

MAYORAL MINUTE

ITEM NO. 1

FILE NO: PSC2015-01000/282
TRIM REF NO: PSC2015-01247

DANGEROUS TREES

THAT COUNCIL:

- 1) Allocate \$100,000 in the 2014-2015 financial year to remove dangerous and/or inappropriate trees from road reserves and open space network. That the funding be provided in the 2014-2015 March 2015 Quarterly budget review.
- 2) Undertake a review of the street tree planting guidelines and prepare a report for Council that addresses potential conflict between trees in the road reserve, built property and utilities.
- 3) Provide a moratorium on the need to obtain pre-approval for the removal of trees or vegetation covered by Council's tree preservation requirements where there is a risk to human life or property for a period of 12 months.

ORDINARY COUNCIL MEETING - 26 MAY 2015 MOTION

122	<p>Mayor Bruce MacKenzie Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Allocate \$100,000 in the 2014-2015 financial year to remove dangerous and/or inappropriate trees from road reserves and open space network. That the funding be provided in the 2014-2015 March 2015 Quarterly budget review.2) Undertake a review of the street tree planting guidelines and prepare a report for Council that addresses potential conflict between trees in the road reserve, built property and utilities.3) Provide a moratorium on the need to obtain pre-approval for the removal of trees or vegetation covered by Council's tree preservation requirements where there is a risk to human life or property for a period of 12 months.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Chris Doohan , Sally Dover, Paul Le Mottee , John Morello and Steve Tucker.

Those against the Motion: Cr John Nell.

BACKGROUND

The purpose of this report is to consider issues associated with dangerous trees arising from the recent storm event.

Councils focus in terms of the public domain is to manage the potential conflict between trees, public safety, built property and utilities.

The preservation of trees or vegetation within the Port Stephens LGA is provided for by the provisions of the Port Stephens Local Environmental Plan 2013 (PSLEP2013) and supporting tree preservation policies. The provisions of the PSLEP 2013 provide that Council can define the species or kinds of trees or other vegetation through the development control plan that these preservation requirements apply, generally through reference to defined species, size, location or other relevant matters.

Council's existing policies broadly require approval for the removal of vegetation for a range of listed species (including threatened species), trees located on significant tree register, trees listed as heritage items or within heritage conservation areas or where tree height exceeds 3m. Council's powers in relation to removing the need for pre-approval would need to have consideration for the relevant provisions of other key legislation and controls relating to vegetation protection and management, including legislation related to threatened species and native vegetation protection, and heritage conservation.

In addition a range of exemptions are currently provided in Council's existing controls including a general exemption for applicable vegetation located within 5 metres of the wall of an approved structure. Moreover the recently introduced 10/50 regulation also provides exemptions for vegetation removal within 10 metres of a habitable dwelling for properties that are located within a defined bushfire prone area.

Furthermore, in circumstances where Council can satisfy itself that there is a risk to human life or property the tree preservation provisions do not apply. Council's current tree preservation policies detail specific processes for when this can occur and relates to circumstances where the imminent risk of failure precludes a landholder from obtaining approval from Council prior to the removal of the vegetation. In these cases the onus of proof of the imminent risk of failure is on the landholder usually through the provision of a Tree Removal Notification post event.

In order to implement the proposed moratorium, Council's existing tree preservation policies would require amendment to ensure that all relevant matters are considered and appropriate weight is given to the consideration of community safety in the management of trees across the LGA.