

# Mayoral Minute: Dangerous Trees

Public Access by Nigel Waters on behalf  
of EcoNetwork Port Stephens and Port  
Stephens Greens

Port Stephens Council Meeting 26 May 2015

- We all share concerns about dangers from falling trees in recent and future storms – safety is clearly a major priority.
- We have no problem with proposals 1 & 2 in the Mayoral Minute
- We strongly object to proposal 3 – for a moratorium on the need to obtain approval for tree removal – it is unnecessary and not in the public interest.

As the report accompanying the Minute makes clear, Council's Tree Preservation Policy already allows for removal of dangerous trees, including, in cases of imminent risk, without prior approval.

The Tree Preservation Order does not apply to:-

The removal of any tree where urgent removal on account of the tree presenting a real and imminent danger to persons or property precludes the obtaining of approval, the onus of proof is on the applicant.

Port Stephens Tree Preservation Order adopted 27 March 2012

### **When approval is not required:**

Urgent removal on account of immediate failure when Council is provided with a **tree removal notification** post-event, onus of proof is on the landholder, photos should be taken

*Port Stephens Development Control Plan (DCP) 2013, B2.9 and Draft DCP 2014, B1, Tree Management*

- Council's Tree Preservation Policy is there to strike a balance between safety and development rights on the one hand, and protection of trees on the other.
- Land and property owners have rights, but they also have responsibilities, and need to respect controls that are in place for good public interest reasons

Preservation of mature trees has multiple benefits, which Council itself acknowledges:

**The objectives of the Tree Management Plan are:**

To protect and preserve trees throughout the Council area in order to maximise the benefits they provide, particularly regarding:

- sustaining the biodiversity of our ecosystems
- the health and safety of residents
- retention and enhancement of natural beauty and scenic value.
- limiting the effects of pollution and adverse changes in global atmospheric gasses
- control of sunlight, shade, winds and beautification of urban/commercial areas
- maintenance of ground water levels and water quality
- soil enrichment and protection from erosion
- providing economic benefit

<http://portstephens.local-e.nsw.gov.au/environment-portstephenscd/flora-fauna-portstephens/1132998-trees>



Council's own new website banner featuring Trees

An integral part of our LGA's character and appeal

- Most Port Stephens residents value our leafy environment.
- Most of us would not want to live in the sort of treeless paved wasteland characterised by so many new housing and commercial developments.





We have already seen how relaxation of tree preservation controls can be abused

- The State Government's 10/50 policy – introduced last year ostensibly to address bushfire risk, overrides Council tree preservation policies and allows clearance of any vegetation within 10 metres of habitable dwellings in designated areas.
- It is clear that it has been widely abused, including for view improvement and commercial gain, throughout NSW.
- Even the Rural Fire Service has questioned the policy:

***"This approach may not generate the safety outcomes that the community is hoping for, and in fact may result in some people being more vulnerable" (RFS Report on equivalent Victorian 10/30 Policy)***

Wyong Council, which in April lifted all controls on tree removal on residential blocks of less than 1500 square metres, is similarly facing a major backlash as local communities start to see the damage.

A moratorium on the Tree Preservation Policy would be a licence for property owners and developers to remove trees for any reason – including commercial gain or improvement of views, without regard to the amenity of neighbours or the wider public interest.

- A moratorium could also expose property owners to legal liability for breach of threatened species protection legislation.

- Council's own website warns:

**PLEASE NOTE:** This does not exempt approval for the removal of species listed under the Federal *EPBC Act 1999*.

<http://portstephens.local-e.nsw.gov.au/environment-portstephenscd/flora-fauna-portstephens/1132998-trees>

- Also potential offence under NSW *National Parks and Wildlife Act* of 'harming or picking' endangered species (S.118A) - fines of up to \$220,000 and/or 2 years imprisonment.

- No evidence or justification is provided for the proposed moratorium.
- On the contrary, the report clearly demonstrates why it is unnecessary.
- It would be inconsistent with Council's own Tree Management Plan
- It would expose property owners to legal risk
- Proposal 3 should be rejected.