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## 1.0 INTRODUCTION

### 1.1 Where does this DCP apply?

This DCP applies to all land within the Shire of Wyong except land zoned 1(f) Forestry zone and 8(a) National Parks zone.

### 1.2 What is the purpose of this DCP?

To protect and enhance the environmental amenity, special landscape characteristics, unique vegetation qualities and ecological values of the Shire.

### 1.3 What are the aims of this DCP?

- a To define Council's responsibilities and requirements with respect to the protection, retention and replacement of trees and native vegetation.
- b To ensure that proper consideration is given to trees and native vegetation in planning, designing and constructing development.
- c To minimise unnecessary injury to or destruction of trees and native vegetation.
- d To retain healthy individual trees of local amenity and aesthetic value.
- e To facilitate the removal of undesirable exotics, noxious weeds, dangerous trees and any other inappropriate plantings, and to replace these with suitable local indigenous species which will positively contribute to visual and environmental amenity and ecological sustainability.
- f To retain viable representative samples of native vegetation, which have an intact structure and complete floristics, wherever practicable.
- g To detail requirements for the submission of sufficient and relevant information by applicants.

### 1.4 How does this DCP relate to other Legislation?

#### 1.4.1 Wyong Local Environmental Plan 1991

Section 74C of the Environmental Planning and Assessment Act 1979 (EP&A Act) and the EP&A Regulations 2000 require this DCP to be consistent with **Wyong Local Environmental Plan 1991** as amended. In the event of any inconsistency, the provisions of the LEP shall prevail.

#### 1.4.2 Other Related Acts and State Environmental Planning Policies (SEPPs)

Several other Acts and State Environmental Planning Policies (SEPPs) relate to tree removal and vegetation management. Most contain exemptions or alternative approval processes. In the event of there being a prior approval issued by a determining authority under any other Act or SEPP, further development consent for the same works under Wyong LEP 1991 or this DCP will not be required.

A list of related legislation is provided in Appendix 1 to this DCP. Where appropriate, exemptions from the need for consent as a result of the provisions of other legislation have been identified within the text of this DCP. If a proponent is intending to claim exemption, the provisions of the particular legislation or approval should be checked prior to work commencing.

### 1.4.3 Landscape and Vegetation Management Policies

The provisions of this DCP have also been adopted as a Council Policy and therefore apply to works undertaken under Part V of the Act. The provisions shall be used in conjunction with Council's **Landscape Policy**, which it complements by providing a statutory planning framework specifically directed at managing trees and native vegetation.

### 1.4.4 Other Development Control Plans (Historic)

In May 1992, Council resolved to prepare a draft DCP No 14 - Vegetation Management. The DCP was amended on several occasions following its adoption by Council. Any amendment approved by Council repealed the previous version and became DCP No 14. In the event of an inconsistency, with any other DCP, this DCP shall prevail to the extent of the inconsistency.

## 1.5 Definitions used in this DCP

"**approved structure**" includes commercial or industrial buildings, or a dwelling, garage or swimming pool, and means a structure which has been approved by Council or a Private Certifier under the EP&A Act, but does not include:-

- a Exempt Development under "the Codes SEPP" - a structure included in Part 2 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 – the General Exempt Development Code; or
- b A temporary building within the meaning of the Environmental Planning and Assessment Regulation; or
- c A manufactured home, a moveable dwelling or associated structure or part of a manufactured home, a moveable dwelling or associated structure within the meaning of the Local Government Act.

"**arboriculture**" means cultivating and managing trees as individuals and in small groups for amenity purposes.

"**bushland**" means land on which there is vegetation which is either a remainder of the natural vegetation of the land or, if altered, is still representative of the structure and/or floristics of the natural vegetation.

"**clearing**" native vegetation means any one or more of the following:

- a Cutting down, felling, thinning, logging or removing native vegetation;
- b Killing, destroying, poisoning, ringbarking, uprooting or burning native vegetation;
- c Severing, topping or lopping branches, limbs, stems or trunks of native vegetation;
- d Substantially damaging or injuring native vegetation in any other way.

"**Consulting Arborist**" means an Australian Qualification Framework Level 5 arborist (AQF5)

"**culturally significant tree**" means trees which are significant features of the cultural landscape, and are listed under Schedule 7.2.5.

**"dead tree"** means a tree with no living vascular tissue.

**"destroy"** means any activity leading to the death, disfigurement or mutilation of a tree.

**"dwelling"** means a room or number of rooms occupied or used, or so constructed or adapted as to be capable of being occupied or used, as a separate domicile.

**"exempt vegetation management works"** means those works not requiring the consent of Council (as defined in Section 4 of this DCP).

**"garage"** means a class 10(a) building as defined by the Building Code of Australia.

**"injury"** means damage to a tree and includes:

- a Lopping and topping;
- b Poisoning, including applying herbicides and other plant toxic chemicals to a tree or spilling (including washing off or directing water contaminated by) oil, petroleum, paint, cement, mortar and the like onto the root zone;
- c Cutting and tearing of branches and roots that is not carried out in accordance with accepted arboricultural practices, does not qualify as "pruning" or is done for invalid reasons;
- d Ringbarking, scarring the bark when operating machinery, fixing objects (e.g. signs) by nails, staples or wire, using tree climbing spikes in healthy trees marked for retention (except for access to an injured tree worker) or fastening materials that circle and significantly restrict the normal vascular function of the trunk or branches;
- e Damaging a trees root zone by compaction or excavation, asphyxiation (including unauthorised filling or stockpiling of materials);
- f Underscrubbing, unless carried out by hand tools, such as brushcutters and the like.

**"lopping"** means cutting between branch unions or at internodes on young trees, (but does not refer to lopping solely for the purpose of feeding stock in an officially drought declared area).

**"native vegetation"** means any of the following types of indigenous vegetation:

- a Trees;
- b Understorey plants;
- c Groundcover;
- d Plants occurring in a wetland.

**"non-urban zone"** means all land identified by Wyong Local Environmental Plan 1991, as Rural, Open Space and Environmental Protection in Zone No.'s 1(a), 1(c), 1(d), 6(a), 6(b), 6(c), 7(a), 7(b), 7(c), 7(d), 7(e), 7(f), 7(g) and 10(a).

**"Property Vegetation Plan"** (PVP) means a negotiated and agreed plan to clarify what can be done with native vegetation on a landholder's property. It gives certainty and long term security so that native vegetation can be better managed for both financial and environmental outcomes.

**"prune or pruning"** means the following activities as specified in Australian Standard AS 4373-2007, "Pruning of Amenity Trees":

- a Crown maintenance pruning involving:
  - a General pruning;

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- b Thinning;
- c Deadwooding;
- d Selective pruning;
- e Formative pruning;
- or Crown modification pruning involving:
- a Reduction pruning;
- b Crown lifting;
- c Pollarding;
- d Remedial pruning;
- e Line clearance.

**"remnant tree or vegetation"** means a native tree or any patch of native vegetation which remains in the landscape after removal of most or all of the native vegetation in the immediate vicinity.

**"remove"** means to cut down, take away or transplant a tree from its place of origin.

**"swimming pool"** means an excavation, structure or vessel:

- a that is capable of being filled with water to a depth of 300mm or more; and
- b that is solely or principally used, or that is designed, manufactured or adapted to be solely or principally used, for the purpose of swimming, wading, paddling or any other human aquatic activity;
- c and includes a spa pool, but does not include a spa bath, or anything situated within a bathroom.

**"topping"** means cutting away part or all of the tree canopy leaving a trunk and stubbed main branches.

**"Trade Arborist"** means an Australian Qualification Framework Level 3 arborist (AQF3)

**"tree"** means a perennial plant with at least one self-supporting woody or fibrous stem, being of any species whether indigenous, exotic or introduced which:

- a Is 3 metres or more in height; or
- b Has a trunk diameter of 75 mm or more measured at 1.4 metres above ground level; or
- c Has a trunk diameter of 75 mm or more measured at ground level where the tree is removed such that the trunk diameter at 1.4 m above ground level can no longer reasonably be measured; or
- d Is a cycad or mangrove that is indigenous to or is recorded by Council as having special significance in the area of Wyong, irrespective of its dimensions.

**"Trunk"** means the main stem of the tree, as distinguished from the branches and roots.

**"undesirable species"** means plants that are defined by section 7.1 as being undesirable due to their location or as having characteristics which may lead to poisoning, weed infestation, brittle and dangerous wood, excessive spread of roots or bushland invasion. (Refer to Section 7.1 of this DCP).

**"urban zones"** means land in Zone No.'s 2(a), 2(b), 2(c), 2(d), 2(e), 2(g), 3(a), 3(c), 3(d), 4(a), 4(b), 4(d), 4(e), 5(a), 5(b), 5(c) or 5(d).

**"vegetation management plan"** means a structured program adopted by the Council for the protection, maintenance, restoration and replacement of trees and native vegetation.

## 2.0 TREE REMOVAL

### 2.1 Application of this section

This Section specifies prohibited works, when development consent is required for the removal or injury of a tree (or trees), the information required to be lodged with an application to Council, the matters considered by Council when assessing an application and the process for a review of Council's determination.

### 2.2 What works are prohibited?

For other than **exempt vegetation management works**, the following works are prohibited:

- a **Tree injuries** as defined by this DCP;
- b **Unauthorised tree removals**, including the removal of trees **without specific Council consent** or without **Council's approval** for the erection of a building or carrying out of a development activity; and
- c **Clearing vegetation** on any land (except minor clearing in urban zones as specified in Clause 28(4) of LEP 1991- see Appendix 2) **without first obtaining a consent** from Council.

### 2.3 When is consent required for tree removal?

**Generally, consent is required for all tree injury or removals.** The exceptions being:

- a The removal of dead trees, except where trees provide habitat for species listed in Schedule 1 or 2 to the Threatened Species Conservation Act 1995 (refer to Clause 28(3)(g) in Appendix 2);
- b Tree works that are necessary to carry out an approved development or building works; and
- c Activities identified under Section 4 of this DCP. This includes works defined as Exempt Vegetation Management Works. For example, the removal of trees within 6m of an approved structure in residential areas, or 12m of an approved structure in non residential areas, providing the tree(s) is not of a species listed in s.7.2.

*Note: The flowcharts within Section 4 (Figures 1 & 2) clarify when consent is required for tree removal. In particular, Figure 2 identifies the process when the proposal does not involve Complying Development and the tree(s) is located within 6m of an approved structure in residential areas, or 12m of an approved structure in non residential areas .*

### 2.4 What are the requirements when making application for tree removal?

The following general information is **usually required to be submitted with an application.** However, the amount and level of detail required may vary depending on the circumstances applying:

- a The written consent of the owner of the land;

- b Details as to the reasons for the removal of the tree(s);
  - c A description of existing trees and vegetation including the following -
    - i A plan of the site showing the location of the tree(s) to be removed, drainage and sewer mains, all buildings, paved areas and overhead power lines;
    - ii Species type (botanical names and common name if known);
    - iii Approximate height, canopy spread of individual trees (or groups of trees), and trunk diameter at 1.4 metres above ground;
  - d A description, (as above), of **existing trees and native vegetation on adjoining land:**
    - i Within 5 metres of the site boundaries (including street trees);
    - ii Where the canopy of a tree overhangs the site boundaries; and
  - e **Proposed landscape treatments** identifying:
    - i Trees and vegetation to be retained and to be protected;
    - ii Methods of retention and/or protection during the works;
    - iii Proposed new plantings (species, mature heights and spread);
    - iv Altered ground levels, including cut and fill details;
    - v Site drainage including siltation and erosion controls to be implemented where necessary;
    - vi Proposed horticultural details, including growing mediums, mulching and irrigation.
- Note: Trees to be inspected should be identified on site with a ribbon or non-permanent marker.*
- f Where the application will cause injury to a culturally significant tree, a report from a Consulting arborist, as specified within section 2.7.
  - g The applicable fee.

## 2.5 Notification of applications

Council's DCP No. 70 - *Notification of Development Proposals* currently identifies that with certain exemptions, Council will notify adjoining owners of local development applications, inviting an opportunity for comment. In general, Tree Works Applications will not be notified. In circumstances where in Council's opinion an adjoining owner may be affected by a proposal relating to tree works or tree removal, Council may determine to notify that adjoining owner(s) in accordance with those provisions.

## 2.6 Tree removal considerations

**Council does not generally support removal of trees listed by Council's Significant Species Schedule (register of significant trees) in Section 7.2 of this DCP.**

In assessing whether or not to approve **removal or injury** of either a tree or small patches of remnant vegetation, Council will take into consideration the following matters:

- a Whether the tree has significant amenity or aesthetic value or is ecologically significant in the local or regional context, with emphasis on retaining species listed by Council's Significant Species Schedule in Section 7.2 of this DCP;

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- b The condition, maturity and useful life expectancy of the tree or native vegetation with respect to the practicality of remedial actions. (In the case of trees claimed to be dangerous, Council will consider a report on the condition of a tree prepared by a Consulting arborist);
- c A report from a Consulting arborist, as specified in section 2.7, where the tree is culturally significant;
- d Whether the tree or remnant vegetation is affected by the provisions of any other Act, Regulation or State Environmental Planning Policy applying to the land (see Appendix 1);
- e The potential hazards to persons or property in the context of:
  - i The structural soundness of the particular tree; and/or
  - ii The characteristics and history of the particular species; and/or
  - iii Siting issues such as ground conditions, building proximity, etc. which may give rise to a hazardous situation; and/or
  - iv Ill health, such as allergies, where specific evidence is provided by an expert in the relevant medical field and a link between the ailment and the species is reasonably established; and/or
  - v Existing (or potential for) traffic hazard in proximity to a roadway, intersection or driveway, where pruning would be an insufficient remedy;
- f The demonstrated need for reasonable solar access to windows, openings of a building, solar appliances, clothes drying and outdoor living areas;
- g Whether a tree should be replaced by a more suitable species given its location or proximity to services such as overhead power lines, sewer or drainage pipes, or the like;
- h Whether an amenity tree no longer fulfils its original purpose in the landscape;
- i Whether the species' natural propagation method is likely to create a nuisance in the landscape (e.g. camphor laurel);
- j Whether the proposed work needs to be carried out by a suitably qualified and experienced person;
- k Whether appropriate additional or replacement planting has been or should be carried out;
- l The need for and suitability of soil erosion and siltation controls;
- m Whether permanent and/or temporary fencing or barriers are required prior to works commencing;
- n Whether a monetary bond is required to ensure protection of trees on-site and adjoining lands;
- o Whether a Section 94 contribution is required towards the replacement of plantings within the same catchment;
- p Whether the tree or trees provide habitat or is a significant component of the habitat of a species listed in Schedule 1 or 2 of the Threatened Species Conservation Act, (refer Section 7.2.2) and whether there is a need to assess the significance of the works in accordance with Section 5A of the EP&A Act;



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- q Whether, prior to the felling of a tree, special measures should be in place to reduce the potential for injury or death of animals likely to inhabit the tree. (Such measures may include:
- i Inspection of hollows and other potential sites on the tree;
  - ii Sectional dismantling;
  - iii Supervision of works by an arborist and/or a licensed wildlife carer or handler);

- r Whether a Vegetation Management Plan should be submitted for approval prior to removal of any trees.

*Note: Provided that no significant hazard or other safety issues also apply, the following shall not generally be considered as valid reasons to remove a tree:*

- i Leaf drop (into gutters and downpipes - pools, lawns and the like);
- ii To increase natural light;
- iii To improve street lighting of private property;
- iv To enhance views;
- v To reduce shade created by a tree;
- vi To reduce fruit, resin or bird droppings on cars;
- vii Minor lifting of driveways and paths by tree roots;
- viii To erect a fence;
- ix Bushfire hazard control which has not been verified by Council;
- x Potential damage to sewer mains unless supported by written expert advice and only where reasonable alternatives are not feasible (e.g. relocation or encasement of main).

## 2.7 Review of refused applications

s.82A of the Environmental Planning and Assessment Act (1979) provides that an applicant may request Council to review the determination of an application. This means that an application which has been refused by Council, or the conditions attached to an approved application, may be reconsidered under this section of the Act.

To seek reconsideration by Council, the following must be provided:

- a a letter requesting review of Council's decision, providing additional information and reasons as to why Council's decision should be altered;
- b the provision of satisfactory supporting evidence by an expert in the field of the grounds for refusal, for example, a Consulting Arborist or Structural Engineer;
- c a quote for the cost of the tree removal; and
- d the payment of the appropriate fee, as identified in Council's Management Plan.

The submission of the s.82A request does not guarantee that the proposed tree works will be approved. Assessment of the original application and additional information submitted under this section will be based on the merits of the proposal; therefore the original determination may be upheld.

## 2.8 Arborist's reports

Council requires a Consulting arborist to prepare an arborist's report. The minimum qualification is the **Australian Qualification Framework Level 5 (AQF5)**.

The arborist must consider the issues raised in the **Significant Tree Study of Bateau Bay East** and the **Wyongah Significant Tree Study** in preparing the report.

The following information is required to be included in the arborist's report:

- a Name, address, telephone number, qualifications and experience of the arborist carrying out the inspection and reporting;

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- b Address of the site containing trees;
- c Who the report was prepared for, and aims of the report;
- d Methods and/or techniques used in the inspection;
- e A plan, to scale, accurately showing:
  - i Location of trees on the subject site and any adjoining trees which may be affected by the development. Trees identified on this plan should be numbered;
  - ii Optimum and minimum tree protection zones as recommended by the Consulting arborist in accordance with AS4970-2009 Protection of Trees on Development Sites;
  - iii Lot boundaries, dimensions and North point;
  - iv Proposed development including services, driveways, and any alteration to existing levels and drainage;
  - v Trees on adjoining properties within 5 metres of the proposed development.
- f A table showing, for each tree to be injured:
  - i Number of the tree as indicated in the plan
  - ii Species name;
  - iii Age class;
  - iv Height;
  - v Trunk diameter at 1.4 metres;
  - vi Canopy spread;
  - vii Health and condition, and estimated useful life expectancy;
- g A discussion of other relevant information, including details of tree hollows for wildlife, tree structure/weaknesses, root form and distribution, pests and diseases and/or a Tree Hazard Assessment;
- h Supporting evidence such as photographs and laboratory results to confirm presence of soil pathogens or support soil assessment, where relevant;
- i Proposed replacement plantings, landscaping and soil remediation;
- j Tree protection measures and a post-construction tree maintenance program which can be used as conditions, should the application be approved;
- k Sources of information referred to in the report;
- l Any other relevant matters.

## 3.0 LAND CLEARING

### 3.1 Application of this section

This Section specifies when a consent is required for the clearing of land, the information required to be lodged with an application to Council, and the matters considered by Council when assessing an application.

### 3.2 When is a consent required for clearing?

**Generally, clearing will only be permitted where it is ancillary to and necessary for allowing an approved use of the land.**

Clearing remnant native vegetation or protected regrowth **on land outside urban zones** requires approval under the Native Vegetation Act, 2003 (NV Act) unless the clearing is a 'permitted activity'. There are six (6) types of 'permitted activity' defined under the NV Act, including activities permitted through approvals granted under other Acts.

Under the NV Act, the Hunter-Central Rivers Catchment Management Authority (CMA) can only approve the clearing of remnant vegetation or protected regrowth when the clearing will improve or maintain environmental outcomes. It is therefore important that these provisions be checked with the CMA and Council, prior to the commencement of any clearing activity.

A consent from Council is required for **any other clearing of land**, including the clearing of land of any size in urban zones (except the removal of dead trees, and the limited clearing of undergrowth, - refer to Clause 28(3)(g), (h) and (i) of LEP 1991 in Appendix 2).

Clearing works that are necessary to carry out an **approved** development or building works, do not require an additional consent and are defined as Exempt Vegetation Management Works under Section 4 of this DCP.

Section 4 also specifies other activities that are exempt from the need for a consent from Council, including the removal of "undesirable species".

### 3.3 What are the requirements when making an application for land clearing?

- a The following general information is usually required to be submitted with an application. However, the amount and level of detail required may vary depending on the circumstances applying:
  - i The written consent of the owner of the land;
  - ii A description of the existing trees and native vegetation on the site:
    - o Location plan including spot levels and/or contours to be generally at 2 metre intervals and at a scale of 1:200 for sites up to 1 hectare and 10 metre intervals and at a scale of 1:1,000 for sites of more than 1 hectare;
    - o The area to be cleared in hectares;

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- Species (botanical names and common names if known) of individual trees, or the dominants in the case of woodland, forest or groups of trees (to be shown as clumps) and/or vegetation communities to be marked on the plan. A corresponding schedule shall be submitted for vegetation communities outlining structure and floristics (a plant list), identifying the dominants. Any endangered, vulnerable or locally significant plant species should be shown and in such cases an assessment of potential impacts undertaken as per Section 5A of the EP&A Act. A description of the survey methodology should also be provided;
  - Appropriate height and trunk diameter at 1.4 metres above ground (breast height) for individual trees, where applicable;
  - Approximate canopy spread of individual trees, groups of trees and vegetation communities to be marked on the plan;
  - A schedule, prepared by a Consulting Arborist, of individual trees and/or groups of trees, summarising useful life expectancy values with recommendations for removal, retention and/or rehabilitation. In the case of vegetation communities, the schedule should summarise the condition, maturity, intactness and rarity, with recommendations for removal, retention and/or rehabilitation;
  - A method statement detailing the intended approach to the undertaking of the recommended works;
  - Plans shall identify site boundaries, dimensions, orientation (north point), the location of relevant land use zones and site areas of the whole of the land and that area proposed to be cleared in hectares or square metres;
- iii **A brief description on the plans of existing trees and native vegetation on adjoining land showing:**
- Trees, groups of trees and vegetation communities within 20 metres of the site boundaries;
  - The location of trees whose canopy overhangs the site boundaries;
- Note: The development shall not involve works (e.g. roads, driveways, installation of services, cut and fill, drainage works, installation of barriers to natural drainage) that destabilise, disfigure or ultimately destroy any other trees and native vegetation on adjoining or downstream public or private land.*
- iv **The reasons for and purpose of the proposed clearing;**
- v **Trees and vegetation to be retained,** including the purposes of such retention, such as semi-natural open spaces, buffer and exclusion zones, filter/protection and/or riparian habitat strips;
- vi **Details for protecting remnant trees and vegetation from damage** during clearing works, construction and on completion. This should include site preparation and location of protective fences, in accordance with the methods set out by the Design, Maintenance and Construction Guidelines in Council's DCP 67: Engineering Requirements for Development;
- vii **Soil report and altered ground levels,** including soil landscape and profile descriptions, cut and fill, regrading, changes to the soil profile or future growing mediums, fill material, if applicable, and necessary amelioration works required for horticultural purposes;

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- viii **Drainage details** including any natural watercourses or drainage structures, proposed works involving alteration to hydrology, such as ground surface treatments (e.g. paving, accessways, introduction of roads, bund walls, dams or trunk drainage works);
  - ix **Erosion and sediment controls**, including a programme and species list for stabilising disturbed areas and soil stockpiling measures that shall be compatible with vegetation retention measures;
  - x **Utility installations** (underground and overhead lines) where known. Final locations and installation works to be consistent with vegetation retention proposals and the Design, Maintenance and Construction Guidelines in Council's DCP 67: Engineering Requirements for Development;
  - xi **Proposed new plantings** (species, mature heights and spread) establishment and maintenance details. The level of detail shall be sufficient to assess the adequacy of vegetation retention and future landscape proposals. For large scale landscaping proposals, reference should be made to Council's Landscape Policy and the need for landscape Assessment and Design reports;
  - xii **Location of future buildings** where known and applicable;
  - xiii The **proposed method of clearing**, including size and type of any machinery to be used. Final details to comply with Council's DCP 67: Engineering Requirements for Development;
  - xiv Proposed means for disposal of cleared materials. In this regard, sale of millable timber, chipping or tub grinding of plant materials for re-use onsite as mulch to protect and rehabilitate retained vegetation are the preferred methods;
- b In addition to the information required by clause (a) above, applications for clearing in **non-urban zones** shall also submit the following:
- i All existing and proposed property improvements including fences, dams, structures, services, service easements, roads, tracks, buildings, outbuildings, stockyards, grazing or cultivated areas, other cleared areas, etc;
  - ii All existing land features including identification of slopes in excess of 18 degrees, rock outcrops, ridges, drainage lines, gullies, erosion areas;
  - iii Where the application is for the purpose of agriculture, a description of the land's suitability for its intended use may be required together with supporting comments from the New South Wales Department of Primary Industries;
- c In addition to the information required by clauses (a) and (b) above, applications for **subdivisions** which involve clearing shall also show that the subdivision is designed to maximise retention of species present which are listed in Council's Significant Species Schedule at Section 7.2 of this DCP.

### 3.4 Clearing considerations

In assessing applications involving the clearing of land, Council will consider the following matters:

- a The objectives of the land use zone(s) applying to the land. Council will not permit any clearing to be carried out as an activity in itself for an unspecified end-use. Clearing will only be allowed where it is necessary to enable an approved use of the land.

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- b Whether any species present are listed in Council's Significant Species Schedule at Section 7.2 of this DCP. If so, what measures are needed for their conservation, including on-site protection during and after construction and/or the taking of plant material for propagation.
- c The condition, maturity and useful life expectancy of remnant trees and native vegetation to be retained.
- d Impacts on scenic and visual amenity.
- e Effects on natural ecosystems, wildlife, wildlife habitats and whether fauna needs protection or, if appropriate, relocation.
- f The need for bushfire hazard reduction and the effects of this on remaining vegetation. This includes hazard reduction on adjoining land.
- g Whether permanent mitigation measures (such as bund walls, catch drains and stilling ponds) to contain nutrient flows and minimise weed spread need to be installed e.g. in non-urban zones or on sites adjoining remnant bushland or semi-natural open spaces.
- h Whether the proposed means of clearing is appropriate with respect to the soil type, species of understorey or the trees to be retained.
- i The adequacy and appropriateness of siltation and erosion controls during and after construction. In this regard, turf grasses are generally unsuitable in Conservation or other non-urban zones, particularly along or near natural watercourses and remnant bushland.
- j The need for retaining vegetation by providing:
  - i Buffer zones as screening to roads or for the protection of identified core habitats, wetlands, littoral and other rainforests;
  - ii Filter and protection strips to natural drainage lines, watercourses, streams, foreshores or constructed drainage corridors;
  - iii Riparian (watercourse) habitat strips;
  - iv Wildlife and other "green" corridors connecting remnant patches of vegetation; and
  - v Exclusion zones for preserving vulnerable and/or significant remnant vegetation and species.
- k The need to install temporary tree/vegetation protection measures prior to clearing works.
- l Whether the proposed method for disposing of cleared materials is appropriate. Any useful timber should be retrieved. Recycling of waste vegetation for fuel, logs, or as chip or grindings is mandatory. The use of wood chips and tub grindings for on site mulching or seedbed regeneration is encouraged.
- m The need for periodic or full time supervision of clearing works to protect environmental values or oversee relocation of native animals.
- n The need to rehabilitate any tree or vegetation adversely affected by clearing or construction works.
- o The need to select and plant new trees as replacement for trees cleared.

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- p The effect of the development on the viability and quality of the bushland and, in particular, the likelihood of soil erosion, siltation of streams, wetlands and other waterbodies, direct or indirect alterations to drainage patterns and to fire hazard reduction regimes, the spread of weeds, undesirable and exotic species in the bushland, rubbish dumping and incursion by domestic or feral animals.
- q The effectiveness of measures proposed to mitigate any identified adverse impacts.
- r Any comments made by a public authority including, where appropriate, the Department of Primary Industries, or the Office of Environment and Heritage within the NSW Department of Premier and Cabinet.
- s Whether the vegetation is affected by the provisions of any other Act, Regulation or State Environmental Planning Policy applying to the land (See Appendix 1 of this DCP).
- t Whether the tree or trees provide habitat or is a significant component of the habitat of a species listed in Schedule 1 or 2 of the Threatened Species Conservation Act (see s.7.2.2), and whether there is a need to assess the significance of the works in accordance with Section 5A of the EP&A Act.
- u Whether a Vegetation Management Plan prepared by a suitably qualified person and detailing procedures and specifications necessary to address any issues of concern, should be submitted for approval prior to commencement of clearing works.

### 3.5 Noxious weed removal considerations

In issuing a **formal notice under the Noxious Weeds Act 1993**, in response to an owner's request, Council will consider:

- a The suitability of the selected method given its likely harm to trees and other native vegetation; and
- b Whether rehabilitation or replacement of existing vegetation should be ensured by submission of a satisfactory Vegetation Management Plan before starting work; and
- c Whether the proposed work is of such an extent as to require a more detailed assessment and therefore requiring the lodgement of a development application to ensure compliance with the Local Environmental Plan. (That is, works likely to affect a significant area of land, or of an intensity likely to cause direct harm to the environment or vegetation in the vicinity).

*Note: Compliance with this provision shall not be taken as implying the granting of an exemption under the Native Vegetation Act 2003.*

## 4.0 EXEMPTIONS

### 4.1 Works which do not need consent

Clause 28(3) of Council's LEP 1991 provides that the following works do not require consent from Council:

- a The removal or trimming of trees in accordance with the **Electricity Supply (Safety Plans) Regulation 1997 and the Electricity (Tree Preservation) Regulation 1995**; or
- b The removal or trimming of trees in accordance with clauses 88, 107, 138 and 139 of the **Roads Act 1993**; or
- c The removal or harvesting of trees grown commercially or domestically for their edible fruit; or
- d The removal of noxious weeds within the meaning of the **Noxious Weeds Act 1993** as identified in s.7.1.3. If the weed is identified as a Class 1, 2 or 5 weed, Council must be notified within 3 days of discovery of the weed. Class 3 & 4 weeds may be removed without any further action; or
- e The removal of commercially grown plantation trees in accordance with the **Harvest Guarantee Act 1995**; or
- f The removal or clearing of native vegetation authorised (but not exempt) under the **Native Vegetation Act 2003**, any other related Act or environmental planning instruments; or
- g **The removal of dead trees, except where the trees provide habitat for species listed in Schedule 1 or 2 to the Threatened Species Conservation Act 1995**; or  
*Note: Where the tree or trees provide habitat for animal species listed in Schedule 1 or 2 of the Threatened Species Conservation Act 1995, expert advice should be obtained in relation to relocation prior to removal of the tree - Refer to Appendix 3).*
- h **The removal of native vegetation in any zone for the purposes of creating or maintaining landscaped and lawn areas where:**
  - i The work does not involve the removal, injury or destruction of trees; and
  - ii The area to be cleared is within the curtilage of an approved dwelling and is less than 1,000 square metres in total area; and
  - iii The slope of the land is not in excess of 18 degrees; and
  - iv The work does not involve the disturbance of native vegetation which is habitat for species listed in Schedule 1 or 2 to the Threatened Species Conservation Act 1995.
- i **The clearing of native vegetation within urban zones where:**
  - i The work does not involve the removal, injury or damaging of trees;
  - ii The allotment of land upon which the work is proposed has an area of less than 1,000m<sup>2</sup>;
  - iii The slope of the land is not in excess of 18°; and



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- iv The work does not involve the disturbance of native vegetation known to be habitat for plant and animal species listed in Schedule 1 and 2 to the Threatened Species Conservation Act 1995.
- j The following additional tree works are defined as **Exempt Vegetation Management Works** and do not require a consent from Council:
  - i **Pruning** as defined by this DCP; or
  - ii **Removal of trees to give effect to a development in accordance with a consent.** That is, the removal of trees and vegetation located within the alignment of a proposed road or service easement (in accordance with approved engineering plans) or within a proposed building footprint and up to 6 metres from the external walls of buildings (on the same land parcel) in residential zones and 12m of the building footprint in non residential zones, **provided that:**
    - o The building or work is the subject of a current development approval and the trees are not shown as intended to be retained; and
    - o Tree removal/ clearing procedures are in accordance with the Tree Design, Maintenance and Construction Guidelines within Council's DCP 67 - Engineering Requirements for Development; or
  - iii **Removal of any tree**, that in the opinion of Council, is dangerous, only where the tree's **instability is obvious** and there is **immediate danger and/or hazard**, for example, structurally split trunks, trees or limbs, felled by storms, that are damaging buildings or blocking accessways, or

*Note: If appropriate, the branch removal option should be adopted in preference to complete tree removal.*

- iv **Immediate removal of trees** or native vegetation where this is **essential for emergency access or emergency works** by Council or a public authority; or
- v Removal of a tree(s) which is a **bushfire hazard** where:
  - o The action is reasonably necessary to protect human life, buildings or other property from **imminent danger of a bushfire** burning in the vicinity of the tree; or
  - o Council has authorised its removal as part of a **bush fire risk management plan adopted** pursuant to the Rural Fires Act 1997; or
- vi **Removal or pruning of "undesirable species"**, which include the removal of certain tree species within 6m of an approved structure in residential areas, or 12m of an approved structure in non residential areas, providing the tree(s) is not of a species listed in section 7.2. (refer s.7.1.1).

*Note: Figure 1 (Page 20), is a flowchart clarifying when consent is required to enable tree removal. Figure 2 (Page 21), clarifies the decision process when the proposal does not involve Complying Development, and where the tree is within 6m of an approved structure in residential areas, or 12m of an approved structure in non residential areas, providing the tree(s) is not of a species listed in section 7.2. (s7.1.1).*

**Undesirable species identified in s.7.1.2 and s.7.1.3** may be removed without consent **provided that:**

- o The vegetation is confirmed as an undesirable species listed in s.7.1.2 or s.7.1.3 by Council or by a person qualified in plant identification; and

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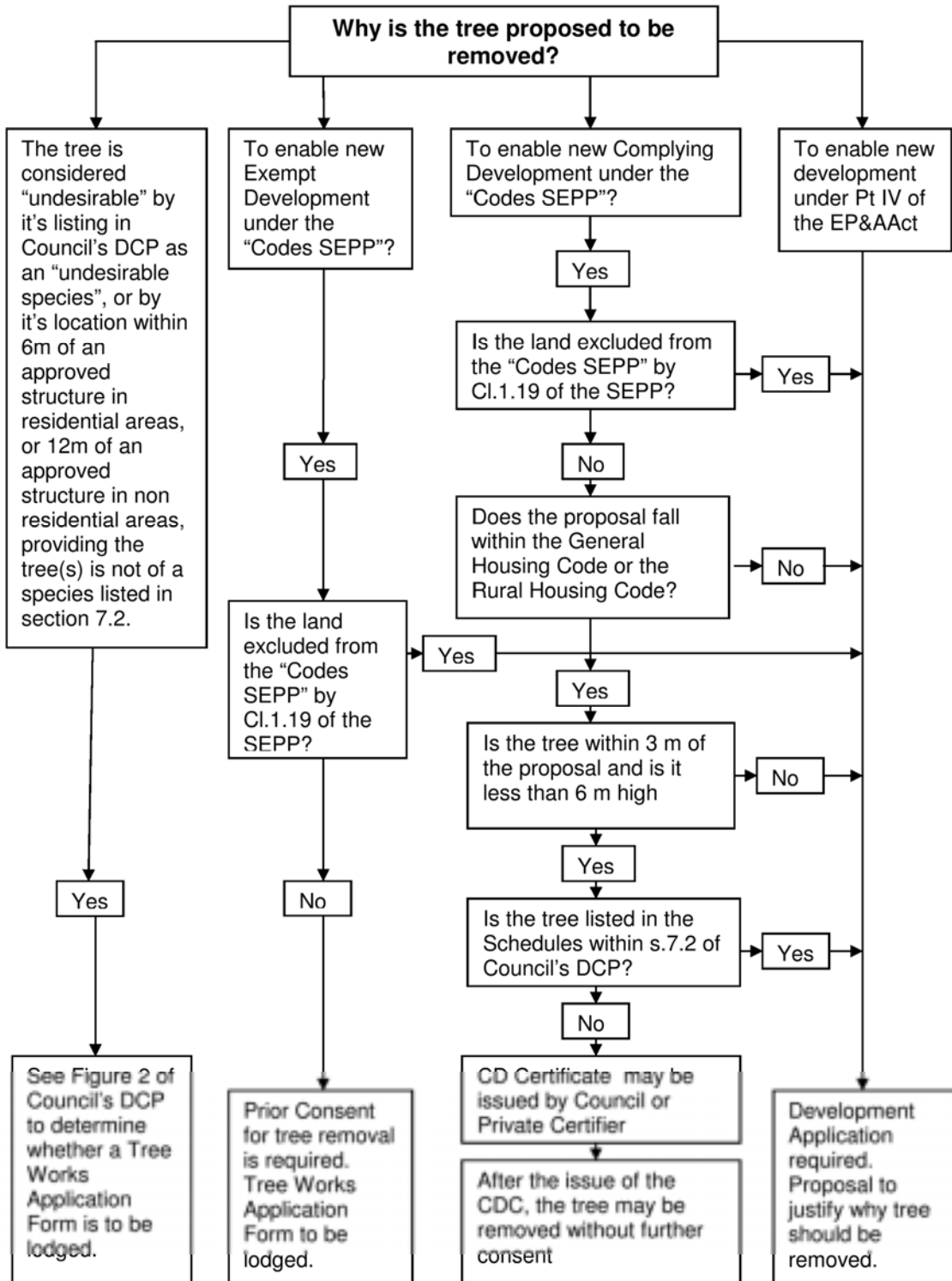
- Where there is substantial clearing of the land involved, there is replacement planting of suitable native species. Such plantings are to be appropriately maintained to ensure their establishment; and
- Where there is substantial clearing on erodible soils or slopes in excess of 18 degrees, appropriate soil retention methods are employed to minimise the potential for erosion to occur and control runoff from the site; or

*Note: To ensure complete control/removal of undesirable plant species, bush regeneration techniques should be adopted in preference to mechanical clearing.*

- vii Removal of vegetation within 0.5 metres of the boundary between properties for the purpose of enabling survey to be carried out along that boundary by a registered surveyor, provided that the surveyed land exceeds one hectare in area and no alternative survey method is feasible.

*Note: The removal or disturbance of an Aboriginal relic is an offence under the National Parks and Wildlife Act 1974. A tree believed to be, or in the vicinity of, an Aboriginal relic should be examined by an appropriately qualified person and instruction taken before any work commences.*

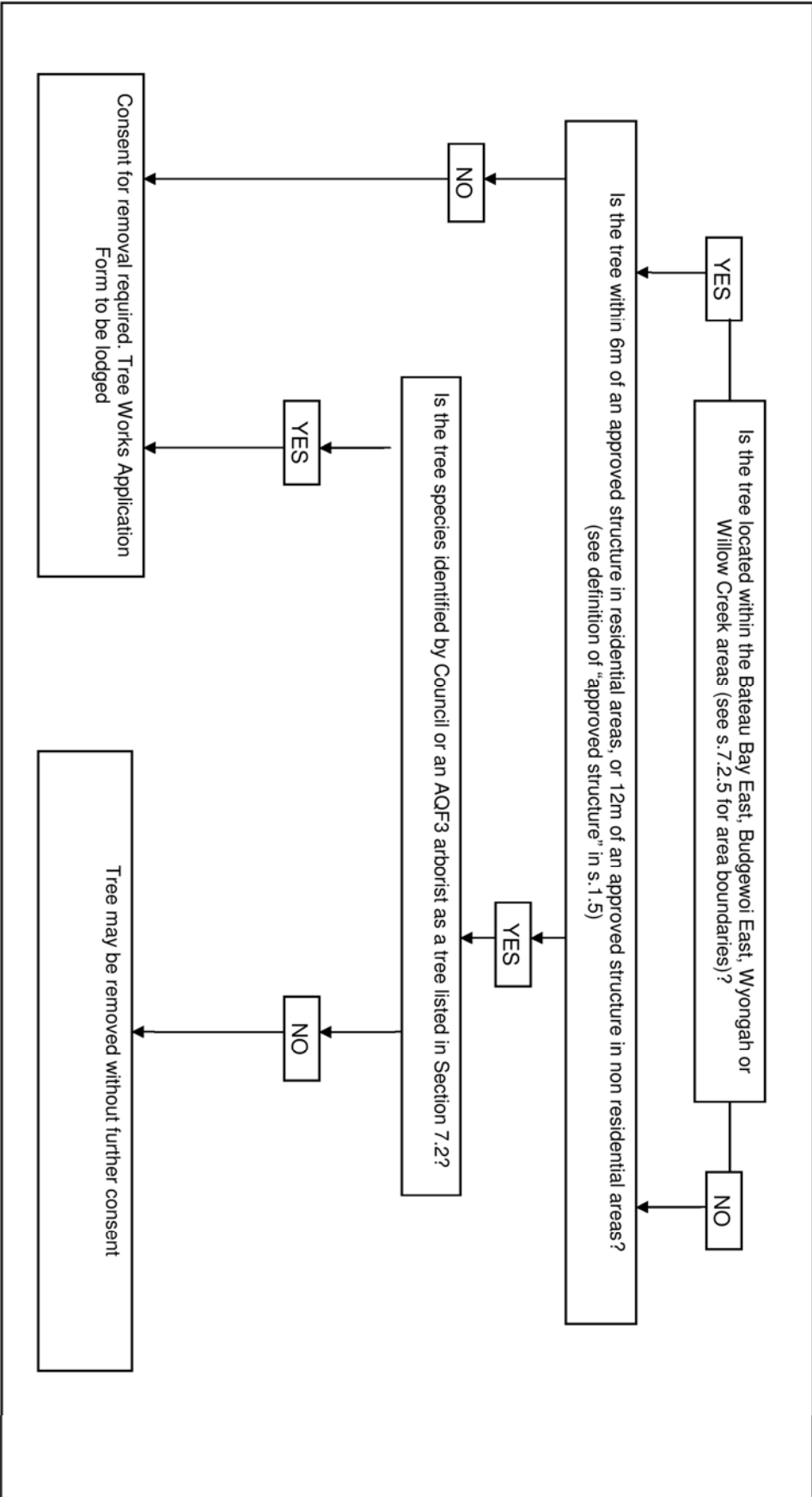
Figure 1: DO I NEED CONSENT TO REMOVE MY TREE?



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Figure 2 WHEN IS CONSENT REQUIRED FOR TREE REMOVAL NEAR AN APPROVED STRUCTURE?



## 4.2 Provide evidence for dangerous trees

Except for specified emergency situations, **expert advice should always be obtained** with respect to dangerous trees to confirm their condition and to ensure that they do not provide habitat for protected species. Otherwise, their cutting or removal might be in breach of the EP&A Act.

Where a dangerous tree is removed (in an emergency situation) due to obvious instability or hazard, (e.g. following storm damage), it is recommended that **evidence of the tree's condition should be retained** for a period of at least six (6) months after the event and produced at Council's request if needed. Such evidence might include:

- Photographs of the tree, and
- A report by a Consulting arborist, or
- A written statement from the State Emergency Service, if the Service carried out the emergency tree works at the owner's request.

*Note: Where trees have died, been removed by storm damage or removed as undesirable species, replacement trees of a suitable native species should be planted to maintain tree cover within the Shire.*

# 5.0 VEGETATION MANAGEMENT PLANS

## 5.1 What is a vegetation management plan?

- a A **Vegetation Management Plan (VMP)** comprehensively addresses protection, maintenance, rehabilitation, removal and/or replanting of trees and vegetation on a particular site. A VMP is similar (on a smaller scale) to a Property Vegetation Plan (PVP) as required for rural landholdings under the Native Vegetation Act, 2003.
- b A VMP must be **prepared by a suitably qualified and experienced person**.
- c Council may grant **development consent** for a VMP for implementation over a period of **2 to 5 years**, depending on the scope and complexity of the programme and the size of the site. No further consents are required where works comply with an approved VMP.

## 5.2 When is a vegetation management plan required?

- a A VMP will be required when Council is of the opinion that the proposed tree works are of a type needing a comprehensive site-specific plan of management. The VMP will provide analysis and a strategy to address issues relating to the staging of works, cumulative impact, long term vegetation monitoring and management of progressive tree works for the same site over an extended period of time.
- b Submission of a **VMP is preferred to the making of separate successive applications** for works on/or removal of individual trees for the same site.