

MINUTES 8 JULY 2014



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 8 July 2014, commencing at 5.33pm.

PRESENT: Mayor B MacKenzie; Councillors G. Dingle; C. Doohan; S. Dover; K. Jordan; P. Le Mottee; J. Morello; J. Nell; S. Tucker; General Manager; Acting Corporate Services Group Manager; Acting Facilities and Services Group Manager; Development Services Group Manager and Executive Officer.

| | |
|-----|--|
| 168 | Councillor Ken Jordan Councillor Chris Doohan |
| | It was resolved that the apology from Cr Peter Kafer be received and noted. |
| 169 | Councillor Paul Le Mottee Councillor John Morello |
| | It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council held on 24 June 2014 be confirmed. |
| | |
| | There were no Declaration of Interest received. |

INDEX

| SUBJECT | PAGE NO |
|---------|---------|
|---------|---------|

| | |
|------------------------------|----------|
| COUNCIL REPORTS | 3 |
|------------------------------|----------|

| | |
|--|----|
| 1. LEASE OF 528 HUNTER STREET, NEWCASTLE | 4 |
| 2. REVISED FEES AND CHARGES 2014-2015 | 8 |
| 3. POLICY REVIEW: ADOPTION OF THE TREE/VEGETATION VANDALISM POLICY | 14 |
| 4. REVOKE COUNCIL POLICY- SUSTAINABILITY POLICY | 39 |
| 5. DELEGATIONS: MAYOR AND GENERAL MANAGER | 47 |
| 6. INFORMATION PAPERS | 57 |

| | |
|---------------------------------|-----------|
| INFORMATION PAPERS | 58 |
|---------------------------------|-----------|

| | |
|---|----|
| 1. NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT ANNUAL CONGRESS: 15-18 JUNE 2014 CANBERRA | 59 |
|---|----|

| | |
|--------------------------------|-----------|
| NOTICES OF MOTION | 65 |
|--------------------------------|-----------|

| | |
|--|----|
| 1. GRAFFITI SIGNAGE IN PORT STEPHENS LOCAL GOVERNMENT AREA | 66 |
| 2. ROADSIDE SIGNAGE AND ADVERTISING GUIDELINES | 68 |

COUNCIL REPORTS

ITEM NO. 1**FILE NO: PSC2009-02366****LEASE OF 528 HUNTER STREET, NEWCASTLE****REPORT OF: CARMEL FOSTER – ACTING GROUP MANAGER**
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Authorise the Mayor and the General Manager to sign and affix the Seal of the Council to the lease documentation and any associated legal documentation including the Option Lease if exercised.
-

ORDINARY COUNCIL MEETING – 8 JULY 2014
MOTION

| | |
|------------|--|
| 170 | Councillor Chris Doohan Councillor Steve Tucker |
| | It was resolved that Council move into Committee of the Whole. |

COMMITTEE OF THE WHOLE RECOMMENDATION

| | |
|--|--|
| | Councillor Ken Jordan Councillor Chris Doohan |
| | That the recommendation be adopted. |

MOTION

| | |
|------------|---|
| 172 | Councillor Chris Doohan Councillor John Morello |
| | It was resolved that Council authorise the Mayor and the General Manager to sign and affix the Seal of the Council to the lease documentation and any associated legal documentation including the Option Lease if exercised. |

BACKGROUND

Council purchased the investment asset being 528 Hunter Street, Newcastle in July 2009 and at that time the existing Lease was in place with approximately five (5) years left to expire.

MINUTES FOR ORDINARY MEETING – 8 JULY 2014

The expiry of that lease will occur on 31 July 2014 and Property Services has negotiated a new option Lease for a term of seven (7) years (1 August 2014 to 31 July 2021) with a further option of three (3) years.

The commencement rental has been negotiated at \$620,000 per annum plus GST following the undertaking of a rental assessment Valuation by an independent valuation firm. This rent is considered to be in line with current market parameters and also reflects a significant growth in rent over the passing rent at purchase in 2009 \$532,686 (16.39% increase). In addition the lease ensures further continued rent growth as it provides for 3.75% increases to be applied annually with a review to market at the expiry of the initial seven year term.

The option term for this lease was to be for a three (3) year term as provided for by the existing Lease however, Property Services recognised an opportunity to secure a longer lease with the current tenant as this asset is desirably located central to the urban renewal and infrastructure precinct with the proposed route of the new light rail solution to run nearby. The tenant; Manpower Services (Australia) Pty. Limited indicated they were amenable to discussing longer lease tenure and the negotiations resulted in a more favourable outcome for Council with the renegotiated Lease placing additional obligations on the tenant thereby relieving Council of some maintenance obligations in respect of the asset.

In addition, as part of the negotiations, a program of refurbishments has been agreed. These works form part of the current forward works program and accordingly there is no impact on the budget.

FINANCIAL/RESOURCE IMPLICATIONS

The income to be derived from this proposed lease agreement has been accounted for in the current budget.

The rent of \$620,000 represents a significant annual income stream to Council being the result of securing a key asset which is now located within a very desirable precinct and will continue to appreciate in value over the shorter to medium term.

There is a significant benefit to Council in negotiating this lease internally as opposed to having it undertaken by an external letting agency is that we have realised a saving of letting fees to the order of \$45,000.

The net rental derived from this transaction reflects a net return on value (yield) of 8.50% which is in line with targeted outcomes for the Property Investment portfolio.

| Source of Funds | Yes/No | Funding (\$) | Comment |
|-----------------|--------|--------------|---|
| Existing budget | Yes | 620,000 | This figure forms part of the FY2015 budget |
| Reserve Funds | No | | |
| Section 94 | No | | |
| External Grants | No | | |
| Other | No | | |

LEGAL, POLICY AND RISK IMPLICATIONS

In accordance with the provisions of the Conveyancing Act, leases in excess of three years total duration, including the option period, are to be registered upon the title of the land to which they apply. Accordingly, if the lease is to be registered the common seal must be affixed upon signing under Clause 400, Local Government (General Regulation) 2005.

The seal of a council must not be affixed to a document unless the document relates to the business of the council and the council has resolved (by resolution specifically referring to the document) that the seal be so affixed.

The desired outcome of acquiring and leasing of the Investment Property portfolio is to create secure Leases for the longest available periods to viable tenants. The expected outcome is that Council is protected by a secure agreement with known returns over the term. The income received contributes to Council's non-rates funding thereby reducing the call on rates income.

Importantly, in having a valid and enforceable Lease Council is protected and having the ability to recover costs means that the property returns funds to Council as opposed to contributing as a liability for rates, maintenance, asset management and other factors.

| Risk | <u>Risk Ranking</u> | Proposed Treatments | Within Existing Resources? |
|---|----------------------------|--|-----------------------------------|
| There is a risk that should there not be a formalised lease in place a tenant could vacate at short notice and there would be a loss of income as a result. | Medium | Formalise the lease document as recommended. | Yes |
| There is a risk that should there not be a formalised lease in place that the obligations of the landlord and the tenant are not clear creating confusion and possible legal arguments. | High | Formalise the lease document as recommended. | Yes |

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

- 1) Manpower Services (Australia) Pty. Limited;
- 2) Investment and Asset Manager;
- 3) Property Services Manager;
- 4) Harris Wheeler Lawyers;
- 5) Tew Property Consultants.

OPTIONS

- 1) Accept the recommendation;
- 2) Amend the recommendation;
- 3) Reject the recommendation.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 2**FILE NO: PSC2013-03793****REVISED FEES AND CHARGES 2014-2015****REPORT OF: CARMEL FOSTER – ACTING GROUP MANAGER****GROUP: CORPORATE SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) Place the proposed revised fees and charges noted in **(ATTACHMENT 1)** on public exhibition for a period of 28 days and invite submissions from the public;
- 2) Should no submissions be received adopt the revised fees and charges without a further report to Council.

ORDINARY COUNCIL MEETING – 8 JULY 2014**COMMITTEE OF THE WHOLE RECOMMENDATION**

| | |
|--|--|
| | Councillor Ken Jordan Councillor John Morello |
| | That the recommendation be adopted. |

MOTION

| | |
|------------|--|
| 173 | Councillor Chris Doohan Councillor John Morello |
| | It was resolved that Council: <ol style="list-style-type: none">1) Place the proposed revised fees and charges noted in (ATTACHMENT 1) on public exhibition for a period of 28 days and invite submissions from the public;2) Should no submissions be received adopt the revised fees and charges without a further report to Council. |

BACKGROUND

The purpose of this report is to seek Council's support to place revised fees and charges on public exhibition for a period of 28 days, and should no submissions be received apply the fee from 1 September 2014. Council should acknowledge the fact that there is high variability within the current process and the implementation of new software being purchased is expected to limit future errors.

1. Temporary Structures (including sandwich board licences)

During the process for the development of fees and charges for the period 2014-2015 the fees for Temporary Structures (including sandwich board licences) were incorrectly reduced on the previous years prescribed fee.

Should the current fees remain in place Council will receive a decrease in fee of \$24.10 on each *Application for permit or right to place advertising sign or clothes rack etc on part of footway adjacent to the shop'* and a decrease in fee of \$8.40 per application for *Additional Space*.

There are currently 32 temporary structure licences to be renewed with one or two new applications submitted each year. The difference in fees will result in a loss of \$776.90 per annum if the fees remain as currently advertised.

During the process for the development of fees and charges for the period 2014-2015 the following fees and charges were omitted from the schedule due to clerical error. These fees and charges were in place in previous.

2. Karuah Community Hall

A number of fees relevant to function hire and the use of the Karuah Community Hall were omitted from the schedule or incorrectly calculated.

3. Caravan Park Operations

The fee for *Inspection and Certificate of Completion for associated structure/s not included in certificate of completion for manufactured home* was omitted from the schedule.

4. Salt Ash Community Hall

The fee for *Hall Hire: Registered Charities* was omitted from the schedule.

The proposed revised/additional fees and charges are contained in **(ATTACHMENT 1)** of this report.

FINANCIAL/RESOURCE IMPLICATIONS

The exhibition will be by way of Council's notices page in the Port Stephens Examiner.

| Source of Funds | Yes/No | Funding (\$) | Comment |
|------------------------|---------------|---------------------|--------------------|
| Existing budget | Yes | 200 | Recurrent funding. |
| Reserve Funds | No | | |
| Section 94 | No | | |
| External Grants | No | | |
| Other | No | | |

LEGAL, POLICY AND RISK IMPLICATIONS

These fees are required to be placed on public exhibition under Section 610F of the Local Government Act 1993 for a period of 28 days. The proposed fees comply with Council's pricing policy.

| Risk | <u>Risk Ranking</u> | Proposed Treatments | Within Existing Resources? |
|--|----------------------------|----------------------------|-----------------------------------|
| There is a risk that if the correct fees are not in place Council will incur a decrease in revenue on previous years for these services. | Medium | Adopt the recommendations. | Yes |
| There is a risk that if the correct fees are not scheduled into the Fees and Charges 2014-2015, they will be incorrectly calculated or omitted during the next review of fees and charges. | Medium | Adopt the recommendations. | Yes |

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

- 1) Civil Assets Engineer;
- 2) Contract and Services Coordinator;
- 3) Coordinator Environmental Health and Compliance;
- 4) Community Services Section Manager;
- 5) Group Manager Corporate Services.

OPTIONS

- 1) Adopt the recommendations;
- 2) Amend the recommendations;
- 3) Reject the recommendations.

ATTACHMENTS

- 1) Revised Fees and Charges 2014-2015.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

Revised Fees and Charges 2014-2015

| | Fee | GST | Total Fee | Pricing Policy | Clarification |
|--|------------|------------|------------------|-----------------------|---|
| Temporary Structures (including sandwich board licences) | | | | | |
| Annual rental fee for permit or right to place advertising sign or clothes rack etc on part of the footway adjacent to the shop. | \$259.60 | \$0.00 | \$259.60 | Full Cost Pricing | Up to two square metres. Fee to be charged pro rata (year or month). |
| Additional space | \$92.40 | \$0.00 | \$92.40 | Full Cost Pricing | Per square metre. Fee to be charged pro rata (year or month thereof). |

| | Fee | GST | Total Fee | Pricing Policy | Clarification |
|-------------------------------------|------------|------------|------------------|-----------------------|----------------------|
| Karuah Community Hall | | | | | |
| Regular Users | \$7.62 | \$0.76 | \$8.40 | Market Pricing | Per hour. |
| Meetings (Main Hall) | \$7.27 | \$0.73 | \$8.00 | Market Pricing | Per hour. |
| Meeting Room | \$7.27 | \$0.73 | \$8.00 | Market Pricing | Per hour. |
| Office | \$8.00 | \$0.80 | \$8.80 | Market Pricing | Morning or Afternoon |
| Kitchen – for functions – all users | \$15.00 | \$1.50 | \$16.50 | Market pricing | |
| Hire of crockery – all users | \$27.27 | \$2.73 | \$30.00 | Market pricing | |

| |
|---|
| MINUTES FOR ORDINARY MEETING – 8 JULY 2014 |
|---|

| | Fee | GST | Total Fee | Pricing Policy | Clarification |
|---|---------|--------|-----------|-------------------|---------------|
| Caravan Park Operations | | | | | |
| Inspection and Certificate of Completion for associated structure/s not included in certificate of completion for manufactured home | \$32.50 | \$0.00 | \$32.50 | Statutory Pricing | |

| | Fee | GST | Total Fee | Pricing Policy | Clarification |
|--------------------------------|--------|--------|-----------|----------------|---------------|
| Salt Ash Community Hall | | | | | |
| Hall Hire: | | | | | |
| Registered Charities | \$7.91 | \$0.79 | \$8.70 | Market Pricing | Per hour. |

ITEM NO. 3

FILE NO: PSC2008-2921

POLICY REVIEW: ADOPTION OF THE TREE/VEGETATION VANDALISM POLICY

REPORT OF: TIM CROSDALE – STRATEGY AND ENVIRONMENT SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the proposed amendments to the Tree/Vegetation Vandalism policy shown at **(ATTACHMENT 1)**;
- 2) Place the Tree/Vegetation Vandalism policy, as amended on public exhibition of a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council;
- 3) Revoke the Tree/Vegetation Vandalism policy dated 21 October 2008 (Min No. 299) **(ATTACHMENT 2)**, should no submissions be received.

ORDINARY COUNCIL MEETING – 8 JULY 2014

COMMITTEE OF THE WHOLE RECOMMENDATION

| | |
|--|---|
| | Councillor John Nell Councillor Ken Jordan |
| | That the recommendation be adopted. |

MOTION

| | |
|------------|---|
| 174 | Councillor Chris Doohan Councillor John Morello |
| | It was resolved that Council: <ol style="list-style-type: none"> 1) Endorse the proposed amendments to the Tree/Vegetation Vandalism policy shown at (ATTACHMENT 1); 2) Place the Tree/Vegetation Vandalism policy, as amended on public exhibition of a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council; 3) Revoke the Tree/Vegetation Vandalism policy dated 21 October 2008 (Min No. 299) (ATTACHMENT 2), should no submissions be received. |

BACKGROUND

The purpose of this report is to seek Council's support to adopt a revised Tree/Vegetation Vandalism Policy that was previously adopted in 2008.

Tree vandalism in public reserves is a problem faced by all councils, particularly those in the coastal zone where there is conflict between water views and vegetation.

There are many reasons that motivate vandalism of trees and vegetation. Some acts are random and without purpose, while others occur through ignorance or are motivated by personal self-interest or gain (eg increased property values, better access to the waterfront, or unimpeded views). Where possible, the response to acts of vandalism should be adapted to suit the perceived motivation.

The physical nature of tree and vegetation vandalism can occur in a variety of forms, including poisoning, pruning, removal and destruction, and mowing of native understorey. This kind of vandalism has a significant and cumulative impact on the environment. Particular impacts include reduced visual and community amenity, loss of environmental services such as wind-breaks and erosion control, and loss of wildlife habitat.

Such vandalism can have substantial financial and human resource costs for councils. These include the direct loss of the asset value of the trees or vegetation, the cost of the investigation, rehabilitation and repair costs, and the cost of implementing potential punitive / deterrence measures.

In 2008 Council adopted the Tree Vandalism Policy that was an outcome of a regional working group facilitated by Hunter Councils.

The policy focused on a standardised approach to the investigation and response to tree vandalism events so that a consistent and planned approach is achieved throughout the Local Government Area. Staff are more effective when they have a clear direction and parameters in which to undertake their duties along with an approved set of tools.

The review of the policy showed that staff are using the policy to help them respond to tree vandalism but it is largely an operational matter and as such an internal management directive, in addition to the policy, was created.

The content of the revised policy and the management directive are very similar to the 2008 policy with the approach and resources remaining unchanged. Also unchanged is the requirement for staff to consult with 355c committees and Councillors prior to the installation of any large permanent signs or shipping containers to block views obtained by the vandalism.

FINANCIAL/RESOURCE IMPLICATIONS

Having a policy ensures a consistent and planned approach to tree vandalism and means that less time and resources are used when responding to individual events

| Source of Funds | Yes/No | Funding (\$) | Comment |
|-----------------|--------|---------------------------|---|
| Existing budget | Yes | Approx. 5,000-20,000 p.a. | Responding to tree vandalism is incorporated into maintenance budgets and is difficult to estimate. While the investigation and response is usually only a staff time cost, the replacement of trees could cost several thousand dollars. |
| Reserve Funds | No | | |
| Section 94 | No | | |
| External Grants | No | | |
| Other | No | | |

LEGAL, POLICY AND RISK IMPLICATIONS

There is suite of legislation that assists Council to manage tree vandalism; these include the Environmental Planning and Assessment Act 1979, the Local Government Act 1993, the Native Vegetation Act 2003 and the Pesticides Act 1999.

| Risk | <u>Risk Ranking</u> | Proposed Treatments | Within Existing Resources? |
|--|---------------------|--|----------------------------|
| There is a risk that staff may not implement the policy consistently | Low | Ensure relevant staff are aware of the policy and know how to implement it | Yes |

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The community has an expectation that Council respond to tree vandalism incidences in a fair and consistent manner and the majority of the community is supportive of Council taking a strong balanced approach.

Tree vandalism on public land also means the loss of a valuable community asset, including the reduced visual and community amenity of an area (as leafy areas are usually seen as more established and generally have higher real estate values).

In many cases tree vandalism occurs on fragile coastal areas where the loss of any vegetation is usually followed by severe erosion which in turn creates further environmental and asset management issues. The policy will assist council to remediate after tree vandalism events and restore environmental assets/values.

CONSULTATION

Relevant staff across several areas of Council were involved in the review of the policy and formation of the management directive. Relevant 355c committees will continue to be consulted if Council intends on responding to vandalism incidents occurring in reserves in which they work. 355c committees and Councillors will continue to be consulted prior to the installation of any large permanent signs or shipping containers to block views obtained by the vandalism.

OPTIONS

- 1) Adopt the recommendation;
- 2) Amend the recommendation;
- 3) Reject the recommendation.

ATTACHMENTS

- 1) Proposed Amended Tree/ Vegetation Vandalism Policy;
- 2) Current Tree/ Vegetation Vandalism Policy (Adopted: 21/10/2008 Minute: 299).

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

Proposed Amended Tree/ Vegetation Vandalism Policy



POLICY

Adopted: 21/10/2008

Minute No: 299

Amended:

Minute No:

FILE NO: PSC2008-2921

TITLE: TREE / VEGETATION VANDALISM POLICY

RESPONSIBLE OFFICER: NATURAL RESOURCES COORDINATOR

BACKGROUND

This policy provides guidance to staff responding to tree/vegetation vandalism being experienced throughout the local government area and is supported by an internal Tree/Vegetation Vandalism Management Directive. This is particularly apparent in the coastal zone where development pressure and conflicts between water views and vegetation has put trees and vegetation on public land under the care, control and management of council at risk.

This vandalism has a significant and cumulative impact on Council assets and the environment. Particular impacts include reduced visual and community amenity, the loss of wind-breaks and erosion control in some locations, and the loss of wildlife habitat.

Such vandalism can have substantial financial and human resource costs for councils. These include the replacement costs of the trees or vegetation, the cost of the investigation, rehabilitation and repair costs, and the cost of implementing potential punitive / deterrence measures.

OBJECTIVE

- 1) To promote the value of and need for protection of trees and vegetation on community land
- 2) To provide consistency in the deterrence, investigation and response to tree vandalism incidents
- 3) To promote and guide broader community involvement in the prevention of vandalism, and in investigation and enforcement following vandalism incidents

PRINCIPLES

- 1) Vandalism of trees and vegetation on community and public land is a criminal offence;
- 2) The long term protection and management of trees and vegetation on public land (including re-establishment in previously cleared areas) is integral to maintaining the economic, cultural, environmental and social values of the LGA. Trees and vegetation contribute significantly to environmental health, and to human health and wellbeing.
- 3) The identification and prosecution of perpetrators of public tree/vegetation vandalism should be pursued consistently
- 4) In the absence of successful prosecutions, Council and the community must carry some responsibility for the prevention of further damage and the rehabilitation of damaged areas.
- 5) Community education is a key mechanism to promote the protection of trees and vegetation, and to encourage the reporting of vandalism.

POLICY STATEMENT

- 1) For the purpose of this policy, Tree Vandalism is defined as; *'the unlawful destruction, damage or injury to trees and vegetation on community and public land. Examples include poisoning, mowing, pruning, removal and ringbarking'*. The Policy applies to public and community land that is under the care, control and management of Port Stephens Council

RELATED POLICIES

- 1) Tree / Vegetation Vandalism Management Directive
- 2) Port Stephens Council Compliance Policy
- 3) Legal Management Directive

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The community has an expectation that Council respond to tree vandalism incidences and the majority of the community is supportive of Council taking a strong consistent approach.

Tree vandalism on public land also means the loss of a valuable community asset that in most cases is worth several thousands of dollars. Most noted are the reduced visual and community amenity of an area, leafy areas are usually seen as more established and generally have a higher real estate value.

ECONOMIC IMPLICATIONS

Having a consistent and strategic approach to tree vandalism will be more cost effective in the long term than creating new approaches to each new event. Replacing mature trees can be costly, it is hoped that by having a consistent approach to tree vandalism that incidences will decrease resulting in reduced budget expenditure.

ENVIRONMENTAL IMPLICATIONS

In many cases tree vandalism occurs on coastal areas that are already under threat of being over loved and are very fragile. The loss of any vegetation along foreshores is usually followed by severe erosion which in turn creates further environmental and asset management issues. Coastal vegetation also acts as important wind-breaks and valuable wildlife corridors. In addition to decreasing the incidences of environmental damage this policy will assist council to remediate after tree vandalism events and restore environmental values.

RELEVANT LEGISLATIVE PROVISIONS

- 1) Environmental Planning and Assessment Act 1979
- 2) Local Government Act 1993
- 3) Native Vegetation Act 2003
- 4) Pesticides Act 1999

IMPLEMENTATION RESPONSIBILITY

- 1) Parks staff assisted by the Natural Resources Team

PROCESS OWNER

- 1) Public Domain & Services Section Manager

REVIEW DATE

- 1) 3 years from Adoption

ATTACHMENT 2

Current Tree/ Vegetation Vandalism Policy (Adopted: 21/10/2008 Minute: 299)



POLICY

Adopted: 21/10/2008
Minute No: 299
Amended:
Minute No:

TITLE: REGIONAL TREE / VEGETATION VANDALISM POLICY

PURPOSE

The purpose of this policy is to promote a consistent regional approach to the protection and management of trees and vegetation in the landscape, particularly in deterring and responding to the loss of vegetation arising from deliberate vandalism on public land.

APPLICABILITY

This policy applies to the following councils that comprise the Hunter, Central and Lower North Coast Region:

| | |
|-----------------------------|----------------------------|
| Greater Taree City Council | Cessnock City Council |
| Great Lakes Council | Maitland City Council |
| Port Stephens Council | Dungog Shire Council |
| Newcastle City Council | Gloucester Shire Council |
| Lake Macquarie City Council | Upper Hunter Shire Council |
| Wyong Shire Council | Muswellbrook Shire Council |
| Gosford City Council | Singleton Council |

It has been amended for use in the Port Stephens Council Local Government area to align with other Port Stephens Council policies while still reflecting the regional priorities.

SCOPE

This policy outlines the recommended procedures and activities to provide:

1. A consistent approach by councils to deterring and responding to incidences of tree/vegetation vandalism on public land throughout the region.
2. A consistent regional approach to engaging and involving the community in the long term protection and management of vegetation and in reporting illegal vandalism

The policy supplements individual Council tree and vegetation management policies with a regional tree/vegetation vandalism policy that is based on common objectives, values and needs. This policy will assist council in meeting the recommendations of the NSW Ombudsman's Enforcement Guidelines for Councils (2002) by establishing a consistent and

transparent investigation and decision making framework when responding to tree and vegetation vandalism events on public land.

BACKGROUND

This policy has been developed in light of increasing tree/vegetation vandalism being experienced by councils across the region. This is particularly apparent in the coastal zone where development pressure and conflicts between water views and vegetation has seen an increase in the vandalism of trees and vegetation on public land under the care, control and management of councils. Further background information to the policy and the initiatives it comprises are included in Attachment 1.

POLICY OBJECTIVES

1. To promote the value of and need for protection of trees and vegetation on community land
2. To provide regional consistency in the deterrence, investigation and response to tree vandalism incidents
3. To encourage the sharing of experience, expertise and resources among councils when deterring and responding to tree / vegetation vandalism incidents throughout the region.
4. To promote and guide broader community involvement in the prevention of vandalism, and in investigation and enforcement following vandalism incidents

POLICY PRINCIPLES

1. Vandalism of trees and vegetation on community and public land is a serious criminal offence;
2. The long term protection and management of trees and vegetation on public land (including re-establishment in previously cleared areas) is integral to maintaining the economic, cultural, environmental and social values of the region. Trees and vegetation contribute significantly to environmental health, and to human health and wellbeing.
3. The identification and prosecution of perpetrators of public tree/vegetation vandalism should be pursued consistently throughout the region.
4. In the absence of successful prosecutions, Council and the community must carry some responsibility for the prevention of further damage and the rehabilitation of damaged areas.
5. Community education is a key mechanism to promote the protection of trees and vegetation, and to encourage the reporting of vandalism.

POLICY STATEMENT

1. Definition of Tree Vandalism

For the purpose of this policy, Tree Vandalism is defined as; *'the unlawful destruction, damage or injury to trees and vegetation on community and public land. Examples include poisoning, mowing, pruning, removal and ringbarking'*.

2. Land to which the policy applies

This policy applies to public and community land that is under the care, control and management of Port Stephens Council.

RELEVANT LEGISLATIVE PROVISIONS

There exists a range of offences under various legislation that have the potential to apply in cases of tree / vegetation vandalism. An overview of these offences, relevant legislation, responsible authorities and the nature of penalties that apply are included in Attachment 2.

POLICY RESPONSES**1. Education**

Council's community education programs will include the following key elements about the value of vegetation and the adverse impacts of tree and vegetation vandalism:

- To explain the various environmental functions of vegetation in natural and urban environments including: habitat, water quality, air quality, shade, erosion control, aesthetics, weed suppression, noise attenuation, climate change mitigation and wind breaks.
- To explain the cumulative impacts of vegetation loss, so that the impact of a single act can be judged in the context of impacts over time
- To give an economic value to the environmental functions of vegetation and, therefore, to the cost of vegetation loss and damage, and/or by using ANZ Standard (Draft) or similar weighted calculation.
- To highlight the legal significance of offences (i.e. they are criminal acts), and the potential fines and punishments
- To calculate and publicise the direct economic cost to residents of acts of vandalism, in terms of investigation, replacement and remediation costs
- To publicise successful rehabilitation and other positive outcomes, as well as successful prosecutions and enforcement actions
- To involve the community directly in maintenance and protection of vegetation, and in rehabilitation of damaged areas (eg through Landcare).

2. Monitoring and prevention

- Council will record vandalism incidents and its response to these on a database to allow an assessment of the cumulative impacts of vandalism, to identify high risk areas and to monitor the effectiveness of rehabilitation and response efforts and community education over time. While councils may utilise a variety of database types to record this information, in order to assist with regional scale assessment and reporting, all councils will at a minimum record the following details in regard to vandalism events:
 - a. The area of canopy that has been impacted upon
 - b. Location of the offence
 - c. Vegetation Type (natural bushland or amenity)
 - d. Method of vandalism (cut, cleared or unknown)

- Council will prepare management plans for individual trees and/or stands of vegetation in high risk areas. These plans should include rehabilitation responses in case of loss or damage. These plans should involve residents in their preparation and implementation when possible, and be communicated to residents.
- Council will actively promote community involvement in stewardship and maintenance of high risk bushland areas.
- Council will target community education initiatives toward high risk vandalism areas

3. Regulation, Enforcement and Rehabilitation

- Council will follow the Investigation and Response Protocol included in Attachment 3 when responding to tree and vegetation vandalism events
- To support the effective implementation of the Investigation and Response Protocol, Council will clearly define relevant staff responsibilities within the protocol, and establish clear lines of communication between those that are involved.
- Council will participate in the development and trial of a regionally standardised 'Response Assessment Model' for the purpose of identifying both the level of impact of vandalism events, and the appropriate initiatives that should be implemented by council in response to these. An example of such an Assessment Model is included in Attachment 4.
- Council endorses the suite of potential response measures to vandalism events included in Attachment 5 of this policy.

RESOURCES

Resources required for an individual council to implement this policy include

- Educational materials (eg brochures)
- Management plans and rehabilitation strategies
- Correspondence templates (eg for letter drops)
- Signage and/or banners
- Paint stencils
- Investigative / regulatory staff
- Physical materials such as bunting, fencing, sail or shade cloth.
- Database to record and monitor vandalism events
- Access to suitable endemic plants suitable for use in rehabilitation
- Team trained and resourced to carry out rehabilitation

Regional resource opportunities

The effective and consistent application of this policy throughout the region could be enhanced, and the resource implications for individual councils reduced through the sharing of experience, expertise and resources among councils. Particular examples of where such resource and information sharing could occur include:

1. Development and use of regional templates for:
 - Educational materials (eg brochures)
 - Management plans and rehabilitation strategies
 - Correspondence (eg for letter drops)
 - Signs
 - Recording vandalism incidents (eg Access database)
2. The sharing of specialist investigative resources and staff that are experienced in environmental investigation techniques. These skills need to be further developed and shared in the region.
3. The promotion and sharing of case studies that critique both successful and unsuccessful responses to vandalism events and the lessons learned from these.
4. Sharing of physical materials required for responding to vandalism events (eg construction fencing, bunting, paint stencils).

There is also the potential for revenue raised through Penalty Infringement Notices and successful court prosecutions to be used as a source of revenue to assist with funding further preventive and regulatory initiatives.

RELATED POLICIES

Port Stephens Council Tree Preservation Order
Port Stephens Council Compliance Policy
Port Stephens Council Tree Management Policy and Procedures
Legal Management Directive

REVIEW DATE

Twelve months from the date of adoption.

IMPLEMENTATION RESPONSIBILITY

Recreation Services Manager
Environmental Services Manager

ATTACHMENTS

1. Background to the Policy
2. Legislative framework
3. Response Protocol
4. Example Response Assessment Model
5. Proposed response measures
6. Template for Letterboxing
7. Signage template

ATTACHMENT 1.

BACKGROUND TO THE POLICY

TREE AND VEGETATION VANDALISM

This policy has been developed in light of increasing tree/vegetation vandalism being experienced by councils across the region. This is particularly apparent in the coastal zone where development pressure and conflicts between water views and vegetation has seen an increase in the vandalism of trees and vegetation on public land under the care, control and management of councils.

This issue is not unique to the Hunter, Central and Lower North Coast region however, with the Minister for the Environment seeking feedback from councils in November 2005 regarding ways to improve investigation of breaches of the Tree Preservation Order. This was in response to tree poisoning and removal from council reserves and private property 'appearing to have reached epidemic proportions in some areas' and being particularly common around the harbour and beachside suburbs of Sydney'. In response, the Minister was investigating ways to provide councils with greater powers to investigate breaches of Tree Preservation Orders.

There are many reasons that motivate vandalism of trees and vegetation. Some acts are random and without purpose, while others occur through ignorance or are motivated by personal self-interest or gain (eg increased property values, better access to the waterfront, or unimpeded views). Where possible, the response to acts of vandalism should be adapted to suit the perceived motivation. For example, community education and Ranger patrols may be the best response to random vandalism, while prosecution and fines may be the most effective deterrent to economically motivated acts.

The physical nature of tree and vegetation vandalism can occur in a variety of forms, including poisoning, pruning, removal and destruction, and mowing of native understorey. This kind of vandalism has a significant and cumulative impact on the environment. Particular impacts include reduced visual and community amenity, loss of environmental services such as wind-breaks and erosion control, and loss of wildlife habitat.

Such vandalism can have substantial financial and human resource costs for councils. These include the direct loss of the asset value of the trees or vegetation, the cost of the investigation, rehabilitation and repair costs, and the cost of implementing potential punitive / deterrence measures.

The clandestine nature of tree/vegetation vandalism on public land frequently makes the identification of perpetrators difficult. Even where it is possible to identify the most likely offender, it can be difficult to collect sufficient evidence to prove responsibility. This is frequently exacerbated by a general unwillingness among the community to provide testimony, even where an offence may have been witnessed.

Recognition of the common tree/vegetation vandalism issues being experienced by councils has resulted in the HCCREMS Steering Committee resolving to prepare a regional policy. This approach, supported by increased sharing of resources and expertise between councils, will provide a greater level of organisational capacity and commitment to address this issue consistently throughout the region.

POLICY RESPONSES**1. Education**

Unless the community has an understanding of the benefits and value of vegetation, and understands the adverse impacts of vandalism, it is difficult to sustain the level of community and political support necessary to deter and respond to such activities. There is no single strategy or argument that will be successful in engendering this support. As such, long-term and varied programs are required.

In this regard, community environmental education program should aim to address the following:

- To explain the various environmental functions of vegetation in natural and urban environments including: habitat, water quality, air quality, shade, erosion control, aesthetics, weed suppression, noise attenuation, climate change mitigation and wind breaks.
- To explain the cumulative impacts of vegetation loss, so that the impact of a single act can be judged in the context of impacts over time
- To give an economic value to the environmental functions of vegetation and, therefore, to the cost of vegetation loss and damage, and/or by using ANZ Standard (Draft) or similar weighted calculation.
- To highlight the legal significance of offences (i.e. they are criminal acts), and the potential fines and punishments
- To calculate and publicise the direct economic cost to residents of acts of vandalism, in terms of investigation, replacement and remediation costs
- To publicise successful rehabilitation and other positive outcomes, as well as successful prosecutions and enforcement actions
- To involve the community directly in maintenance and protection of vegetation, and in rehabilitation of damaged areas (eg through Landcare).

2. Monitoring and Prevention

Given the many years of experience by councils and other land managers in dealing with unapproved clearing and damage to vegetation, it is often possible to predict areas facing high risk of damage, such as new developments fronting waterways with bushland reserves.

The risk of damage to these areas can be reduced by:

- Targeting community education material
- Increasing the presence of enforcement officers
- Monitoring vegetation condition by photographs or aerial photography,
- Involving the community in stewardship and maintenance of bushland areas.
- Developing and implementing management plans for these areas.

Because councils and other land managers do not have the resources to monitor all areas at risk however, community involvement and reporting of vandalism is integral to any monitoring and prevention program. However, the community must have confidence that, if they do report incidents, they will be followed up promptly and effectively by the council. Recording and responding to information provided by the community is therefore extremely important, and can be facilitated through the development of a tree / vegetation database. Development and maintenance of a database is integral to any monitoring and prevention program as it is

the most effective means of recording and demonstrating the cumulative impacts of tree and vegetation vandalism over time.

3. Regulation, Enforcement & Rehabilitation

In order to promote consistency among councils when investigating and responding to vandalism events, a guideline protocol has been developed that is included in Attachment 3. Councils' implementation of this protocol will ensure quick and consistent assessment of damage and determination of an appropriate response strategy. To support the effective implementation of this protocol, clear delineation of staff responsibilities within the process, and clear lines of communication between staff involved need to be established. This will ensure implementation of clear and consistent responses by council, and assist in ensuring that staff and other resources required to initiate and implement a response are available.

Although successful investigations and prosecutions are difficult, their impact is significant in making the community aware of the seriousness of illegally damaging vegetation. Involvement of police and/or private investigators may be warranted in serious cases to take advantage of their investigative skills. Establishing a body of specialist expertise and experience within the region is essential if investigations and prosecutions are going to succeed. This could be supported through the sharing between councils in the region of staff who possess such expertise.

There are a range of responses that can be and have been used to deal with instances of vandalism to trees and other vegetation. Experience has shown that the most effective responses involve a suite of actions, rather than a single action, and combine enforcement, education, and rehabilitation. Effective responses need to be quick, predictable, consistent, fair and well-resourced. It needs to be recognised, however, that councils do not have the resources available to implement the full suite of response measures that are available every time a vandalism event is detected.

To promote consistency between councils in the region, a Response Assessment Model will be developed to assist councils in assessing the level of impact of vandalism damage, and in determining the appropriate level and type of response that is required. An example of such an Assessment Tool is included in Attachment 4. The model to be developed will consider factors such as the ecological value, cultural significance, natural condition, and public prominence of damaged vegetation, and calculate the level of impact of the damage (ie high medium or low). The suite of potential responses considered appropriate for high, medium and low impact offences is included in Attachment 5.

**ATTACHMENT 2
LEGISLATIVE FRAMEWORK**

| OFFENCE | OFFENCE PROVISION | PROSECUTION AUTHORITY | JURISDICTION | SHORT OFFENCE CODE | MAXIMUM PENALTIES | LIMITATION PERIOD (FROM THE DATE OF THE OFFENCE) | REMEDATION |
|------------------------------------|--|--|-----------------------------------|---|--|---|---------------------------------|
| Contravene Tree Preservation Order | S125 of the Environmental Planning and Assessment Act 1979 | Local Government | Penalty Infringement Notice | Development carried out with out development consent | \$600 | 1 years | |
| Contravene Tree Preservation Order | S125 of the Environmental Planning and Assessment Act 1979 | Local Government | Local Court | Development carried out with out development consent | 1 - 11 Penalty Units | 2 year | |
| Contravene Tree Preservation Order | S125 of the Environmental Planning and Assessment Act 1979 | Local Government | Land and Environment Court | Development carried out with out development consent | 1 - 11 Penalty Units | 2 years | A Court may, impose remediation |
| Carry out forbidden development | S125 of the Environmental Planning and Assessment Act 1979 | Local Government | Land and Environment Court | Development carried out with out development consent | 1 - 11 Penalty Units | 2 years | |
| Contravene Tree Preservation Order | s629(1) of the Local Government Act 1993 | Local Government | Local Court | Wilful or negligent damage of a plant in a public place | Up to \$2,200 | 6 months | |
| Clear native vegetation | S43(1) of the Native Vegetation Act 2003 | Department of Environment and Climate Change | Penalty Notice for s12(1) offence | | \$3,300 for individual and \$5,500 for corporations. | | |

MINUTES FOR ORDINARY MEETING – 8 JULY 2014

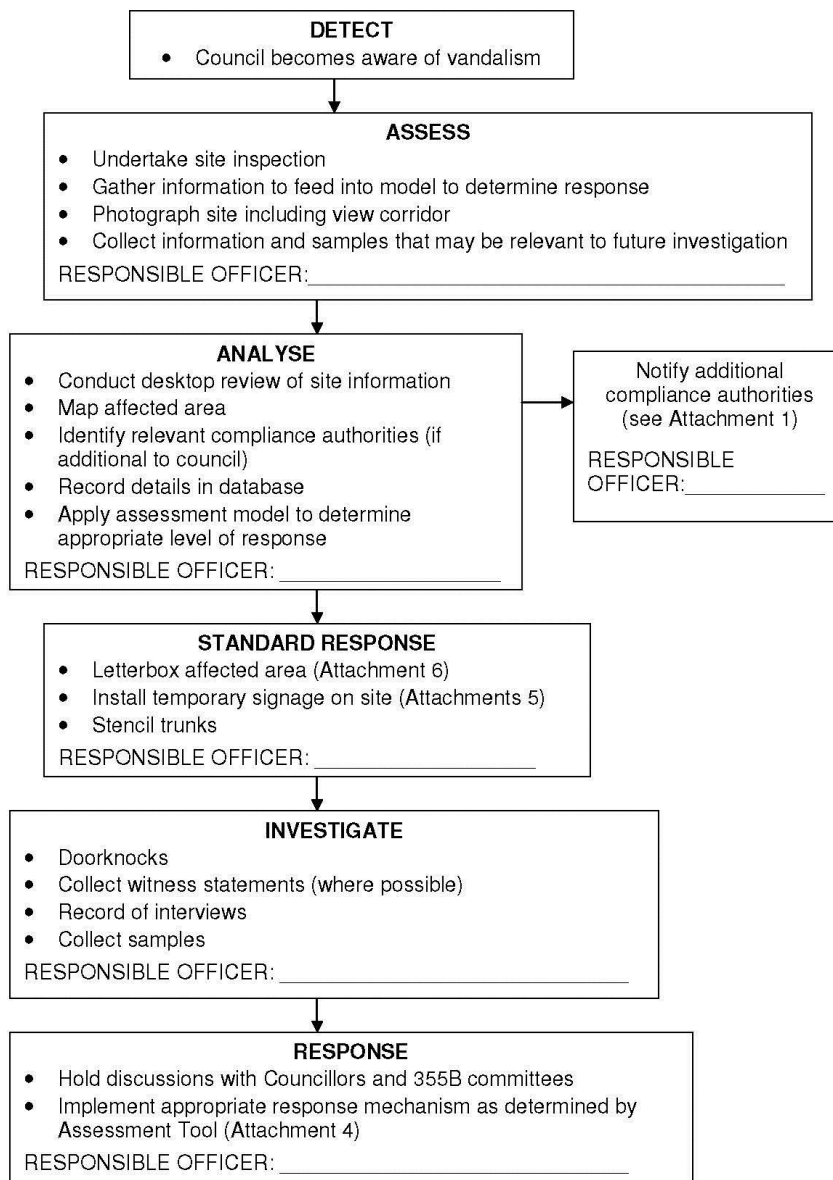
| | | | | | | | |
|-------------------------------------|--|--|----------------------------|-------------------------------------|---|--|---|
| Clear native vegetation | S12(1) and S42(2) of the Native Vegetation Act 2003 | Department of Environment and Climate Change | Local Court | Clearing without approval | Up to \$11,000 | 2 years from the date of the offence or the date on which the offence first came to the notice of an "Authorised Officer". | S36 remediation notice may be issued by DNR or a S41 (5) Court may make such order as it thinks fit to remedy or restrain the contravention |
| Clear native vegetation | S12(1) of the Native Vegetation Act 2003 | Department of Environment and Climate Change | Land and Environment Court | Clearing without approval | Up to \$1,100,000 | 2 years from the date of the offence or the date on which the offence first came to the notice of an "Authorised Officer". | S36 remediation notice may be issued by DNR or a Court may make such order as it thinks fit to remedy or restrain the contravention under S41 (5) |
| Remove material from protected land | s22B(1)b of the Rivers and Foreshores Improvement Act 1948 | Department of Environment and Climate Change | Local Court | Carrying out work without a permit | \$66,000 for individual and \$137,500 for corporations. | 12 months after the act or omission that form the basis of the alleged offence | |
| Remove material from protected land | s22B(1)b of the Rivers and Foreshores Improvement Act 1949 | Department of Environment and Climate Change | Land and Environment Court | Carrying out work with out a permit | \$66,000 for individual and \$137,500 for corporations. | 12 months after the act or omission that form the basis of the alleged offence | |

MINUTES FOR ORDINARY MEETING – 8 JULY 2014

| | | | | | | | |
|--|---------------------------------------|--|---|--|---|--|--|
| Wilful or negligent use of a pesticide that injures the property of another person | s.7(1)(b) of the Pesticides Act 1999 | Department of Environment and Climate Change | Land and Environment Court | | Up to \$120,000 / \$250,000 (individual / corporation). | 3 years from the date of the offence or the date on which the offence first came to notice of an 'authorised officer'. | A court may also, where the offence is proven, order the offender to restore land damaged as a result of the offence and / or order the offender to pay the costs of a "public authority" (which includes a Council) where that authority has incurred costs as a result of the offence or in the clean-up, abatement or mitigation of pesticide pollution |
| Use of a pesticide in a manner that harms the property of another person | s.10(1)(b) of the Pesticides Act 1999 | Department of Environment and Climate Change | Infringement Notice | | \$400 for individual and \$800 for corporation | 12 months from the date of the offence or the date on which the offence first came to notice of an 'authorised officer'. | |
| Use of a pesticide in a manner that harms the property of another person | s.10(1)(b) of the Pesticides Act 1999 | Department of Environment and Climate Change | Local Court | | (2) Up to \$20,000 | | |
| Use of a pesticide in a manner that harms the property of another person | s.10(1)(b) of the Pesticides Act 1999 | Department of Environment and Climate Change | Land and Environment Court. | | (3) Up to \$60,000 / \$120,000 (individual / corporation) | | |
| Use registered pesticide in contravention of approved label | s.15(1) of the Pesticides Act 1999 | Department of Environment and Climate Change | As for offence under s.10(1)(b) of the Pesticides Act | | As for offence under s.10(1)(b) of the Pesticides Act. | As for offence under s.10(1)(b) of the Pesticides Act. | |

ATTACHMENT 3

INVESTIGATION AND RESPONSE PROTOCOL



ATTACHMENT 4

EXAMPLE RESPONSE ASSESSMENT MODEL

Location: _____
 Officer: _____
 Date: _____

0.125 Weighting for each Main Criteria

| Criteria | T#1 | T#2 | T#3 | T#4 | T#5 | T#6 | T#7 | T#8 | T#9 |
|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Significance of the tree | | | | | | | | | |
| Type 2 for yes 1 for no for each item | | | | | | | | | |
| Historical value | | | | | | | | | |
| Commemorative tree | | | | | | | | | |
| Significant tree (on register) | | | | | | | | | |
| Exceptionally old or fine specimen | | | | | | | | | |
| Curious growth habit or physical appearance | | | | | | | | | |
| Horticultural/scientific value | | | | | | | | | |
| Unusually large size | | | | | | | | | |
| Rare to the area | | | | | | | | | |
| Outstanding aesthetic quality | | | | | | | | | |
| Valuable habitat or corridor | | | | | | | | | |
| Key stone species | | | | | | | | | |
| Contributes to landscape | | | | | | | | | |
| TOTAL | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| WEIGHTED TOTAL | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Life Cycle Stage | | | | | | | | | |
| Type 3 for young, 10 for semi-mature, 42 for mature | | | | | | | | | |
| WEIGHTED TOTAL | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Site | | | | | | | | | |
| 1 for low profile, 2 for average profile and 3 for high profile | | | | | | | | | |
| WEIGHTED TOTAL | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| SULE (Safe Useful Life Expectancy) | | | | | | | | | |
| Type 1 for short, 2 for medium or 3 for long | | | | | | | | | |
| WEIGHTED TOTAL | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Environmental effects | | | | | | | | | |
| Type 2 for yes and 1 for no | | | | | | | | | |
| Will method cause problems eg poison contamination | | | | | | | | | |
| Will method cause problems eg erosion | | | | | | | | | |
| Will method cause problems eg branches left on site | | | | | | | | | |
| Habitat - Loss of nesting sites | | | | | | | | | |
| Is the area able to be restored | | | | | | | | | |
| Does poisoned tree impact threatened species | | | | | | | | | |
| TOTAL | 0 | 0 | 0 | 0 | 0 | 0 | | | |

| | | | | | | | | | |
|--|---|---|---|---|---|---|---|---|---|
| WEIGHTED TOTAL | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Target | | | | | | | | | |
| 1 for occasional, 2 intermittent, 3 frequent, 4 for constant | | | | | | | | | |
| WEIGHTED TOTAL | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Damage | | | | | | | | | |
| Type 2 for major or 1 minor | | | | | | | | | |
| WEIGHTED TOTAL | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Cost of remediation and Tree Valuation | | | | | | | | | |
| Type in actual amount divided by 1000 | | | | | | | | | |
| WEIGHTED TOTAL | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL SCORE | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

| SIGNIFICANCE | ACTION |
|-----------------------------------|--|
| Low Significance 2.63 - 6.253 | A) Letterbox residents |
| | B) Leave trees in place and tattoo trunks |
| | C) Install temporary signage |
| | D) PIN or Local Court where evidence exists. |
| Medium Significance 6.253 - 9.876 | A) Letterbox residents |
| | B) Leave trees in place and tattoo trunks |
| | C) Install temporary / permanent signage |
| | D) Replant and rehabilitate |
| | E) Pursue action in the Local Court or Land & Environment Court where evidence exists. |
| High Significance 9.876 - 13.5 | A) Letterbox residents |
| | B) Leave trees in place as safety allows |
| | C) Install permanent signage |
| | D) Replant and rehabilitate (involve community where possible) |
| | E) Increase the density of vegetation in rehabilitation works |
| | F) Offer rewards for information |
| | G) Block views obtained by the vandalism (eg bunting, shade cloth, shipping containers), after consultation with Councilors and 355B committees. |
| | H) Consider action in the Local Court or Land & Environment Court where evidence exists as per Tree Preservation Order prosecution guidelines. |

ATTACHMENT 5

PROPOSED RESPONSE MEASURES FOR LOW, MEDIUM AND HIGH IMPACT VANDALISM EVENTS

The suite of response measures considered appropriate to implement in response to high, medium and low impact tree and vegetation vandalism events on public land are outlined below. They include:

Low impact events

- Letterbox surrounding residents
- Install temporary signage
- Leave tree skeletons in place as far as safety allows and stencil trunks
- Where sufficient evidence exists, issue Penalty Infringement Notice or pursue prosecution in the Local Court.
- Rehabilitate or re-plant

Medium impact events

- Letterbox surrounding residents
- Erect temporary (consider permanent) signage
- Leave tree skeletons in place as far as safety allows and stencil trunks
- Treat poisoned plants or soil to attempt to rescue affected vegetation
- Re-plant and rehabilitate damaged areas.
- Where sufficient evidence is available, pursue legal proceedings in either the Local Court or Land & Environment Court (NB. While the penalties are more substantial in the Land & Environment Court, so too are the costs of proceedings and the burden of evidence that is required. The decision regarding which court to commence proceedings in will depend largely on an assessment of these factors).

High impact events

- Letterbox residents in the vicinity highlighting the damage and seeking information on perpetrators
- Leave tree skeletons in place as far as safety allows
- Erect permanent signs on the site highlighting damage and its consequences
- Publicise damage and responses in the media
- Protect site and rehabilitation works with fencing (eg construction fencing)
- Involve residents and community groups (eg Landcare and schools) directly in planning and implementing rehabilitation strategies
- Treat poisoned plants or soil to attempt to rescue affected vegetation
- Increase the density or extent of vegetation in rehabilitation works(eg "two-for-one" or "three-for-one")
- Persist with rehabilitation works and maintenance of rehabilitated areas to ensure no loss of vegetation over time
- Offer rewards for information
- Consider proceedings in the Land & Environment Court where sufficient evidence exists as per Tree Preservation Order prosecution guidelines.
- Draw attention to the damage through public art or painting the dead stumps
- Block views using barriers such as bunting, shade cloth, fences or shipping containers

For example, an integrated response to a major incident, combining a suite of actions, may include:

1. Immediately assess the site and gather information
2. Erect permanent signs pointing out the damage and seeking information on the perpetrators.
3. Letterbox residents in the vicinity to publicise the damage and seek information for the investigation.
4. Conduct a thorough investigation including doorknocking local residents with a view to identifying potential witnesses.
5. Assess the best response to stabilise the area and ensure the vandalism isn't rewarded (eg by cutting down or clearing the dead vegetation). Implement measures to block views that may have been obtained (eg shipping containers or screening with shade cloth) or to highlight the damage that has occurred (eg decorating tree skeletons or installing bunting). Such actions can go some way in defeating the vandal's purpose.
6. Prepare and implement a rehabilitation plan, preferably involving local residents (although this may not always be possible or desirable). Successful rehabilitation can be linked with the removal of "punishments". For example, bunting or signs may be removed after 12 months if re-planted vegetation is established and maintained. This will encourage residents to protect rehabilitation works.
7. Where sufficient evidence may be available, consider prosecution in the NSW Land and Environment Court as per Tree Preservation Order prosecution guidelines. If successful, publicise the outcomes.

ATTACHMENT 6

TEMPLATE LETTER FOR LETTER BOXING

Occupier
Address 1
Address 2

Dear Occupier

RE: DAMAGE TO VEGETATION ON COMMUNITY RESERVE

In the last few months valuable trees / bushland in the community reserve at **LOCATION** has been vandalised.

This vandalism has included **[INSERT OFFENCE – EG POISONING OF 5 LARGE TREES]**. The impacts from this deliberate vandalism of community property include **[INSERT IMPACTS EG LOSS OF HABITAT, SHADE AND AMENITY]**. The cost to council of rehabilitating the damage caused is likely to exceed **[INSERT VALUE]**, taking money away from other community services.

All native vegetation on Council reserves is protected. Deliberately killing or pruning trees and other vegetation on Council reserves without approval is illegal, and can attract substantial penalties. Council is now investigating this particular incident with a view to identifying those responsible.

Council is planning to **INSERT PROPOSED SUITE OF ACTIONS e.g. REPLACE THE POISONED TREES WITH THREE NEW TREES OF THE SAME SPECIES; REHABILITATE THE SITE AND FENCE IT TO PREVENT FURTHER DAMAGE; INVITE THE LOCAL PRIMARY SCHOOL TO ASSIST IN REPLANTING THE DAMAGED AREA.**

If you have any information that may help Council in its investigation, or if you would like to be involved in rehabilitating and protecting the site in future, please contact **[NAME – POSITION]** on **[PHONE NUMBER]**.

Your assistance in this matter would be greatly appreciated.

Yours faithfully

MANAGER / MAYOR

ATTACHMENT 7

SIGN TEMPLATE

ENVIRONMENTAL VANDALISM!

These trees / vegetation have BEEN DESTROYED / KILLED / ARE SICK as a result of deliberate POISONING / MOWING / OTHER ACTIVITY.

This vandalism is a criminal act. Council is investigating to identify those responsible for this selfish damage to community property and would be grateful for any information from the community that may assist.

Should you have any information that can assist in these inquiries, or if you would like to participate in helping to rehabilitate and protect the site in future, please phone council on PHONE NUMBER.

ITEM NO. 4**FILE NO: PSC2013-00406****REVOKE COUNCIL POLICY- SUSTAINABILITY POLICY**

REPORT OF: TIM CROSDALE - STRATEGY AND ENVIRONMENT SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Revoke the Sustainability Policy as it has been superseded by current legislation.

ORDINARY COUNCIL MEETING – 8 JULY 2014**COMMITTEE OF THE WHOLE RECOMMENDATION**

| | |
|--|---|
| | Councillor John Morello Councillor Sally Dover |
| | That the recommendation be adopted. |

MOTION

| | |
|------------|---|
| 175 | Councillor Chris Doohan Councillor John Morello |
| | It was resolved that Council revoke the Sustainability Policy as it has been superseded by current legislation. |

BACKGROUND

The purpose of this report is to request that Council revoke the Sustainability Policy adopted on 26/08/2003 (Min No. 338).

Council has a program of systematically reviewing and updating its existing policies. Within the Development Services Group, the aim is to review all existing policies and to revoke, amend or substantially update policies where required.

The Local Government Act 1993 and the Integrated Planning and Reporting Framework requires Council to address social, environmental, economic and civic leadership in an integrated manner through its planning and decision making process.

The original purpose of the Sustainability Policy was to provide a framework to assist Council to meet its obligations under the Local Government Act, to take into

account the principles of Ecological Sustainable Development (ESD) across all of its activities.

Before the Sustainability Policy was adopted, there was no framework available to ensure that the principles of Ecological Sustainable Development were integrated with Council activities. However the State Government's Integrated Planning and Reporting Framework now assists Council to take into account the social, economic and environmental aspects of all of its activities, including Council decision making, in a systematic and transparent manner.

The Integrated Planning and Reporting Framework draws together various Council plans and strategies to help achieve a sustainable outcome for the community in terms of a safe, healthy place to live with a sustainable environment and economy with strong jobs growth.

The main advantage of the Integrated Planning and Report Framework over a Sustainability Policy (or equivalent) is that the Integrated Planning and Report Framework is a holistic and fully integrated framework developed in partnership with the Community and State Agencies. Another important aspect of this framework is that it is resourced according to agreed priority areas and is an integrated part of Councils business plans, work programs, strategies and decision making process. More specifically, the framework incorporates the Council charter which further reinforces Council's commitment to be consistent with and promote the principles of ESD.

In reviewing the need for the Sustainability Policy, it is considered that the policy is no longer needed as the Integrated Planning Framework provides a more effective and interactive mechanism to assist Council to meet its sustainability obligations under the Local Government Act.

Importantly the Integrated Planning and Reporting Framework enable's Council to continue its commitment to sustainability through a whole of Council approach which will be more effective in achieving ESD outcomes.

FINANCIAL/RESOURCE IMPLICATIONS

There are no financial or other resource implications associated with the recommendation to revoke the Sustainability Policy.

| Source of Funds | Yes/No | Funding (\$) | Comment |
|------------------------|---------------|---------------------|----------------|
| Existing budget | No | | |
| Reserve Funds | No | | |
| Section 94 | No | | |
| External Grants | No | | |
| Other | No | | |

LEGAL, POLICY AND RISK IMPLICATIONS

If Council decides to revoke the Sustainability Policy there are minimal legal risks around this decision.

| Risk | <u>Risk Ranking</u> | Proposed Treatments | Within Existing Resources? |
|---|----------------------------|--|-----------------------------------|
| There is a risk that the community may consider that Council will not consider its ESD obligations when making decisions. | Low | Continue to implement the Integrated Planning Framework. | Yes |

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

If Council decides to revoke the Sustainability Policy it will not have any adverse impacts on Council's ability to meet its sustainability obligations. The State Government's Integrated Planning Framework helps Council to meet its sustainability obligations.

CONSULTATION

- 1) Internal consultation with relevant staff;
- 2) Hunter councils and the Department of Local Government. (The majority of NSW councils do not have sustainability policies but instead rely on the Integrated Planning Framework to help guide their sustainability obligations).

OPTIONS

- 1) Council resolve to revoke the Sustainability Policy;
- 2) Council resolve to retain the Sustainability Policy without any changes;
- 3) Council resolve to retain the Sustainability Policy with changes.

ATTACHMENTS

- 1) Sustainability Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

Sustainability Policy (Adopted: 26/08/2003 Minute: 338)



Adopted: 26/08/03
Minute No:338
Amended:
Minute No:

FILE NO: 7110-005

TITLE: SUSTAINABILITY POLICY

RESPONSIBLE OFFICER: COMMUNITY PLANNING MANAGER

BACKGROUND

As part of Council's obligation to execute its responsibilities under the Local Government Act, Council is required to take into account the principles of ecologically sustainable development (ESD) across all of its activities. Decision making under ESD involves the integration of environmental, social, cultural and economic considerations. For Council to embrace the philosophy of "Sustainability" it requires recognition that all its decisions and actions have an impact on present and future generations. The desired result is to balance sustainability considerations to provide positive influences toward community wellbeing while maintaining or enhancing those aspects the community most values in the various ecological, social, cultural and economic environments.

Council has undertaken considerable work and consultation as part of its planning processes to determine the aspects of the Port Stephens Community that people most value. These include: access to community facilities, the quality of and access to the natural environment, road and traffic management including public transport links, the blend of rural and urban lifestyles, the village atmosphere, peace and quiet, people feeling safe community participation and community amenity.

Council is already involved in the development and implementation of ESD plans and programs. These include but are not limited to the following: Social Plan, Community Plan, Cultural Plan, Disability Action Plan, Community Safety & Crime Prevention Plan Economic Development Strategy, Local Area Plans, Local Environment Plan, Section 94 Plan, Settlement Strategy, Development Control Plans, Public Transport Strategy, Integrated Transport Plan, Estuary Management Plan, Comprehensive Koala Plan of Management, Green Energy Focus Group, Immunisation Program, Bitou Bush Management Plan, Mosquito Management Plan & Program, Waste Management Strategy, Companion Animal Management Plan, Vegetation Management Plan, Weed Management Program, On-site Sewerage Management Strategy and Waste Water Program.

While these plans actively contribute to sustainability the purpose of a policy is to provide direction and a framework that will contribute toward the progression and understanding of sustainability for Port Stephens.

OBJECTIVE

1) Council will embrace a philosophy of sustainability to include four fundamental contributing elements:-

- **Environmental responsibility** - From an environmental perspective Council will protect and enhance the environment while considering the social and economic ramifications of decisions by: Protecting biodiversity, providing access to quality open space, managing land to maximise its environmental quality and productivity, managing the effects of unwanted noise, providing a waste management service that is affordable and sustainable, protecting significant items of natural, cultural and built heritage and protecting air and water quality
- **Social equity** - From a social perspective Council will aim to preserve and strengthen the fabric of the community, building on community strengths by:
Supporting and providing opportunities to enhance individual and community well-being and welfare, encouraging a variety of sustainable housing types, encouraging and supporting opportunities for people to participate in education, providing access to quality community facilities and services, working to support people's feeling's of safety, creating opportunities where people can get support when they are under stress, providing opportunities for people to participate in community decision making, and providing opportunities for people to participate in a healthy lifestyle
- **Cultural vitality** – From the cultural perspective Council will assist to inspire a sense of pride and place as well as enhancing quality of life and defining local identity by: Providing opportunities for people to participate in cultural development, providing and supporting opportunities for the expression of community values, promoting the celebration of natural heritage, national days of significance and local indigenous culture, providing the catalyst for the realisation of values, spirit, vitality and expression through cultural activities and support and develop community celebrations and events that contribute to the character and uniqueness of all communities within Port Stephens.
- **Economic viability** - From an economic perspective Council will support the communities economic sustainability while not compromising its environmental and social wellbeing by: Supporting a diverse and environmentally friendly business sector which creates varied employment opportunities, providing and supporting opportunities for people to become skilled and be flexible in the workforce, maintaining as an organisation a healthy financial position, remaining a major employer, providing good community planning and the development of quality infrastructure, business having access to appropriate services which enable prompt and professional business support systems such as freight, communications and accommodation.

- 2) 'A whole of council' approach will be taken to ensure that there is a common focus toward the pursuit of sustainability in both strategic and day-to-day operational activities. There are eight key component areas that will be included to achieve this objective:-
- Engaging the community in the future of Port Stephens
 - Protecting the natural environment
 - Conserving resources
 - Facilitating increased social well being
 - Aligning service provision to meet changing needs
 - Integrating land use and transport planning
 - Facilitating a diverse local economy
 - Achieving financial sustainability
- 3) Council will place sustainability at the forefront of all decision making by assessing the environmental, social, cultural and economic impacts of all decisions demonstrating an understanding and commitment to intergenerational equity.

PRINCIPLES

The Local Government Act requires Councils, councillors and council employees to have regard to the principles of ecologically sustainable development in carrying out their responsibilities. Following are the principles of ESD as stated in the Act.

1. PRECAUTIONARY PRINCIPLE

If there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

In the application of the precautionary principle, public and private decisions should be guided by:-

- Careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and
- An assessment of the risk-weighted consequences of various options

2. INTERGENERATIONAL EQUITY

The present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations.

3. CONSERVATION OF BIOLOGICAL DIVERSITY AND ECOLOGICAL INTEGRITY

Conservation of biological diversity and ecological integrity should be a fundamental consideration

4. IMPROVED VALUATION, PRICING AND INCENTIVE MECHANISMS

Environmental factors should be included in the valuation of assets and services such as:-

- Polluter pays that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement,

- The users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste,
- Environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise their benefits to minimise costs to develop their own solutions and responses to environmental problems

The following two points are not requirements of the Act but are further areas in which Council has endorsed its commitment.

5. IMPROVED IMPACTS ON PEOPLE

The overriding principles of equity and access, opportunity, support and connectedness, honesty, fairness, community spirit and safety are considered in all decision making.

6. IMPROVED IMPACTS ON THE ECONOMY

To support diversity of employment, diversity of business opportunity, the existing business community, the encouragement of environmentally friendly growth and investment attraction with the aim of strengthening the local economy.

POLICY STATEMENT

Port Stephens Council is committed to sustainability and wants to lead, develop and maintain healthy environmental, social, cultural and economic values within the local government area.

Port Stephens Council will support sustainability through the implementation of practices that will ensure the diligent management of environmental, social, cultural and economic effects of all decision making in all areas of council practice providing residents with a better lifestyle in a great environment.

RELATED POLICIES

The following documents are related to this policy

Community Plan 1999
Environmental Plan
Economic Development Strategy 2000-2002
30 Year Plan
Settlement Strategy
Social Policy

SUSTAINABILITY IMPLICATIONS

The adoption of this Policy provides Council with a holistic approach to progressing the philosophy of sustainability.

RELEVANT LEGISLATIVE PROVISIONS

Local Government Act 1993 (as amended 1997)
Environmental Planning and Assessment Act 1979

IMPLEMENTATION RESPONSIBILITY

Organisational

REVIEW DATE

August 2006

ITEM NO. 5**FILE NO: PSC2009-00965****DELEGATIONS: MAYOR AND GENERAL MANAGER****REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER****GROUP: GENERAL MANAGER'S OFFICE**

RECOMMENDATION IS THAT COUNCIL:

- 1) Delegate the Functions in accordance with the Instrument of Delegation to Mayor attached to this report as **(ATTACHMENT 1)**;
- 2) Delegate the Functions in accordance with the Instrument of Delegation to General Manager attached to this report as **(ATTACHMENT 2)**;
- 3) Approve the affixing of the Common Seal to the Mayor's and General Manager's delegations.

ORDINARY COUNCIL MEETING – 8 JULY 2014**COMMITTEE OF THE WHOLE RECOMMENDATION**

| | |
|--|--|
| | Councillor Ken Jordan Councillor John Morello |
| | That the recommendation be adopted. |

MOTION

| | |
|------------|---|
| 176 | Councillor Chris Doohan Councillor John Morello |
| | It was resolved that Council: <ol style="list-style-type: none">1) Delegate the Functions in accordance with the Instrument of Delegation to Mayor attached to this report as (ATTACHMENT 1);2) Delegate the Functions in accordance with the Instrument of Delegation to General Manager attached to this report as (ATTACHMENT 2);3) Approve the affixing of the Common Seal to the Mayor's and General Manager's delegations. |

BACKGROUND

The purpose of this report is to transfer the delegations to the Mayor and General Manager into the new Delegation Database.

Council has undertaken a review of the delegations system used at Port Stephens Council which provided the opportunity to improve the system Council currently uses to manage delegations to the Mayor, General Manager and staff.

Council now subscribes to a Delegation and Legislative Compliance Database which has been developed by Local Government Legal (a Division of Hunter Councils). The subscription includes the development of the system, ongoing updates by the legal experts at Local Government Legal. This removes the need for Council to invest resources ensuring all legislative changes are captured in the current database and the delegations are up to date, reducing any legal risk that may arise in the future surrounding delegations held by staff.

The database is accessible to all Councils and has been recognised by IPART as good practice.

In line with transferring all delegations to the new system, the Mayor and General Manager's delegations have been included and now available for Council's consideration. There are no changes to the previous delegations adopted by Council.

FINANCIAL/RESOURCE IMPLICATIONS

There is no financial implication from this recommendation.

| Source of Funds | Yes/No | Funding (\$) | Comment |
|------------------------|---------------|---------------------|----------------|
| Existing budget | No | | |
| Reserve Funds | No | | |
| Section 94 | No | | |
| External Grants | No | | |
| Other | No | | |

LEGAL, POLICY AND RISK IMPLICATIONS

Council is required to have appropriate delegations for the roles of Mayor and General Manager in accordance with the Local Government Act 1993. Without such delegations Council is at risk of breaching the law and individuals operating outside their limits of responsibility.

| Risk | <u>Risk Ranking</u> | Proposed Treatments | Within Existing Resources? |
|---|----------------------------|----------------------------|-----------------------------------|
| There is a risk that the Mayor and General Manager do not hold the appropriate delegations. | Low | Adopt the recommendation | Yes. |

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

Nil.

OPTIONS

- 1) Adopt the recommendation;
- 2) Amend the recommendation;
- 3) Reject the recommendation.

ATTACHMENTS

- 1) Mayor;
- 2) General Manager.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



116 Adelaide Street, Raymond Terrace NSW 2324
PO Box 42, Raymond Terrace NSW 2324

DX 21406 | ABN 16 744 377 876

PORT STEPHENS COUNCIL

INSTRUMENT OF DELEGATION TO Mayor

On Tuesday, 8 July 2014 the Port Stephens Council ("Council") resolved that:

1. All previous delegations of Functions the subject of this Instrument be revoked.
2. Pursuant to section 377 of the LG Act to delegate to the Mayor authority to exercise and/or perform on behalf of the Council the Council's Functions identified in **Schedule 1** subject to any condition or limitation specified.
3. The Mayor be conferred authority to carry out the Policy Authorities listed in **Schedule 2** and undertake any administrative actions necessary to carry out those Policy Authorities.
4. These delegations and authorities are subject to, and are to be exercised in accordance with:
 - a. the requirements of the relevant Legislation;
 - b. any conditions or limitations set out in **Schedule 1** and **Schedule 3**; and
 - c. any resolution or policy, procedure or budget adopted from time to time by the Council.
5. These delegations and authorities are effective from the date of the Resolution of the Council and remain in force until amended or revoked by a resolution of the Council.
6. In this delegation:
 - 'Functions' means powers, authorities, duties and functions and anything ancillary or related to the exercise or performance thereof.
 - 'Legislation' includes an Act of the parliament of New South Wales or of the Commonwealth of Australia and a Regulation under an Act.
 - 'LG Act' means the *Local Government Act 1993* as amended.

Schedule 1: Delegated Functions

Local Government Act 1993

| Function Code | Function | Condition/ Limitation (if any) |
|---------------|--|---|
| LG Act 004 | <p>Mayor Functions –</p> <p>Authority to:</p> <ul style="list-style-type: none"> • exercise, in cases of necessity, the policy-making functions of the governing body of the council between meetings of the council • exercise such other functions of the council as the council determines • preside at meetings of the council • carry out the civic and ceremonial functions of the mayoral office. <p>Pursuant To –</p> <p>section 225</p> | <p>Authority to approve or refuse public access applications in accordance with Council's policy and Code of Meeting Practice.</p> <p>Authority in the cases of emergency, where it is not practical to wait for the next scheduled meeting of Council, to exercise such functions of the Council as necessary in the situation, except those functions listed under Section 377 of the Local Government Act 1993 (Act) and those regulatory functions under Chapter 7 of the Act. This delegation applies only to those functions properly held by the Council and does not extend to the statutory functions of the General Manager under Section 335 of the Act.</p> <p>To make community awards on the recommendation of the Port Stephens Community Awards Panel and after appropriate consultation with all Councillors.</p> <p>Authority to affix the corporate seal of Port Stephens Council to all documents necessary for Port Stephens Council to enter into or be a party to any property or commercial transaction, provided that the transaction has already been authorised by specific resolution of Council.</p> |

Schedule 2: Policy Authorities

| Code | Policy Authority |
|------|------------------|
| N/A | N/A |

Schedule 3: General Limitations

| Limitation (if any) |
|---------------------|
| N/A |

Pursuant to a Resolution of the Council at its meeting of Tuesday, 8 July 2014,

Delegate Acknowledgement of Delegation

I Bruce MacKenzie do hereby acknowledge that I have read and understood this Instrument of Delegation and that I will perform these delegations and authorities in accordance with this Instrument of Delegation and my position description.

Bruce MacKenzie

Mayor of Port Stephens Council

Date: _____

Review date: Sunday, 30 October 2016

© 2014 - Local Government Legal

ATTACHMENT 2



116 Adelaide Street, Raymond Terrace NSW 2324
PO Box 42, Raymond Terrace NSW 2324

DX 21406 | ABN 16 744 377 876

PORT STEPHENS COUNCIL

INSTRUMENT OF DELEGATION TO GENERAL MANAGER

On Tuesday, 8 July 2014 the Port Stephens Council ("Council") resolved that:

1. All previous delegations of Functions the subject of this Instrument be revoked.
2. The person who from time to time holds the position of General Manager of Council ("General Manager"), being at the date of this instrument WAYNE WALLIS, be delegated authority under:
 - 2.1 Section 377 of the LG Act, to exercise and/or perform on behalf of Council the Council's Functions under all Acts and Regulations in force and as amended from time to time:
 - a. Subject to any condition or limitation on a Function specified in Schedule 1; and
 - b. Excluding those Functions:
 - i. that are expressly prohibited from delegation as listed under Section 377 of the LG Act;
 - ii. which are expressly required by legislation to be exercised by a resolution of the Council.
 - 2.2 Section 68 of the NW Act, to exercise and/or perform on behalf of Council the Functions of the Council (other than the power of delegation) under the NW Act.
3. The General Manager be sub-delegated authority to exercise and/or perform on behalf of Council the Functions delegated to the Council under, and in accordance with, the instrument of delegation to the Council set out in **Schedule 2**, excluding those Functions which pursuant to the terms of the delegation to the Council may not be sub-delegated.
4. The General Manager be conferred authority to carry out the Policy Authorities listed in **Schedule 3** and undertake any administrative actions necessary to carry out those Policy Authorities.
5. The General Manager be delegated any Function which is taken to be conferred or imposed on the Council pursuant to section 381(1) of the LG Act.
6. In the absence of the General Manager that a person appointed by resolution to act as General Manager assume all Functions, delegations, and sub-delegations of the General Manager for the period only of the absence of the General Manager unless otherwise resolved by the Council.
7. These delegations and authorities are subject to, and are to be exercised in accordance with:
 - 7.1 the requirements of the relevant Legislation;
 - 7.2 any conditions or limitations set out in **Schedule 1**; and
 - 7.3 any resolution or policy, procedure or budget adopted from time to time by the Council.
8. These delegations and authorities are effective from the date of the Resolution of the Council and remain in force until amended or revoked by a resolution of the Council.
9. In this delegation:
 - "Acts" includes legislation enacted by the parliaments of New South Wales and of the Commonwealth of Australia;

Telephone: 02 4980 0255 | Facsimile: 02 4987 3612
Email: council@portstephens.nsw.gov.au | Web: www.portstephens.nsw.gov.au

- “Functions” means powers, authorities, duties and functions and anything ancillary or related to the exercise or performance thereof.
- “Legislation” includes an Act of the parliament of New South Wales or of the Commonwealth of Australia and a Regulation under an Act.
- “LG Act” means the *Local Government Act 1993* as amended.
- “NW Act” means *Noxious Weeds Act 1993* as amended.

Schedule 1: Limitations

| Part A – Limitations applicable to specific statutory Function (if any) | |
|---|---------------------|
| Legislation | Limitation (if any) |
| N/A | N/A |
| Part B – General Limitations | |
| N/A | |

Schedule 2: Instruments of Delegation to Council

| Delegator | Instrument Name | Date Of Instrument |
|-----------|-----------------|--------------------|
| N/A | N/A | N/A |

Schedule 3: Policy Authorities

| Code | Policy Authority |
|--|--|
| CP014 - Media Policy | Authority to issue media releases and to provide supporting factual information and comment in accordance with the Media Policy and associated Management Directive. |
| CP016 - Payroll - cheques | Authority to verify payment and sign cheque requisitions in relation to payroll. |
| CP017 - Annual Leave | Authority to approve annual leave applications for staff within his/her section. |
| CP018 - Sick/Carer's Leave | Authority to approve staff applications for sick or carer's leave within his/her section. |
| CP019- Other Leave | Authority to approve staff applications for special leave including but not limited to: long service leave, maternity/paternity leave, bereavement/compassionate leave. |
| CP020 - Overtime/Leave in lieu | Authority to approve the allocation and payment of overtime, leave in lieu and payment of meal allowances and travelling time to staff within his/her section. |
| CP021 - Authorise Scheduled Training | Authority to approve the attendance of staff within his/her section at scheduled training courses or seminars. |
| CP022 - Unscheduled Training | Authority to approve attendance of staff within his/her Group to attend unscheduled training courses or seminars. |
| CP023 - Unscheduled Training | Authority to approve attendance of staff within his/her Group to attend unscheduled training courses or seminars. |
| CP024 - Examination Leave | Authority to approve examination and study leave for staff within his/her area of responsibility. |
| CP025 - Approve timesheets | Authority to approve timesheets for staff within his/her area of responsibility. |
| CP026 - Approve Flexi Time | Authority to approve flexi time leave for staff within his/her area of responsibility. |
| CP028 - Rostered Days Off and Rostering Working Times | Authority to approve variations to rostered day off patterns and rostered working times. |
| CP030 - Social Media Spokesperson | Authority to act as a social media spokesperson for the purpose of representing Council's position on matters of policy, and to provide information on Council's activities within their area of responsibility. |
| CP031 - Speak to the Media | Authority to act as a spokesperson for Council for the purposes of representing Council's position on matters of policy, and to provide factual background information on Council's administration and operations within their area of responsibility. |
| CP032 - Transfer of vote within a program maximum \$10,000 | Authority to transfer a vote within a budget program up to a maximum of \$10,000. |
| CP033 - Write off bad debts up to \$5,000 | Authority to write off bad debts to an amount of \$5,000 in any one instance. |

Pursuant to a Resolution of the Council at its meeting of Tuesday, 8 July 2014,

General Manager's acknowledgement of Delegations of Authority

I WAYNE WALLIS, currently employed by the Council in the position of General Manager, do hereby acknowledge that I have read and understood this Instrument of Delegation and that I will perform these delegations and authorities in accordance with this Instrument of Delegation and my position description.

WAYNE WALLIS

General Manager of Port Stephens Council

Date: _____ Review date: Sunday, 30 October 2016

© 2014 - Local Government Legal

ITEM NO. 6**INFORMATION PAPERS****REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER****GROUP: GENERAL MANAGERS OFFICE****RECOMMENDATION IS THAT COUNCIL:**

Receives and notes the Information Papers listed below being presented to Council on 8 July, 2014.

| No: | Report Title | Page: |
|-----|---|-------|
| 1 | National General Assembly of Local Government | |

ORDINARY COUNCIL MEETING – 8 JULY 2014**COMMITTEE OF THE WHOLE RECOMMENDATION**

| | |
|--|--|
| | Councillor Chris Doohan Councillor Steve Tucker |
| | That the recommendation be adopted. |

| | |
|-----|--|
| 171 | Councillor Ken Jordan Councillor John Morello |
| | It was resolved that Council move out Committee of the Whole. |

MOTION

| | |
|-----|--|
| 177 | Councillor Chris Doohan Councillor John Morello |
| | It was resolved that Council receive and notes the Information Papers listed below being presented to Council on 8 July, 2014. |

INFORMATION PAPERS



INFORMATION ITEM NO. 1

**NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT ANNUAL
CONGRESS: 15-18 JUNE 2014 CANBERRA**

REPORT OF: PETER GESLING
GROUP: GENERAL MANAGER'S OFFICE
FILE: PSC2014-00480

BACKGROUND

The purpose of this report is The National General Assembly (NGA) of Local Government Annual Congress was held on 15-18 June 2014 in Canberra with over 500 delegates from local government across Australia.

Attached is a copy of the program which was focussed on "Getting Down to Business" (**ATTACHMENT 1**).

The Leader of the Opposition was represented by the Hon Frank Albanese.

The NGA was held within a context of Australian Government actions including:

- The abandonment of the proposed Constitutional Referendum on Local Government recognition.
- The establishment of the National commission of Audit.
- A promise to develop a White Paper on the Reform of the Federation.
- A commitment from all spheres of Government to reduce duplication.
- A promise to develop a White Paper on Taxation.

A copy of the Business Paper considered at the conference which considered and determined over 60 resolutions were submitted by the Board of the Australian Local Government Association responding to the impact of the recent Federal Budget on Local Government. (**ATTACHMENT 2**) provides notes from some of the speakers' presentations.

A report on the outcome of resolutions will be available on the Association's website www.alga.asn.au. Any copies of presentations released by authors will also be made available on the website.

Prior to the congress the State of the Regions Forum was held with the 2014 Report on Regional Economies was provided. An on-line copy is available through the General Manager's Office.

FINANCIAL/RESOURCE IMPLICATIONS

All costs were met from Council's operating budget.

LEGAL, POLICY AND RISK IMPLICATIONS

The NGA is an important forum for the consideration of national issues affecting local government and provides the opportunity for conversations with the National Executive on the status of discussions with the Federal Government and COAG.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The NGA excluded forums on all aspects of sustainability.

ATTACHMENTS

- 1) National General Assembly of Local Government 15-18 June 2014 – Program;
- 2) Notes from National General Assembly, Canberra Monday 16 June 2014.

COUNCILLORS ROOM

- 1) National General Assembly of Local Government 15-18 June 2014 - Business Papers.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

4

2014 NATIONAL GENERAL ASSEMBLY

Program

**SUNDAY
15 JUNE 2014**

5.00pm Welcome Reception (closes 7.00pm)

**MONDAY
16 JUNE 2014**9.00am OPENING CEREMONY
Governor General Sir Peter Cosgrove

9.25am President's Welcome

10.00am KEYNOTE **Terry Moran AC** - Former Secretary of the Department of the Prime Minister and Cabinet; Board of Governors, Committee for the Economic Development of Australia

10.30am MORNING TEA

11.00am PANEL SESSION
Local Government in the FederationFACILITATOR **John Martin**

- **Gary Humphries** - Former Senator for the ACT; former Chief Minister of the ACT; Special Counsel 1st State Government and Corporate Relations
- **Professor Andrew Lynch** - School of Law, the University of New South Wales
- **Professor Mark Evans** - Australia and New Zealand School of Government, the University of Canberra

12.30pm LUNCH

1.30pm CONCURRENT SESSIONS
Sustainability: The Triple Bottom Line**ECONOMICS**

ROOM - ROYAL THEATRE

- **John Osborn** - Chief Operating Officer, Australian Chamber of Commerce and Industry
- **Professor Brian Dollery** - University of New England
- **John Comrie** - JAC Comrie Pty Ltd

THE ENVIRONMENT

ROOM - BRADMAN THEATRETTE

- **Martin Brennan** - ICLEI
- **Dr Bob Webb** - The Australian National University
- **Robin Mellon** - The Green Building Council of Australia

HUMAN SERVICES

ROOM - MENZIES THEATRETTE

- **Dr Rob Grenfell** - The Heart Foundation
- **Lynne Pezzullo** - Lead Partner, Health Economics and Social Policy, Deloitte Access Economics
- **Professor James Rayner** - Director, Australian Demographic and Social Research Institute

3.00pm AFTERNOON TEA

3.30pm The Emissions Reduction Fund -
Elisa de Witt, Norton Rose Fullbright

4.00pm Debate on motions

5.00pm Close Day 1

7.00pm Buffet Dinner, National Convention Centre
ENTERTAINMENT **Dean Atkinson**,
Ventriloquist



**TUESDAY
17 JUNE 2014**

| | |
|---------|--|
| 9.00am | KEYNOTE Helen Silver - Former Secretary, Department of Premier and Cabinet, Victoria; Chief General Manager, Workers Compensation, Allianz |
| 9.30am | Debate on motions |
| 10.00am | Assistant Minister for Immigration and Border Protection, Senator The Hon Michaelia Cash |
| 10.30am | MORNING TEA |
| 11.00am | Shadow Minister for Regional Development and Local Government, The Hon Julie Collins MP |
| 11.30pm | Debate on motions |
| 12.00pm | Leader of the Australian Greens, Senator Christine Milne |
| 12.30pm | LUNCH |
| 1.30pm | PANEL SESSION Councils Getting Down to Business |
| | FACILITATOR John Martin |
| | <ul style="list-style-type: none"> • Katrina Fong Lim - Lord Mayor of Darwin, NT • Rick Britton - Mayor of Boulia Shire, QLD • Matthew Dickerson - Mayor of Dubbo, NSW |
| 3.00pm | AFTERNOON TEA |
| 3.30pm | Debate on Motions |
| 4.30pm | Leader of the Opposition, The Hon Bill Shorten MP (invited) |
| 5.00pm | Day 2 Close |
| 7.00pm | Official Dinner, Parliament House ENTERTAINMENT: Raymond Crowe , the Unusualist |

**WEDNESDAY
18 JUNE 2014**

| | |
|------------|---|
| 9.00am | Jeremy Lasek - Chief Executive Officer, National Australia Day Council |
| 9.20am | Debate on Motions |
| 10.30am | MORNING TEA |
| 11.00am | Deputy Prime Minister and Minister for Infrastructure and Regional Development, The Hon Warren Truss MP |
| 11.30am | Dr Brendan Nelson - Director, The Australian War Memorial |
| 12.00 noon | KEYNOTE Max Walker AM |
| 12.20pm | President's Closing remarks |
| 12.30pm | Close |

ATTACHMENT 2

**Notes from National General Assembly, Canberra
Monday 16 June 2014**

Terry Moran

- Argued for a re-evaluation of federalism with levels of government to raise the money they spend! (greater interest in efficient spend) eg education by states, transport by Local Government. Interesting! ie full hypothecation of fuel excise to road /transport funding and review of land tax system.

Panel Session: LG in Federation

Facilitator: John Martin

Gary Humphries

- Reflected on the attempt to seek Constitutional Recognition that it could be a 'good thing' it didn't proceed as potential to fail was high. Now – uncertainty! But we await the proposed white paper on federalism.

Prof Andrew Lynch

- Federal System - comments on current Constitution including limitations. Increasingly Australian Government using powers of S96 to be involved in state/local issues generally by allocation of grants that are difficult to refuse.
- Local Government never envisaged to be part of constitution so S96 grants utilised. High Court Case Williams to be handed down on Thursday 20 June 2014. Important to Local Government as it challenges rescue legislation for 400 programs currently funded. ie Roads to Recovery. As the challenge was successful the Federal Government has to determine its response.

Concurrent Sessions: the Environment

Martin Brennan. ICLEI

- Host the Thriving Neighbourhoods Conference!
- Gave 3 examples of regional action climate adaption initiatives

Dr Bob Webb. ANU

- Climate adaption case studies including a Hunter Council
- Robin Mellon. Green Building Council
- Efficient, healthy and productive, buildings eg Parramatta civic precinct, CH2, Melton Library Learning Hub
- Environmental upgrade agreement Melbourne CC, Sydney CC are examples of recent practice.

www.gbca.org.au

Elisa de Witt. Emissions Reduction Fund

- Government commitment to reduce emissions by 5% by 2020 ie 450mt
- auctions, tenders or 'other processes'
- crediting, purchasing or safeguarding
 - Two types of methods
 - facility or activity methodology

Facilities under NGERs:

- Commercial, industrial
- Alternate waste technology

Additionally projects must be genuine

- Current projects not eligible
 - Minimum size 2000 tonnes of CO₂ reduction
- **Opportunities for Local Government Projects in**
 - energy efficiency;
 - waste (waste diversion, gas capture);
 - land eg revegetation
- Act as an aggregator
- Education & outreach
- Examples- street lighting (national). \$30M return

NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 1

FILE NO: A2004-0217

GRAFFITI SIGNAGE IN PORT STEPHENS LOCAL GOVERNMENT AREA

COUNCILLOR: SALLY DOVER

THAT COUNCIL:

- 1) Prepare a report on the legal consequences of offering a reward of up to \$1,000 for information leading to conviction relating to graffiti damage on Council property.
-

ORDINARY COUNCIL MEETING – 8 JULY 2014 MOTION

| | |
|------------|--|
| 178 | Councillor Sally Dover Councillor John Morello |
| | It was resolved that Council prepare a report on the legal consequences of offering a reward of up to \$1,000 for information leading to conviction relating to graffiti damage on Council property. |

BACKGROUND REPORT OF: TIM CROSDALE – STRATEGY & ENVIRONMENTAL SECTION MANAGER

BACKGROUND

In May 2009 Council adopted a Graffiti Action Plan.

The action plan was developed to help Council to reduce the incidence of graffiti vandalism in Port Stephens and to respond quickly to graffiti complaints. The plan consisted of a number of actions, including:

- A Council operated graffiti hotline;
- Better reporting and response processes and procedures around graffiti management;
- Community education around graffiti;
- Resourcing of a rapid response to graffiti incidents so that it could be rapidly removed; and
- The application of physical design principles in existing and new developments to help reduce graffiti.

An incorporated group formed as part of the graffiti action plan, based on the Tomaree peninsula and referred to as the Port Stephens Graffiti Action Team. The

team is very active in reporting and cleaning up graffiti incidents within the Tomaree area. Council provides some resources to this team to help them report and clean up graffiti. There are currently no other community groups that are as active as the Tomaree based team in addressing graffiti.

According to Police, most of the complaints received about graffiti come from the Tomaree area. There is not enough data however around the number of incidents of graffiti in other areas of Port Stephens (at this stage) to accurately compare the level of graffiti vandalism in each ward.

The development of the 2009 Graffiti Action Plan has resulted in a number positive of initiatives aimed at addressing graffiti vandalism however the plan is now out of date and needs to be revisited so that further improvements can be realised. Council's Youth Advisory Panel will play a role in the development of the next graffiti action plan and in the engagement of young people around the issue of graffiti vandalism. Further evaluation of the use of signage as part of the update to the graffiti action plan would provide a strategic consideration of this measure as part of an integrated approach to the management of this issue.

The review of the graffiti action plan is being factored into the strategic planning unit's forward work program, and will be completed under the guidance of senior social planning staff.

At this stage, it is proposed that the new draft graffiti action plan will be developed in cooperation with the community and Police throughout the second half of 2014 and will be subsequently reported back to Council in early 2015.

NOTICE OF MOTION

ITEM NO. 2

FILE NO: A2004-0217

ROADSIDE SIGNAGE AND ADVERTISING GUIDELINES

COUNCILLOR: STEVE TUCKER

THAT COUNCIL:

- 1) Develop guidelines to cover the regulation of signage and advertising on the roadside and its' environs.

ORDINARY COUNCIL MEETING – 8 JULY 2014 MOTION

| | |
|------------|---|
| 179 | Councillor Steve Tucker Councillor Ken Jordan |
| | It was resolved that Council develop guidelines to cover the regulation of signage and advertising on the roadside and its' environs, as part of the local government area wide review of the Development Control Plan. |

BACKGROUND REPORT OF: MATTHEW BROWN – DEVELOPMENT ASSESSMENT AND COMPLIANCE SECTION MANAGER

BACKGROUND

Council's DCP 2007, Section B12 Advertising signs currently lists vehicular signs and moving signs as prohibited development. In addition, Council's DCP requirements are subject to other Environmental Planning Instruments including State Environmental Planning Policy Number 64 (Advertising & Signage) which aims to ensure signage is compatible with existing character of an area (particularly amenity and the provision of effective communication). In particular, the State Policy lists safety of pedestrians, children and cyclists and potential traffic hazard safety issues as part of its the assessment criteria. The State Legislation also includes review of *Transport Corridor Outdoor Advertising & Signage Guidelines* produced by the NSW Government Department of Planning.

Furthermore, State Environmental Planning Policy (Infrastructure) 2007 refers to exempt provisions for signage where signs are erected on behalf of a public authority in connection with a road or road infrastructure facilities, railway facilities and other infrastructure projects.

State Environmental Planning Policy (Exempt & Complying Codes) 2008 lists signage that may be erected without Development Consent including specifying the types

of development, location and size of such development. The signage relates to land based signage in conjunction with the lawful use of a building.

Council's Local Environmental Plan 2013 also defines advertising structures to be used principally for the display of advertisements. The Local Environmental Plan 2013 also lists the zones in which signage is permissible. This permissibility obviates the requirement for Council's DCP to list prohibited signage. Rather the DCP should provide a comprehensive guide to signage controls which clearly links back to parameters set by legislative requirements.

Council's Policy for Temporary Structures on the Footway (Road Reserve) relates to:

- Clothing racks;
- Sandwich boards/A Frames (in all areas);
- Tables/barrows/display structures for the sale or advertising of items;
- Information/advertising/promotional material racks; and
- Plants in boxes/pots.

The policy does not cover any structures that are permanent or are not removed at the end of each day. In addition, the installation of structures and the operation of footway restaurants is controlled by approvals under the Roads Act 1993.

The above illustrates the complex nature of existing guidelines and regulations when it comes to the consideration of signage and advertising within the roadside and its environs. Further clarity around this issue would assist both the community and Council in the future management and consideration of advertising signage within the roadside and environs.

Council is currently revising its LGA wide DCP inclusive of site specific DCP chapters including Section B12 Advertising and Signage and it is recommended that signage controls and in particular, moveable signage for review as proposed under this Notice of Motion be included in this review.

In this context, criteria could be established that Council is amendable to in a policy sense and these criteria would assist council officers in the clear implementation of such.

There being no further business the meeting closed at 6.02pm.

I certify that pages 1 to 69 of the Open Ordinary Minutes of Council 8 July 2014 were confirmed by Council at its meeting held on 22 July 2014.

.....
Bruce MacKenzie
MAYOR