



# NORTHERN MIDLANDS COUNCIL

## POLICY MANUAL

### OVERHANGING TREES

<b>Originated Date:</b>	Adopted March 2015 – Min. No. 79/15 (as Policy 76)
<b>Amended Date/s:</b>	Amended 20 February 2017 – Min. No. 49/17
<b>Applicable Legislation:</b>	<i>Local Government Act 1993</i> <i>Local Government (Highways) Act 1982</i>
<b>Objective</b>	To provide a fair and consistent approach to the reduction of potential nuisance caused by overhanging trees within the settlement areas of the Northern Midlands.
<b>Administration:</b>	Community and Development
<b>Review Cycle/Date:</b>	Next review 2021.

#### INTRODUCTION

The land between the boundary of a property and the carriageway of a road is variously referred to as the footpath or nature strip. Depending on its location, this land can frequently be used by pedestrians, cyclists and horse riders. Each of these users has a reasonable expectation that they can use this area safely.

Vegetation extending beyond a property boundary can create a potential hazard for users.

Protruding vegetation may be considered as *causes, or likely to cause, danger or harm to the health, safety or welfare of the public* and thus constitute a nuisance according to the *Local Government Act 1993*.

#### DEFINITIONS

<i>Boundary</i>	refers to the property boundary as shown on the property title.
<i>Overhanging trees</i>	for the purpose of this policy, overhanging trees refers to all vegetation, including but not limited to trees, shrubs and plants, that extends beyond the property boundary and into, over or under a highway.
<i>Highway</i>	is all that land encompassing the road and land between the property boundaries on each side

#### APPLICATION

This policy applies to all properties located within the town boundaries of the municipality of the Northern Midlands.

#### OPERATION

##### 1 *EXPECTATION*

Overhanging trees are to be:

- Cut back to boundary; and
- Provide a clear height above an area intended mainly for the use of pedestrians of 2.5 metres; and
- Provide a clear height above an area designated as a horse trail of 3.0 metres; and
- Provide a clear height above the nature strip, on the carriage-way side of a constructed foot path of 4.5 metres.

##### 2 *INSPECTION*

Every residential street shall be inspected twice per year.

In addition, Councils authorised officer will respond and inspect all sites where an overhanging tree concern is brought to Councils attention.



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### 3 PROCESS

- i *Advertise:*  
Council will place a time to trim your foliage advertisement in newspapers circulating in the municipality, twice a year. The advertisements are also to be shared on Council's Facebook page.
- ii *Inspection:*  
the authorised officer will conduct an inspection of all residential streets, twice yearly, as well as any properties brought to Council's attention outside of those times.
- iii *Friendly Reminder:*  
where, in the opinion of the authorised officer, there is an overhanging tree, a letter will be sent to the owner or occupier of the land requesting the nuisance to be removed within 14 days of the date of the letter.
- iv *Review of decision:*  
The owner or occupier who receives the letter referred to in paragraph iii above, may apply to Council in writing, requesting Council exercise its discretion to remove the overhanging tree based on:
  - Heritage grounds; and/or
  - Such action will result in the death of the overhanging tree.

An application will be considered by Council's Works & Infrastructure Manager and Senior Planner and discussed with the property owner. If a resolution cannot be reached between the parties, a report is to be presented to Council for a determination to be made.
- v *Inspection:*  
the authorised officer will conduct a follow up inspection of all properties where a friendly reminder letter has been sent after the expiration of 14 days of the date of the letter.
- vi *Abatement Notice:*  
where, in the opinion of the authorised officer, there is an overhanging tree, a notice will be served upon the owner or occupier of the land requiring the nuisance to be abated within 14 days (section 200 *Local Government Act 1993*).
- vii *Appeal or carry out work:*  
the owner or occupier of the land must abate the nuisance or appeal to a magistrate within 14 days of the service of the notice, in accordance with the provisions of the *Local Government Act 1993*.
- viii *Nuisance not abated:*  
if the owner or occupier does not abate the nuisance or lodge an appeal within the prescribed 14 day period, a letter will be sent to the owner or occupier advising that Council will carry out the works at the owner or occupier's expense.
- ix *Send Contractor:*  
once the letter referred to in step (vi) is sent, the authorised officer will engage a contractor do anything reasonably necessary to remove the nuisance.
- x *Charge to owner:*  
All costs associated with the contractor, plus an administration fee, will be invoiced to the owner or occupier. This cost will be incurred even if the owner or occupier abates the nuisance, after the expiry of the prescribed period, but prior to the arrival of Councils contractor.
- xi Infringement notices may be issued in accordance with s.204A of the *Local Government Act 1993*.



# NORTHERN MIDLANDS COUNCIL

## POLICY MANUAL

12.1

### PUBLIC OPEN SPACE CONTRIBUTION

- Originated Date:** Adopted 13 December 2004 – Min. No. 406/04 (as Policy 40)
- Amended Date/s:** Amended 20 February 2012-Min. No. 41/12  
Amended 15 June 2009 – Min. No. 169/09  
Amended 21 June 2010 – Min. No. 150/10  
Amended 16 February 2015 – Min. No. 53/15
- Applicable Legislation:** Section 117 of the *Local Government (Building & Miscellaneous Provisions) Act 1993*  
Section 205 of the *Local Government Act 1993*
- Objective** To establish a consistent approach on the application of public open space for new subdivisions
- Administration:** Community and Development
- Review Cycle/Date:**

That the Council in accordance with Section 117 of the *Local Government (Building and Miscellaneous Provisions) Act 1993* adopt the following policy on the application of public open space for new subdivisions.

#### APPLICATION OF POLICY

- 1 Public Open Space shall be taken in accordance with this policy on land zoned general residential, general industrial, light industrial, commercial, local business, general business, low density residential, rural living and village.
- 2 Public Open Space contributions in excess of this policy may be offered by the developer or in all other circumstances as resolved at a General Council meeting.
- 3 With regard to subdivision of land, the rate specified in the *Local Government (Building and Miscellaneous Provisions) Act 1993* is 5% of the land area contained in the Plan of Subdivision.
- 4 The location of the land contribution, within the subject land, shall be as determined by Council at a General Council meeting or otherwise agreed between Council and the developer.
- 5 At Council's discretion, a cash contribution may be accepted in lieu of all or part of the land requirement.

#### THE PUBLIC OPEN SPACE RATE

- 1 The Public Open Space Rate shall be \$1,200 per additional lot created (i.e. A subdivision that turns one lot into four has created three additional lots and will attract a public open space contribution/fee of \$3,600.)
- OR
- 2 The applicant may, at his or her discretion, obtain a current (not less than one month old) valuation, by a registered land valuer, of the subject land, less one of the proposed lots (or strata units). The Public Open Space Rate shall total 5% of that value.

#### EFFECT OF PREVIOUS PUBLIC OPEN SPACE CONTRIBUTION

- 1 Where it can be shown that previous Public Open Space contributions have been paid in regard to the creation of the subject land title(s), Council may, at the developer's request, have regard to this and apply a reduced contribution.
- 2 In its consideration of any request under section 10, the following decision of the Resource Management and Planning Appeal Tribunal is relevant.



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- 3 In *G Cooley v Glenorchy City Council [2008] (TASRMPAT 256)* The Tribunal held that the previous contributions did not preclude the Appellant from having to make a contribution in relation to this subdivision. The Tribunal was satisfied that the additional subdivision further increased the demand for public open space and it was therefore appropriate to require a contribution as a condition of the approval.

<b>Policy Name:</b>	<b>Public Open Space Contribution</b>	<b>12.2</b>
<b>Originated Date:</b>	Adopted 13 December 2004 – Min. No. 406/04 (as Policy 40)	
<b>Amended Date/s:</b>	Amended 15 June 2009 – Min. No. 169/09 Amended 21 June 2010 – Min. No. 150/10 Amended 20 February 2012 – Min. No. 41/12 Amended 16 February 2015 – Min. No. 53/15 Amended 20 May 2019 – Min. No. ..../19	
<b>Applicable Legislation:</b>	Section 117 of the <i>Local Government (Building &amp; Miscellaneous Provisions) Act 1993</i>  Section 205 of the <i>Local Government Act 1993</i>	
<b>ECM Reference:</b>	44/001/001	
<b>Objective</b>	To establish a consistent approach on the application of public open space for new subdivisions.	

That the Council in accordance with Section 117 of the *Local Government (Building and Miscellaneous Provisions) Act 1993* adopt the following policy on the application of public open space for new subdivisions.

#### **Application of Policy**

- 1 Public Open Space shall be taken in accordance with this policy on land zoned general residential, general industrial, light industrial, commercial, local business, general business, low density residential, rural living and village.
- 2 Public Open Space contributions in excess of this policy may be offered by the developer or in all other circumstances as resolved at a General Council meeting.
- ~~3 With regard to subdivision of land, the rate specified in the *Local Government (Building and Miscellaneous Provisions) Act 1993* is 5% of the land area contained in the Plan of Subdivision.~~
- ~~4 The location of the land contribution, within the subject land, shall be as determined by Council at a General Council meeting or otherwise agreed between Council and the developer.~~
- 4 At Council's discretion, a cash contribution may be accepted in lieu of all or part of the land requirement in accordance with section 117 of the *Local Government (Building and Miscellaneous Provisions) Act 1993*.
- 5 This policy does not apply to a boundary adjustment as defined within Clause 9.3.1 of the *Northern Midlands Interim Planning Scheme 2013*.
- 6 This policy does not apply to strata development.

### The Public Open Space Rate

#### **Additional Lots Created**

- 1 The Public Open Space Rate shall be \$1,400 \$1,200 per additional lot created (i.e. a subdivision that turns one lot into four has created three additional lots and will attract a public open space contribution/fee of \$4,200 \$3,600.)

OR

- 2 The applicant may, at his or her discretion, obtain a current (not less than one month old) valuation, by a registered land valuer, of the subject land, less one of the proposed lots (or strata units). The Public Open Space Rate shall total 5% of that value, less any area provided for public open space in the final plan.

#### **No Additional Lots Created**

- 1 Where no additional lots are created, the Public Open Space Rate shall be \$1,400 per lot that did not meet the requirements for a minimum lot under Section 109 of the *Local Government (Building & Miscellaneous Provisions) Act 1993*.

OR

- 2 The applicant may, at his or her discretion, obtain a current (not less than one month old) valuation, by a registered land valuer, of the subject land, less the lots that met the requirements for a minimum lot under Section 109 of the *Local Government (Building and Miscellaneous Provisions) Act 1993*. The Public Open Space Rate shall total 5% of that value, less any area provided for public open space in the final plan.

#### **Effect of Previous Public Open Space Contribution**

- 1 Where it can be shown that previous Public Open Space contributions have been paid in regard to the creation of the subject land title(s), Council may, at the developer's request, have regard to this and apply a reduced contribution.
- 2 In its consideration of any request under the preceding clause, the following decision of the Resource Management and Planning Appeal Tribunal is relevant:

*G Cooley v Glenorchy City Council [2008] (TASRMPAT 256)*

The Tribunal held that the previous contributions did not preclude the Appellant from having to make a contribution in relation to this subdivision. The Tribunal was satisfied that the additional subdivision further increased the demand for public open space and it was therefore appropriate to require a contribution as a condition of the approval.

<b>Policy Name:</b>	<b>Public Open Space Contribution</b>
<b>Originated Date:</b>	Adopted 13 December 2004 – Min. No. 406/04 (as Policy 40)
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<b>Applicable Legislation:</b>	Section 117 of the <i>Local Government (Building &amp; Miscellaneous Provisions) Act 1993</i>  Section 205 of the <i>Local Government Act 1993</i>
<b>ECM Reference:</b>	44/001/001
<b>Objective</b>	To establish a consistent approach on the application of public open space for new subdivisions.

Council in accordance with Section 117 of the *Local Government (Building and Miscellaneous Provisions) Act 1993* adopts the following policy on the application of public open space for subdivisions.

#### **Application of Policy**

- 1 Public Open Space shall be taken in accordance with this policy on land zoned general residential, general industrial, light industrial, commercial, local business, general business, low density residential, rural living and village.
- 2 Public Open Space contributions in excess of this policy may be offered by the developer or in all other circumstances as resolved at a General Council meeting.
- ~~3 With regard to subdivision of land, the area specified in Section 116 (1) of the *Local Government (Building and Miscellaneous Provisions) Act 1993* is one twentieth (5%) of the whole area contained in the Plan of Subdivision.~~
- 4 At Council's discretion, a cash contribution may be accepted in lieu of all or part of the land requirement in accordance with section 117 of the *Local Government (Building and Miscellaneous Provisions) Act 1993*.
- 5 This policy does not apply to a boundary adjustment as defined within Clause 9.3.1 of the *Northern Midlands Interim Planning Scheme 2013*.
- 6 This policy does not apply to strata developments.

#### **The Public Open Space Rate**

The public open space rate is calculated in accordance with section 117(2) *Local Government (Building and Miscellaneous Provisions) Act 1993*.

- 1 The valuation relied on to calculate the public open space rate shall be:
  - The Agreed Average Valuation as determined by the Valuer General, provided it

has occurred within the past 12 months, or

- A current (as at the date of lodgement of the plan of subdivision) valuation prepared by a registered land valuer, or the Valuer General, or
- The sale price for the property (if sold within the past 12 months).

#### **Additional Lots Created**

~~1 The Public Open Space Rate shall be \$1,400 per additional lot created (i.e. a subdivision that turns one lot into four has created three additional lots and will attract a public open space contribution/fee of \$4,200.)~~

OR

~~The applicant may, at his or her discretion, obtain a current (not less than one month old) valuation, by a registered land valuer, of the subject land, less one of the proposed lots (or strata units). The Public Open Space Rate shall total 5% of that value.~~

#### **No Additional Lots Created**

~~1 Where no additional lots are created, the Public Open Space Rate shall be \$1,400 per lot that did not meet the requirements for a minimum lot under Section 109 of the *Local Government (Building & Miscellaneous Provisions) Act 1993*.~~

OR

1

~~The applicant may, at his or her discretion, obtain a current (not less than one month old) valuation, by a registered land valuer, of the subject land, less the lots that met the requirements for a minimum lot under Section 109 of the *Local Government (Building and Miscellaneous Provisions) Act 1993*. The Public Open Space Rate shall total 5% of that value.~~

#### **Effect of Previous Public Open Space Contribution**

- 1 Where it can be shown that previous Public Open Space contributions have been paid in regard to the creation of the subject land title(s), Council may, at the developer's request, have regard to this and apply a reduced contribution.
- 2 In its consideration of any request under the preceding clause, the following decision of the Resource Management and Planning Appeal Tribunal is relevant:

*G Cooley v Glenorchy City Council [2008] (TASRMPAT 256)*

The Tribunal held that the previous contributions did not preclude the Appellant from having to make a contribution in relation to this subdivision. The Tribunal was satisfied that the additional subdivision further increased the demand for public open space and it was therefore appropriate to require a contribution as a condition of the approval.



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CAD 6

Policy Name: Mobile Food Vendors Policy  
Originated Date: 11 December 2017 Min. Ref. 390/17  
Amended Date/s:  
Applicable Legislation: Vehicle & Traffic Act 1999  
Dataworks Reference: 44/001/001

### 1. Purpose

The purpose of this policy is to identify guidelines by which Mobile Food Vendors may operate in the Northern Midlands.

### 2. Applicable Legislation

Section 56C of the *Vehicle & Traffic Act 1999* states a person must not set up or use a stall, stand or vehicle on a public street for the purpose of selling goods without a permit. Permits may be issued by the General Manager of the Council in which the public street is located.

### 3. Definitions

*Mobile food vendor* – a take away food vendor operating from a mobile vehicle or trailer for the purpose of selling food and drink for immediate consumption.

*Local highway* – means a local highway as defined in the *Local Government (Highways) Act 1982*, section 4.

### 4. Conditions of operation

The following conditions of operation must be met by Mobile Food Vendors who apply for a permit to operate in the Northern Midlands.

#### 4.1 Application form and fee

All Mobile Food Vendors intending to operate in the Northern Midlands must complete an Application for Permit and pay the required fee, as set per Council's fee schedule.

Copies of the following documents must be completed and submitted together with the application of the permit:

- a) Current certificate of registration of a Statewide Mobile Food Business;
- b) Current Public Liability and Product Liability Insurance Certification (minimum \$20million cover); and
- c) Current road vehicle registration.

## 4.2 Permit

A Mobile Food Vendor must not operate on a local highway in the Northern Midlands without a valid permit.

A Mobile Food Vendor may apply for an annual permit, or a single permit for a special event.

Annual permits are valid from 1 January to 31 December.

Special event permits are valid for the duration of the event as specified in the application form.

Permit fees are in accordance with Council's Fees Schedule.

A Mobile Food Vendor is only permitted to operate on a local highway in the Northern Midlands once a permit has been issued.

Permits are issued to one vehicle only and are not transferable. Permits are not automatically renewed.

A Mobile Food Vendor must be able to produce a copy of their permit on request. All conditions of the permit must be complied with at all times of operation.

## 4.3 Rubbish removal

Mobile Food Vendors must provide rubbish collection receptacles at the site and ensure all rubbish generated from their use at the site is removed and disposed of responsibly.

Whilst trading to the public, a mobile food vendor must provide, at least one bin to accept waste and one bin for recyclable materials. The bins must be at least fifty litres.

## 4.4 Department of State Growth Roads

~~Council cannot issue a permit for a state-owned road. Mobile Food Vendors are not permitted to operate on a state-owned road, unless with approval issued by the Department of State Growth.~~

Mobile Food Vendors are not permitted to operate on a state-owned road, without approval of Council and the Department of State Growth.

## 4.5 Safety and compliance

Mobile Food Vendors must:

- Have in place current Public Liability insurance to operate (minimum \$20 million);
- Have in place a current Certificate of Registration for business selling food;

- Ensure they have approval to erect any signs or furniture associated with their business, in accordance with Council's Footpath Trading Policy and by-laws.
- Mobile food vehicles must not be left unattended whilst operating on a public street or on Council owned or managed property.
- Food or beverage preparation, cooking or serving equipment or structures are not to be installed or erected outside the vehicle to display, prepare or serve food.
- Customers must be served from the footpath side of the vehicle only, and not queue across footpaths, into roadways, driveways or other pedestrian or trafficked accesses.
- The installation, maintenance and operation of gas and/or electrical appliances within the vehicle must comply with the relevant Australian Standards.
- Safety of people is not to be compromised in any way by the location or operation of the mobile food vehicle.

#### 4.6 Electricity

Council has power available to Mobile Food Vendors at the following locations:

- Longford Village Green

If Mobile Food Vendors wish to access power they must pay for power usage in accordance with Council's fee schedule.

Payment for power must be made upon collection of the power box key from the Council offices.

### 5. Locations and times

#### 5.1 Preferred Mobile Food Vendor locations

Council has identified the following locations as preferred locations to park within the Northern Midlands municipality.

Applications to park outside of these preferred locations will be considered, however, may be refused if not considered suitable.

- Avoca – Blenheim Street, adjacent to Boucher Park
- Campbell Town – Franklin Street, adjacent to Blackburn Park
- Cressy – Church Street, adjacent to the Trout Park
- Evandale – Rogers Lane or Russell Street, adjacent to Harry Murray Memorial
- Longford – Archer and Lyttleton Streets, adjacent to Victoria Square (Village Green)
- Perth – Little Mulgrave Street, adjacent to the Train Park
- Ross – Church Street, adjacent to the Village Green (33 Church Street)

#### 5.2 Time restrictions

Mobile Food Vendors must not operate for a period greater than 4 hours in one location on any given day, except in the circumstances the Mobile Food Vendor is operating at a pre-organised event.

Mobile Food Vendors are not to operate on public roads within 100m (measured by travel distance of a pedestrian) of a residential dwelling between the hours of 10pm and 7am.

#### 6. Exclusive use not guaranteed

A permit issued by Council ~~des~~ **does** not guarantee availability or exclusive use of the site.

#### 7. Exemptions

Mobile Food Vendors parking for a period of less than 15 minutes are not required to obtain a permit pursuant to this policy.

#### 8. Review

This Policy is to be reviewed every two years.