

# 54. ECO-INFO

## DCP 2005 CHAPTER 14: TREE MANAGEMENT

### Consent Requirements for Tree Removal

July 2006

#### OVERVIEW

Chapter 14 – Tree Management provides a framework for the protection of native vegetation within Wyong Shire and sets out Council's requirements for tree management and removal, including consent requirements.

#### WHEN IS CONSENT REQUIRED FOR TREE REMOVAL?

Clause 28 of the Wyong Local Environmental Plan (WLEP) 1991 identifies when tree removal and/or pruning requires a development application and consent. These requirements are the same under Chapter 14. Most tree removal or pruning requires development consent, including the removal of trees around heritage listed structures, unless:

- The tree is dead (where it does not provide habitat for threatened species);
- The tree is a noxious weed;
- The tree is a domestic or commercial fruit tree or part of a commercial plantation;
- Pruning in accordance with AS4373:1996 (See Eco info N°. 4); or
- The removal may be defined as *Exempt Vegetation Management Works*, including the removal of trees within 3m of an Approved Structure (i.e. the 3 metre rule).

#### WHAT IS THE 3 METRE RULE?

Within the classification of Exempt Vegetation Management Works is the removal of *Undesirable Species*.

Amendments to Chapter 14 (adopted in June 2006) have expanded the definition of *Undesirable Species* to include those species which may be undesirable due to their location. That is, those trees located within 3m of an Approved Structure may be removed without further consent of Council (subject to conditions) due to this definition.

An Approved Structure includes a dwelling, garage or swimming pool and means a structure which has been approved by Council or Private Certifier under the Environmental Planning and Assessment Act but does not include:-

- a. A manufactured home, a moveable dwelling or associated structure or part of a manufactured home, a movable dwelling or associated structure within the meaning of the Local Government Act; or
- b. A temporary building within the meaning of the Environmental Planning and Assessment Regulation; or
- c. A structure included within Chapter 85: Exempt Development of DCP 2005.

*The 3m distance is measured from the exterior surface of the trunk of the tree, measured at 1.4m above ground level, to the outer surface of the nearest footing, or the waters edge of the approved structure.*

#### WHERE DOES THE 3 METRE RULE APPLY?

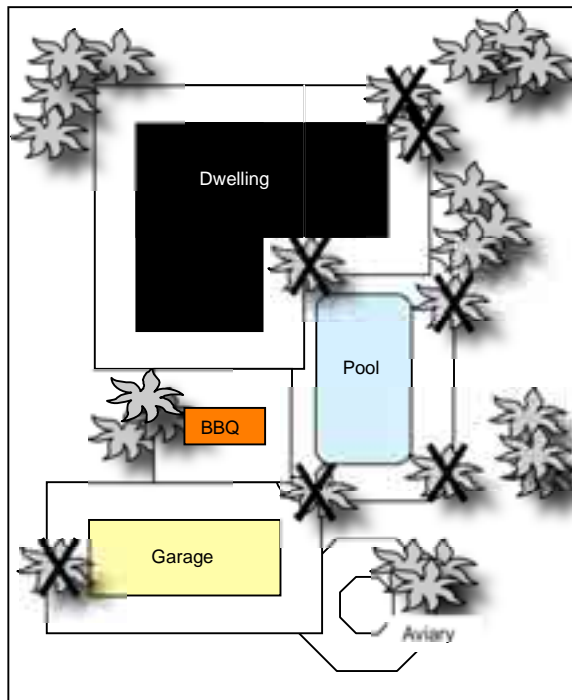
The 3m rule applies throughout Wyong Shire but **DOES NOT APPLY TO** the following areas (as defined by s7.2.5 of Chapter 14):

- Wyongah;
- Bateau Bay East;
- Willow Creek; and
- Any other areas identified by s7.2.5

These areas have been identified by Council through Significant Tree Surveys and Studies as containing trees of Cultural Significance. Council is committed to preserving the trees within these areas due to the amenity and character created by these species. Should you wish to remove a tree within these areas, consent is required and an application form must be lodged with Council.

## HOW DOES THE 3 METRE RULE WORK?

The application of this exemption is represented in the following diagram:



Trees marked may be removed without further consent provided they comply with the conditions of the 3m rule

## WHAT ARE THE CONDITIONS OF THE 3 METRE RULE?

There are a number of conditions attached to the 3m rule to ensure that requirements to protect Threatened Species and personal property are adhered to. These conditions are as follows:

- The tree must not be listed as threatened under the Threatened Species Conservation Act or contain fauna listed under the same Act;
- The tree must be retained if it is identified to be retained by a condition of a development consent applying to the land;
- Trees located within 3m of an approved structure on an adjoining property may only be removed with the consent of the owner of the adjoining property;
- The tree to be removed is first inspected by a Trade or Consulting Arborist or Council Tree Assessment Officer to identify the species (to determine if it is listed as Threatened and identify any special measures to be implemented for

the safe removal of the tree and to protect wildlife). It is important that a written record of the identification of the species to be removed is kept, together with a photograph. (Council offers an on-site inspection service to assist in tree identification. Forms to request this service are available from Council Offices and Council's website. A competitive fee applies);

- The tree may need to be inspected by an ecologist to determine if it is habitat for threatened fauna listed under the *Threatened Species Conservation Act* (1995);
- It is recommended that a replacement tree is planted elsewhere on site.

Council offers an onsite inspection service to assist in tree identification. Forms for the request for this service are available from Council Offices and on Council's website.

The flowchart on the following page further clarifies how the above conditions affect whether consent for tree removal is required.

Trees that fall outside the exemption either by location (i.e. more than 3m from an approved structure) or as a result of the above conditions may still be able to be removed, however consent from Council is required and a Development Application - Tree Works Form must be lodged. Application forms are available from Council's Customer Service Centre or online at [www.wyong.nsw.gov.au](http://www.wyong.nsw.gov.au).

## WHAT ARE THE CONSEQUENCES OF INAPPROPRIATE TREE REMOVAL AND/OR PRUNING?

Failure to obtain development consent for tree removal where required, or failure to comply with the conditions of Chapter 14 and the 3m rule are considered to be breaches of the Environmental Planning & Assessment Act 1979. Breaches of the Act may result in "on the spot fines" or court action. Replacement plantings may also be required.

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This summary is provided for the assistance of applicants and is by no means exhaustive. Applicants are advised to consult DCP 2005 and Chapter 14 (and any referenced documents contained within the Chapter), in full prior to undertaking any work or lodging any development application. Further enquires can be directed to Council's Customer Service Centre on 4350 5555.

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# DOES THE 3M RULE APPLY TO MY TREE?

