threatened plants and animals or Endangered Ecological Communities.

The Council, in its actions, is guided by the relevant legislation and operational guidelines such the *Threatened Species Conservation Act 1995* or the *Roadside Vegetation Management Guidelines*.

2. Policy Objective

The objective of this policy is to improve the protection of native vegetation and wildlife habitat present on land under the care or control of Junee Shire Council.

3. Scope Of Policy – Land To Which This Policy Applies

This policy applies to the Junee Shire Council Local Government Area. It applies to all land under the care and control of Junee Shire Council.

For Roadside Conservation Values, see *Roadside Conservation Value, Junee LGA Map*, as amended from time to time.

For the purposes of Section 158 of the *Local Government Act*, this policy comprises three parts:

- Part I specifies the circumstances and activities in which a person is exempt from the necessity to apply for an approval issued under this Policy.

- Part 2 specifies the criteria the Council must take into consideration in determining whether to give or refuse an approval under this Policy, and
- Part 3 specifies other matters relating to approvals issued under this Policy.

4. Definitions

Authorised Officer	Is taken to be an authorised person as defined in the <i>Local Government Act 1993</i> .
Collection	The collating, stacking or removal of a thing from its pre-existing location.
Commercial purposes	The doing or undertaking of an activity for the purpose of financial or other gain.
Domestic purposes	The doing or undertaking of an activity for the purpose of serving one's place of residence or the residence of an immediate family member.

Part I

5. Activities That Do Not Require Approval - Exemptions

The following activities may be undertaken without the approval of Junee Shire Council, that is they are exempt:

- As part of an approved development under Part 4 of the *Environmental Planning and Assessment Act 1979*.
- As part of Council activities in accordance with an approved Review of Environmental Factors under Part 5 of the *Environmental Planning and Assessment Act 1979*.
- As part of normal Council maintenance activities that do not require a Review of Environmental Factors under Part 5 of the *Environmental Planning and Assessment Act 1979*.
- As part of state electrical infrastructure works under Section 41 of the *State Environmental Planning Policy (Infrastructure) 2007*.
- As part of flood mitigation work under Section 49 of the *State Environmental Planning Policy (Infrastructure) 2007* and in accordance with an approved Review of Environmental Factors and/or a Part 7 Fisheries Permit.
- As part of state road works that are conducted in accordance with an approved environmental assessment.

- (g) Pruning of limbs which project over private property boundary.
- (h) Noxious weed control in accordance with Section 13 of the *Noxious Weeds Act 1993*.
- (i) An approved Bushfire Hazard Reduction activity under Section 63 and Section 100C of the *Rural Fires Act 1997*.
- (j) Grazing and travelling of stock in or through areas of Medium or Low Conservation Value.
- (k) Where campfires are permitted, the burning of wood in a campfire for the purpose of heating and/or cooking, subject to any requirement imposed by any other NSW or Commonwealth Act or Regulation.

6. Activities That Require Approval

The following activities may be undertaken with the approval of Junee Shire Council:

- (a) Collection of firewood for domestic purposes in areas of Low Conservation Value.
- (b) Boundary fence buffer maintenance in accordance with a routine agricultural management activity as defined in section 11 of the *Native Vegetation Act 1993*, whereby the maintenance activity is to occur on a road reserve or public land.
- (c) Disposal or provision of timber to third parties, created as part of activities that do not require approval under this policy (i.e. road works, electricity infrastructure installation or maintenance, flood mitigation works).
- (d) Collection of wildflowers and seeds in accordance with National Florabank National Code of Practice (1998) and Guidelines.
- (e) Creation of firebreaks or bush fire hazard reduction in association with private land or private property protection whereby the maintenance activity is to occur on the roadside reserve or public land
- (f) Grazing and travelling stock in or through areas of High Conservation Value.

7. Prohibited Activities

The following activities are prohibited:

- (a) The felling or clearing of any vegetation that is not permitted by Section 5 or 6 of this policy.
- (b) Collection of firewood from any area for commercial purposes.
- (c) Collection of firewood for any purpose from areas of High or Medium Conservation value.
- (d) Collection of firewood for any purpose from an unformed public or Crown road.
- (e) Collection of firewood from any site of road works.

- (f) Clearing, damaging or picking a listed protected native vegetation species as per Schedule 13 of the *National Parks and Wildlife Act 1974*.
- (g) Picking or pruning plants or collecting seed from a listed threatened species or endangered ecological community under the *Threatened Species Conservation Act 1995* or the *Environmental Protection and Biodiversity Conservation Act 1999*.
- (h) Removal or moving of any rock, soil or sand, unless in accordance with Section 5 of this Policy.
- (i) Disposal of litter or waste.
- (j) Any other activity that is prohibited by an Act or Regulation of NSW or the Commonwealth.

Part 2

8. Gaining Approval From Council

A person wishing to undertake an activity as per Section 6 of this Policy, with the exception of the collection of firewood, may request an approval in accordance with the process and requirements of *Approval for Activities on Public Land – Guideline*, as amended from time to time.

A person wishing to undertake the collection of firewood in accordance with Section 6 must do so in accordance with *Collection of Firewood from Roadsides and Council Land - Guideline*.

An approval may be refused for the following reasons:

- The proposed activity is a prohibited activity as per Section 7 of this Policy.
- The proposed activity is likely to result in a negative impact on threatened species or a threatened species' habitat or an endangered ecological community.
- The proposed activity is likely to have a significant impact upon the native vegetation, protected species, wildlife habitat, public amenity or landscape value.
- The proposed activity may present a danger to members of the public, council staff or any other person.

Part 3

9. Offences

An Authorised Officer may impose a penalty for each individual action.

- (a) It is an offence to undertake an activity listed in Section 6 of this Policy without an appropriate approval having first been granted by the Council.
 - a. Maximum Penalty: 20 penalty units as per Section 629 of the *Local Government Act 1993*.

- (b) It is an offence to undertake an activity listed in Section 7 of this Policy.
 - a. Maximum Penalty 20 penalty units as per Section 629 of the *Local Government Act 1993*.

- (c) It is an offence to undertake an activity if acting contrary to a notice erected by Junee Shire Council at that place, or if acting contrary to any condition imposed upon the person undertaking an activity for which an approval has been granted as per Section 8 of this Policy.

Junee Shire Council
Belmore St (PO Box 93)
Junee, NSW 2663



Collection of Firewood from Roadsides and Council Land

GUIDELINES


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I. PURPOSE

I.1 Name of Guideline

Collection of Firewood from Roadsides and Council Land – Guideline

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Rev No	Date	Revision Details	Author	Reviewer	Approver
1		Original document	W. Barton	J. Davis	

I.2 Purpose of the Guideline

The purpose of this Guideline is:

- to provide guidance to those wishing to undertake collection of firewood from land under the control or care of June Shire Council,
- to provide guidance to staff in the assessment of any application for approval to undertake collection of firewood from land under the control or care of June Shire Council, and
- to provide guidance to staff in the enforcement of the collection of firewood from land under the control or care of June Shire Council, an activity requiring approval under *Protection of Council Land and Roadside Vegetation and Habitat Policy*.

1.3 Connection with Integrated Planning and Reporting

The *Local Government Act 1993* dictates that councils in NSW have, among other things, the following as their charter:

- to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development.
- to have regard to the long term and cumulative effects of its decisions.
- to exercise its functions in a manner that is consistent with and promotes social justice principles of equity, access, participation and rights.

1.4 Definitions

Authorised Officer	Has the same meaning as in Protection of Council Land and Roadside Vegetation and Habitat Policy.
Collecting	Has the same meaning as in Protection of Council Land and Roadside Vegetation and Habitat Policy.
Manager	Means the Director Engineering Services.
Responsible Person	Generally taken to be the person in possession of any equipment or materials, or the registered owner of any vehicles or trailers.
Mobile plant	Any powered and wheeled or tracked vehicle for the use of load shifting, for example a skidsteer loader.
Habitat	The natural conditions and environment in which a plant or animal lives.

2. INTRODUCTION

In its Protection of Council Land and Roadside Vegetation and Habitat Policy (the Policy), Junee Shire Council regulates the activities that may be undertaken on roadsides and other land under the care or control of the Council. The objective of the Policy is to improve the protection of native vegetation and wildlife habitat present on these lands.

The collection of firewood is an activity that, unregulated, has the potential to have a significantly detrimental impact on native vegetation and wildlife habitat. Indeed it has been identified by the NSW Scientific Committee as a key threatening process, as defined under the Threatened Species Conservation Act 1995.

It is for this reason that the Policy regulates, among other activities, the collection of firewood.

3. REGULATION OF THE COLLECTION OF FIREWOOD

The Policy sets out the activities for which approval may or may not be required and those activities that are prohibited.

Pursuant to the Policy:

- The felling or removal of any standing tree, shrub or other vegetation is prohibited.
- The collection of firewood from any Council worksite is prohibited.
- The collection of firewood from any lands under the care or control of the Council, including roadsides, that are identified as being of High or Medium Conservation Value is prohibited.
- The collection of firewood from any land under the care or control of the Council for any reason with the exception of domestic heating and/or cooking, is prohibited.
- The collection of firewood from any land under the care or control of the Council by a person that is not a resident of the Junee Shire Council Local Government Area is prohibited.
- With approval, a person who is a resident of the Junee Shire Council Local Government Area may collect firewood from lands under the care or control of the Council, including roadsides that are identified as being of Low Conservation Value.

For the purpose of the Policy, the *Roadside Conservation Value, Junee LGA Map* shall be the Enforceable Map and it is this map that will identify High and Medium Conservation Value roadsides.

4. CONSENT FOR THE COLLECTION OF FIREWOOD

4.1 Assumed Consent

For the purpose of the Policy, a person shall be granted assumed consent, subject to satisfying the requirements of this Guideline, for the collection of firewood from Low Conservation Value lands under the care or control of the Council, including roadsides. That is, so long as a person can comply with the requirements in section **4.2 Requirements for Assumed Consent**, for the purpose of the Policy, they have assumed consent to collect firewood from Low Conservation Value lands without contacting the Council.

An Authorised Officer may, at any point in time, request that a person collecting firewood pursuant to this section, demonstrate compliance with section **4.2 Requirements for Assumed Consent**. For staff guidance, refer to section **5.2 Checking for Compliance with Assumed Consent**.

4.2 Requirements for Assumed Consent

A person (the Responsible Person) complying with the following shall be granted assumed consent for the purpose of the Policy:

- (a) The Responsible Person shall hold a current public liability insurance policy and that policy shall have a minimum amount for public liability of not less than \$20,000,000 and that policy shall note Junee Shire Council as an interested party;

Reason: To limit Junee Shire Council's exposure to litigation.

- (b) The Responsible Person shall not use or direct the use of mobile plant for the collection of firewood as permitted in the Policy and in accordance with this section;
Reason: To limit the potential for damage to roadside vegetation and the hazard posed to users of the road.

- (c) The Responsible Person shall not park or store vehicles, plant or other equipment within 6m of the traffic lane of a road; or.

Reason: There is an obligation on any person conducting works or activities within the road reserve to maintain a safe workplace. This entails the prevention of injury to any person undertaking a work or activity and the protection of road users from hazards stemming from the work or activity.

- (d) If any plant, persons or materials are located within 6m of the traffic lane of a road, the Responsible Person shall have in place a traffic control plan that conforms with the requirements of the *Traffic Control at Worksites Guideline* as published by NSW Roads and Maritime Services and the Responsible Person or their agents shall hold the required accreditation for the installation of the traffic control plan.

Reason: There is an obligation on any person conducting works or activities within the road reserve to maintain a safe workplace. A traffic control plan assists with limiting the exposure to risk arising from working on or near a road for both those persons working and users of that road.

- (e) While collecting firewood, the Responsible Person shall carry a copy of this Guideline and the Enforceable Map.

Reason: To ensure that persons collecting firewood are familiar with the requirements for Assumed Consent.

4.3 Failure to Comply

Should a Responsible Person fail to comply with the requirements outlined in section **4.2 Requirements for Assumed Consent**, for the purpose of the Policy, they will be deemed to have undertaken a restricted activity without consent.

Failing to comply with section 4.2(c) and (d), may constitute an offence under the *Roads Act 1993* or the *Local Government Act 1993*, depending on the gravity of the risk the Responsible Person is exposing road users to.

Further, failure to comply will render the Responsible Person ineligible for assumed consent for a period of six months.

4.4 Alternative Consent Pathway

Should a Responsible Person be unable to comply with the requirements in section **4.2 Requirements for Assumed Consent**, but believe they can satisfy the objectives of that section via other means then they shall submit to the Manager, a proposal outlining the alternative methods proposed.

An inspection of the proposed area from which collection of firewood will take place may be required. If consent is granted, a written consent will be provided generally within 28 days of receipt of a proposal.

Consent may be refused for the following reasons:

- The activity as proposed is prohibited by the Policy.
- The activity as proposed will present an unacceptable risk to staff or road users.
- The activity as proposed will or is likely to have a detrimental impact on threatened species or habitat supporting threatened species.
- The activity as proposed will or is likely to have a significant impact upon the native vegetation, protected species, wildlife habitat, public amenity or landscape value.

5. GUIDANCE FOR STAFF – ENFORCEMENT

5.1 Acting on Complaints

Junee Shire Council is committed to acting on complaints from members of the public to ascertain whether or not there has been a breach of a Council policy or of the various acts and regulations over which Junee Shire Council has jurisdiction.

Accordingly, all complaints regarding the collection of firewood shall be investigated to the fullest extent given the resources available to the Council.

When a member of the public notifies the Council of a suspicious or prohibited activity, they will be asked to provide a number of items of information to the Officer receiving the notification. This information will include date, time and location, descriptions of vehicles or names of persons involved and the name and a contact telephone number of the person making the notification. The reason for recording their name and a contact number is so that they can be contacted at a later date either to clarify information they provided or to provide them with an account of the outcome.

5.2 Checking for Compliance with Assumed Consent

An Authorised Officer is permitted to make an enquiry of any person collecting firewood in accordance with section **4.1 Assumed Consent**, and this permission is extended to other information the Authorised Officer reasonably requires to fulfil their enquiry, such as name and address.

An Authorised Officer may enquire about some or all requirements required for assumed consent and as outlined in section **4.2 Requirements for Assumed Consent**.

Any person collecting firewood in accordance with section **4.1 Assumed Consent** shall provide any and all information to the Authorised Officer. Failure to supply required information shall be deemed to be a failure to comply with the requirements for Assumed Consent.

5.3 Issuing of Warnings

Junee Shire Council is committed to the fair, open and transparent treatment of its residents and in doing so recognises that, despite its best efforts, some residents may not be aware of the restrictions and requirements surrounding the collection of firewood from lands under the control or care of the Council.

A person that is a resident of Junee Shire LGA and is found to be collecting firewood from an area permitted by the Policy, but for a use other than a domestic one shall be provided with seven days to demonstrate that the use was domestic. A person may demonstrate use by completing a statutory declaration in accordance with the *Oaths Act 1900* and supplying a copy to the Manager within the time period permitted.

Upon the Manager receiving satisfactory evidence of domestic use, any impounded firewood shall be released to the Responsible Person; the requirements of Section 23 of the *Impounding Act 1900* shall apply.

5.4 Impoundment of Collected Firewood

As a general deterrent, any split or cut firewood that has been collected may be impounded by the Council's Authorised Officer, irrespective of whether a warning has or has not been issued to the person, as permitted by the *Impounding Act 1993*.

For the purpose of Section 23 of that Act, no person is entitled to the lawful possession of collected firewood that has been collected in contravention of the Policy and accordingly no firewood collected will be released from impoundment except where proof of domestic use has been established.

For the purposes of impounding collected firewood, an Authorised Officer may act in a manner that contravenes the Policy, for example may use or direct to be used an item of mobile plant to collect impounded firewood.

Any firewood collected but not split or cut shall be left to remain in place on the lands from which it was originally collected. However, the collected firewood shall, for the purpose of Section 34 of the *Impoundment Act 1900*, be deemed to have been impounded.

For disposal of impounded firewood, refer to section 6 Disposal of Impounded Firewood.

5.5 Issuing of General Infringement Notices

An Authorised Officer may issue a General Infringement Notice (GIN) in accordance with the Policy, however, in the case that a Responsible Person is suspected of collecting firewood from an area as permitted by the Policy with approval, but for a use other than a domestic one, the Authorised Officer shall not issue a General Infringement Notice until the expiration of the time period granted to the Responsible Person in section **5.3 Issuing of Warnings**.

6. DISPOSAL OF IMPOUNDED FIREWOOD

6.1 Collection and Transport of Impounded Firewood

An Authorised Officer is permitted, in spite the requirements of this Guideline or of the Policy, to collect and transport any split or cut firewood that has been impounded in accordance with section **5.4 Impoundment of Collected Firewood** to the Council's pound or other depot in control of the Council.

Any firewood impounded but awaiting possible release, shall be kept separate to any previously impounded firewood and shall be identified in such a way that should it be

released to the Responsible Person, there will be no confusion as to the extent to which a Responsible Person may claim.

6.2 Disposal of Split and Cut Firewood by Public Tender

Firewood impounded by the Council's Authorised Officer shall be disposed of in accordance with Section 24 of the *Impounding Act 1993* and shall be disposed via a public tender process, generally in the Autumn months or otherwise as necessary to make room for other material.

In tendering any impounded firewood, the Council shall only consider tenders from not-for-profits or charitable organisations or as the Council deems eligible, and where the not-for-profit or charity intends to raffle or otherwise raise funds from the firewood for the purpose of pursuing the objects of the organisation's constitution.

6.3 Disposal of Firewood that is Not Split or Cut

Firewood that, for whatever reason, has been impounded or has been recovered from the Council's worksites and is not split or cut, may be offered to a not-for-profit or charity for the purpose of cutting and splitting the firewood. That organisation may then raffle or otherwise raise funds from the firewood for the purpose of pursuing the objects of that organisation's constitution, or may offer it to another not-for-profit or charity for the same purpose.

7. DISPOSAL OF WOOD FROM COUNCIL WORKSITES

7.1 Clearing of Trees and Vegetation

Through the delivery of public infrastructure works such as roads, sewer lines and auxiliary infrastructure such as stockpile sites, it is often necessary to clear vegetation and remove large trees.

At the time of such works, a review of the environmental factors is undertaken to determine whether the impacts on the environment can be managed in such a way as to eliminate any long term or substantive detrimental impacts or whether the impacts, on balance, are offset by the gains from the works.

The Policy permits trees and vegetation to be cleared from land under the care or control of the council so long as it is done so in accompaniment to works that have had an approved review of environmental factors or the works do not require a review of environmental factors.

7.2 Trees and Vegetation to be Disposed

In offsetting the impact of the Council's infrastructure and maintenance works, a hierarchy of disposal options shall be applied to vegetation and trees that have been cleared in the undertaking of the works.

7.2.1 Disposal On-Site

Every effort shall be made to dispose of vegetation and trees within the road reserve and adjoining the location of the works. In doing this, the Council will minimise the impact of the clearing on the environment by ensuring that the cleared vegetation will at least remain in the nutrient cycle and will, for a time, provide habitat for various native species of fauna.

However, there will be occasions when disposing of cleared vegetation will pose an unacceptable risk to users of the road, or present as a substantial inconvenience to road users, such as the driving of stock along a stock route. In that instance, vegetation should be disposed of on land under the care or control of the Council as close to the site as possible.

7.2.2 Disposal on a Proximate Site

If cleared vegetation cannot be disposed of on-site, then a proximate site on land under the care or control of the Council should be identified and vegetation disposed of at that site.

In doing so, consideration should be given to the impact of the vegetation to be disposed, the risk posed by the possible translocation of noxious or nuisance weeds, the additional cost of disposal and whether there will be a substantive benefit to the environment.

Similarly to section **7.2.1 Disposal On-Site**, if the act of disposing vegetation on a site that might otherwise be suitable presents an unacceptable risk to users of the road, or presents as a substantial inconvenience to road users, vegetation shall be disposed of at a depot or similar operational land under the care or control of the Council, where it may be ultimately disposed of in accordance with section **6.3 Disposal of Firewood that is Not Split or Cut**.

7.2.3 Disposal by Other Means

From time to time, the Council may be approached by third parties who express an interest in using felled vegetation for other purposes – for example for educational purposes or in the creation of a natural play space.

In assessing these requests a merit based approach shall be taken, generally following the principles of this Guideline.

The final decision in determining such an application shall be at the discretion of the Director Engineering Services.

JUNEE SHIRE COUNCIL ROADSIDE CONSERVATION ZONES



Legend

-  High Conservation - Wood Collection Prohibited
-  Medium Conservation - Wood Collection Prohibited
-  Road
-  LGA Boundary