

Propose way forward for Mid Coast Council in Tree Preservation – Mid Coast Council Environment Group

The unfortunate recognition that there has been inadequate leadership...

It is sad and true, that tree and vegetation protection has not been given the resources and attention it deserves; particularly when compared to equivalent policy platforms of Council, such as water quality protection.

There is an argument that tree and vegetation protection for all three former Councils has always been under-valued. There is no evidence that the following criticisms are unjustified or undeserved:

- There has been a history of avoidance of responsibility within Council departments for tree and vegetation protection, and
- There has been an absence of education, advocacy and discussion of the benefits and value of tree and vegetation protection, and
- There has been grossly-inadequate resourcing for tree and vegetation protection on private lands, and
- There has been an absence of science and policy, and
- There has been a general void in willingness, resourcing and process in relation to compliance.

Think of what could have been achieved with tree and vegetation and urban greenspace protection science and administration had it had (even a proportion of) the resources and dedication of water quality protection? A strategic program of advocacy, data collection/ science leading to best practice management, community education and engagement... It hasn't had any such investment, despite its importance.

Council has not educated those who can make a difference to empower them to actually make a difference. It hasn't developed a program of science to reflect best management practice (such as the amazing work of greenspace and urban forests from places like Melbourne).

It is time that leadership and best practice was exercised.

The recognition of a major statutory gap

Native trees and vegetation in urban, environmental and rural-residential zones is regulated by the *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP)* which was introduced as part of the NSW Government's recent biodiversity reforms. It requires that clearing of trees and native vegetation in non-rural areas that is either mapped on a sensitive biodiversity values map or where the clearing exceeds certain area thresholds (and which is based on the minimum lot size that applies to the land) participate in the formal biodiversity offset scheme. That is, landholders wishing to clear trees and native vegetation above the threshold level must assess the clearing impacts on biodiversity and secure or pay for biodiversity offsets.

The SEPP applies to lands zoned RU5, R-zones, B-zones, IN-zones, SP-zones, RE-zones and E-zones.

The Vegetation SEPP applies to clearing that does not require development consent. Clearing associated with or ancillary to development to which consent is required is regulated / assessed by the *Biodiversity Conservation Act 2015*. As such, landholders cannot clear trees and native

vegetation ahead of lodging a development application for any activity where development consent is required.

However:

For clearing of native trees and vegetation below the biodiversity offset scheme threshold, the Vegetation SEPP intends that "*Councils will continue to regulate the clearing of vegetation (including native vegetation) below the BOS thresholds through DCPs.*" Such clearing is then regulated by a permit application and approval system.

A model native tree and vegetation DCP is currently in preparation by the Department of Planning and Environment.

By MidCoast abandoning the DCP that did exist (in the former Great Lakes) and having no DCP that applies to vegetation in parts of former Gloucester and Greater Taree City areas, there is **no** native tree and native vegetation protection for clearing not associated with a development application that is below the biodiversity offset scheme thresholds. This is definitely not in keeping with the importance placed on the natural environment in our Community Strategic Plan.

This is the reason why there is significant community angst and dismay in respect to the decision, in my opinion.

A Vegetation SEPP FAQ sheet by the NSW Government states:

For clearing that is on land to which the Vegetation SEPP applies and that is below the biodiversity offsets threshold, Council will only be able to require a permit if it identifies the vegetation in its DCP (clause 9(1)). It may do this by identifying the size or type of vegetation generally, or by identifying the location of the vegetation, for example, in a specified zone. If a Council's DCP does not identify vegetation for preservation, then clearing that is below the biodiversity offsets threshold will not require a permit under the Vegetation SEPP.

However, there is a further complication...

If a person clears native trees and vegetation on their land that is not mapped on the sensitive biodiversity values map and is below the biodiversity offset scheme threshold then the *Biodiversity Conservation Act 2015* may serve to regulate their activities in relation to harm and impacts on threatened species, ecological communities and populations.

There is no defence to an offence of picking or harming threatened species, threatened ecological communities, threatened populations or even some protected plants under the *Biodiversity Conservation Act 2016*. So, a person may decide that there is no tree DCP in effect and clear a large Forest Red Gum from within urban Tinonee. However, that tree may be an important home range tree for koalas as a threatened species and the person may be guilty of an offence relating to harming a threatened species...

Persons desiring to harm or clear threatened species, ecological community or protected plant or their habitat that does not require authorisation from Council will need to seek a biodiversity conservation licence or another defence in order to lawfully undertake these actions. This would be a difficult process.

So, it could be argued that Council has made it more complicated and difficult for landholders to manage their properties because by not regulating tree and vegetation removal in our DCP, then it requires more intensive considerations and possible offences under threatened species legislation.

In essence however, with no DCP, Council has no ability to regulate clearing of native trees and vegetation in RU5, R, E and other non-rural zones if that clearing is not associated with a development and it is below the biodiversity offset scheme thresholds. Your informant is **incorrect** regarding other protection mechanisms, unless they were referring to the highly complex Biodiversity Conservation licencing process?

Needless to say, most councils are modifying existing or adopting new tree and vegetation DCPs because this addresses legislative shortcomings and complexities associated with the new legislation, provides for the best recognition control and management of urban greenspaces for their immense social, economic and environmental values and streamlines and simplifies an otherwise difficult and complex process. This will be aided by the release of a model DCP to guide such by the NSW Government shortly.

[The rationale for urban greenspace management and tree and vegetation protection](#)

The MidCoast Council area is deservedly recognised for the quality and health of its biodiversity and natural landscapes. Our biodiversity is intrinsically-valuable and also underpins the regional economy by way of nature-based tourism and aquatic and terrestrial production from healthy and functional landscapes.

The community recognises and appreciates the natural environment and our biodiversity.

This is expressed clearly in the *MidCoast 2030 Shared Vision, Shared Responsibility Community Strategic Plan 2018-2030* (MidCoast Council, 2018) which has adopted the vision:

- *"We strive to be recognised as a place of **unique environmental** and cultural **significance**. Our strong community connection, coupled with our innovative development and growing economy, builds the quality of life we value."*

Within the community strategic plan, one of the key values is that *"our natural environment is protected and enhanced, while we maintain our growing urban centres and manage our resources wisely"*.

To achieve this, the Council has identified several actions, including:

- *Value, protect, monitor, and manage the health and diversity of our natural assets, wildlife and ecosystems*
- *Protect, maintain and restore water quality within our estuaries, wetlands and waterways*
- *Improve the capacity of industry and the community to achieve the best possible outcomes for the natural environment*
- *Ensure our natural assets are maintained to a standard appropriate to their use*
- *Ensure growth and new development complements our existing natural assets, cultural assets and heritage sites*
- *Promote greater utilisation of sustainable design in new developments*
- *Encourage well designed streetscapes in urban centres*

Responsible and contemporary urban tree, vegetation and biodiversity policies are important to achieve these actions in the Community Strategic Plan.

It could be reasonably argued that there is a policy and procedural void that exists across the MidCoast Council area regarding urban, environmental and rural-residential tree and native vegetation preservation.

A key challenge for Council moving forward is to design and adopt contemporary and effective policy and practice but also to effectively resource and commit to administration, regulation and compliance.

Mature, sophisticated, responsible Councils across New South Wales are developing and implementing advanced urban tree and native vegetation protection and enhancement policies and practices. This recognises the range of values of trees and native vegetation in the urban and peri-urban matrix.

Contemporary examples of good practice are Hornsby Council's *Tree and Vegetation Protection DCP*, City of Sydney's *Urban Forest Strategy 2013* and Wollongong Council's *Draft Urban Greening Strategy 2017*.

An absence of or diminished tree protections is not aligned to the Council vision or its Community Strategic Plan. It will only harm the community, the economy and the liveability that our residents currently enjoy.

There is a need to advocate and legislate for non-rural native tree and vegetation protection and the development and implementation of proactive, effective policy and practice, backed up by sound administration, regulation and enforcement.

North Sydney Council appears to be one of the Councils that have advanced sophisticated and mature plans, policies and strategies in this regard. This included effective documents such as the *North Sydney Council Street Tree Strategy 2016*, a Tree and Vegetation Management section in the *North Sydney Development Control Plan 2013*, and a *North Sydney Urban Forest Strategy 2011*.

People are attracted to this area because of its natural amenity, its amazing biodiversity and its healthy and functional landscapes. Council should prioritise investment in staff, resources, policies and strategies that protect, enhance and regenerate native trees, vegetation, habitat and wildlife. This includes trees in urban areas.

It could be reasonably argued that the former Councils' of Greater Taree, Gloucester and Great Lakes did not commit satisfactory resources to urban tree and biodiversity protection and restoration and did not adopt a responsible and contemporary approach to such.

Greater Taree and Gloucester had no tree protection policies and Great Lakes offered limited protections with sub-optimal resourcing and executive support, despite the commitment and effort of relevant individual staff. There is no culture of stewardship of urban trees and biodiversity. Much has been lost from the non-rural fabric as a consequence and the community has suffered the negative consequences.

MidCoast Council can redress these shortcomings and deficiencies.

There is an increasing recognition of the benefits of urban trees, vegetation and biodiversity. The NSW Government Architect (2017) has released a document entitled "*Greener Places – establishing an urban green infrastructure policy for New South Wales*". This is the NSW State government's recognition of the value of urban trees, vegetation and biodiversity.

Experts recommend the optimal urban canopy cover to be 35 - 40% (Wollongong City Council, 2017). The majority of MidCoast towns and villages would be well below this standard and getting worse. Urban tree, vegetation and biodiversity protections are critical to ensuring this level of green cover, together with urban reserves programs and green streetscaping. Council should adopt a leadership role.

The Urban Releaf project states that "*every tree carries with it a myriad of benefits to our health, quality of life and well-being*" (<http://www.urbanreleaf.org/get-educated/benefits-of-trees>). Trees and vegetation also provide intrinsic, economic and biological benefits.

The benefits of urban trees, vegetation and biodiversity in summary include:

- Trees and vegetation provide air quality services (pollution removal, carbon sequestration)
- Trees and vegetation promote cleaner waterways (erosion controls, nutrient and pollution removal, run-off reduction)
- Trees and vegetation provide urban cooling effects and decreased sun exposure (trees lower urban temperatures and can assist reduce domestic artificial cooling costs)
- Trees and vegetation enhance the physical health of the community (nature-based recreation, children outdoor-play)
- Trees and vegetation enhance the mental health of the community (reduced stress, improved recovery from illness and injury, positive response to nature deficit-disorder in children)
- Trees and vegetation promote liveability in communities and neighbourhoods (reduced ambient noise, reduced vehicle driving speeds on tree-lined streets)
- Trees and vegetation promote social and community stewardship (neighbourhood pride and stewardship, volunteerism)
- Trees and vegetation enhance the scenic landscape and amenity of urban areas
- Trees and vegetation promote a connection between people and nature
- Trees and vegetation contribute to quality urban development
- Trees and vegetation increase property values (by up to 20%)
- Trees and vegetation provide habitat for native wildlife (biodiversity conservation including threatened species)

A way forward

MidCoast Council should adopt contemporary, effective and efficient strategic policy and practice in urban greenspaces and tree and vegetation protection, provide adequate resourcing to such programs and effectively regulate and enforce such. Given the importance of greenspaces to us and our ways of life and economy, Council should be a leader in this field. This should include the following:

1. Adopt a vision and principles for urban and peri-urban greening (strategically increasing the quality and quantity of all vegetation and open greenspace on all land types in urban and peri-urban settings)

2. Promote a culture of recognition and appreciation of the values of urban and peri-urban greening
3. Place an economic value on trees and manage trees and vegetation in urban and peri-urban areas like other infrastructure assets
4. Adopt a system to innovatively measure the health, diversity and extent of urban and peri-urban greenspaces, set targets and implement programs to work towards improving urban trees, vegetation and biodiversity cover rates. This should include mapping the forest canopy of all residential, industrial, recreational and rural-residential lands using proven methods (eg. The methods used by Melbourne Urban Forest project, etc)
5. Recognise and protect significant trees in the context of amenity, biodiversity, cultural heritage and other values (a significant tree register component of the wider tree and vegetation protection DCP)
6. Enforce adequate tree protection through the adoption and implementation of a contemporary tree and vegetation Development Control Plan (and other statutory controls) to regulate clearing on non-rural urban, rural residential and environmental lands across the LGA
7. Improve tree, vegetation and biodiversity protections within the consolidated MCC Local Environmental Plan that is in preparation
8. Improve development assessment processes in relation to urban tree and vegetation protection and management
9. Develop a Greening Strategy for the LGA including clear policies and guidelines for urban vegetation management and street tree and open space tree planting and management strategy, with a focus on priority areas (Hawks Nest, Tea Gardens, Tinonee, Gloucester, etc)
10. Invest in targeted tree planting programs including incentivised programs for plantings on private lands
11. Invest in strategic and functional urban forests and other greenspace reserves
12. Improve resourcing of urban tree, vegetation and biodiversity management, including compliance and regulation
13. Take punitive action against members of the community that clear and remove trees and native vegetation without the appropriate permit or consent
14. Recognise the needs of iconic wildlife species in assessment and conservation planning and especially the protection and recovery of koalas at Hawks Nest/ Tea Gardens and at Tinonee

Hope this assists you all.