



# Minutes

## Special Meeting of Council

Wednesday 30 September 2009 at 7:02pm

Queenscliff Town Hall  
50 Learmonth Street, Queenscliff

### **Councillors**

Cr. Bob Merriman (Mayor)

Cr. Helene Butler

Cr. Lloyd Davies

Cr. David Mitchell

Cr. John Burgess

### **Officers**

Lenny Jenner - Chief Executive Officer

Karen Hose - General Manager Planning & Places

John Henderson, Public Places & Facilities Coordinator

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**THIS MATERIAL DOES NOT NECESSARILY REFLECT THE VIEWS OF COUNCIL**



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**1. OPENING OF MEETING**

7:02pm

**2. APOLOGIES**

Nil

**3. PECUNIARY INTEREST & CONFLICT OF INTEREST DISCLOSURES**

Nil

**4. PLANNING, HERITAGE & COMMUNITY ASSETS**

**4.1 Tree Management, Removal and Replacement Strategy**

**File: QG 078-01-14**

**Responsible Officer: Public Places & Facilities Coordinator  
General Manager, Planning & Places**

**INTRODUCTION**

The purpose of this report is to

1. Present the final Tree Management, Removal and Replacement Strategy for Princess, Citizens and Victoria Parks prepared by John Patrick P/L dated September 2009 (**Appendix 1**);
2. Present other information and advice to inform Council's consideration of the Tree Management, Removal and Replacement Strategy for Princess, Citizens and Victoria Parks; and
3. Seek Council's endorsement of the Tree Management, Removal and Replacement Strategy for Princess, Citizens and Victoria Parks.

**BACKGROUND**

***History***

The Borough of Queenscliffe has undertaken a range of arboricultural and landscape assessments of Princess, Citizens and Victoria Parks with some reports dating back to 1985. These reports have recommended a range of actions including tree removal and major risk mitigation works on both native and introduced species.

A 1985 report on Princess Citizens Parks (Gerner, Sanderson, Faggetter and Cheeseman) identified a range of structural and appearance issues related to trees and effectively presented a long term plan for replacement of diseased and aged unsafe trees. Apart from a planting of Monterey

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Cypress along the northern end of Princess Park in the late 1980s the majority of recommended actions contained in the 1985 report remain outstanding.

Recent arborist reports identified a range of immediate public safety issues that resulted in Council resolving in November 2008 to undertake *'immediate tree removal and risk mitigation works as a matter of priority'*.

Three tree related incidents requiring police attendance have occurred in Princess Park in 2009 with two claims of damage to vehicles referred to the Department of Sustainability & Environment. Numerous other limb drops and branch failures have occurred in Princess and Victoria Parks over the last 12 months.

Consistent with Council's resolution *'to prepare a Tree Removal and Replacement Strategy for Princess, Citizens and Victoria Parks'*, a selective tender process resulted in John Patrick P/L being appointed in June 2009 to produce a 10 year strategy that provides direction to the Borough of Queenscliffe for the management, removal and replacement of trees in the three designated parks.

#### ***Project Management and Community Consultation***

The project management and community consultation processes (refer **Appendix 2**) for the Tree Management, Removal and Replacement Strategy were extensive and included:

- Development of Project Brief
  - Identification of potential consultants
  - Selective tender process
  - Appointment of John Patrick as project consultants
  - Establishment of and regular meetings of a Project Control Group consisting of Cr David Mitchell as chair, two community representatives and three council officers. John Patrick and two arborists from the company participated in each meeting
  - Presentation of initial draft report by John Patrick P/L to joint briefing of Council and Project Control Group
  - Information on website, Council Offices and Library as well as newspaper advertisements highlighting the draft Strategy and community consultation processes
  - Correspondence with Victoria Park campers
  - Marking of all trees in the three parks to reflect proposed actions
  - On site community information day with consultants present
  - Call for public submissions
  - Community & Council Forum including presentation from John Patrick P/L consultant and community submissions
  - Council presentation at joint meeting of the Point Lonsdale Civic Association and Queenscliffe Community Association
  - Ongoing communication with officers at the Department of Sustainability and Environment
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### ***Submissions Received***

The draft Tree Management, Removal and Replacement Strategy was exhibited for three weeks from 3 - 24 August 2009 and seventeen (17) submissions were received. These submissions are summarized in **Appendix 3**. Submitters were also given the opportunity to speak to their submission at the Community & Council Forum conducted on Monday 31 August 2009.

The recurring themes in the submissions included:

1. Seeking further information from Council regarding how the Strategy will be funded
2. Various views regarding the future of camping in Victoria Park ranging from excluding campers to continuing use of the park for camping
3. Support for the establishment of Moonah reserves in Victoria Park
4. Support for retaining Monterey Cypress

### **SUMMARY OF REPORT FINDINGS & RECOMMENDATIONS**

The aim of this project was to produce a 10 year plan that provides direction to the Borough of Queenscliffe for the management, removal and replacement of trees in Princess, Citizens and Victoria Parks, Queenscliff. While the strategy presents findings and recommendations related to the three parks, the issues can be broadly be grouped into those pertinent to Princess and Citizens Parks and those issues that specifically concern Victoria Park. These are discussed in turn.

#### ***Princess and Citizens Parks***

The report identifies a range of tree management issues in these parks most notably being risk issues associated with over mature Monterey Cypress and the high use characteristics of the parks. Across the two parks four key actions are recommended:

1. Removal of twenty Monterey Cypress and three Stone Pines with a range of additional management actions such as cabling and bracing and provision of mulched beds;
2. Identification and preparation of areas for future planting, identification of species, numbers and planting locations resulting in nett increase in tree numbers
3. Management interventions to reduce public risk including examining opportunities to relocate public events to other parks and public open space and introducing temporary exclusion zones during events;
4. Preparation of a park masterplan

#### ***Victoria Park***

The findings and recommendations for Victoria park are far more complex and wide ranging than the other two parks. This is reflected in the submissions received. Five key actions are recommended:

1. Removal of nine Monterey Cypress and one Stone Pine (for reasons consistent with the findings in the other two parks)
  2. Removal (coppicing) of ten Moonah
  3. A range of additional management actions such as cabling, bracing and propping of Moonah;
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4. Creation of Moonah Reserves (immediately and in future years) and retention of other identified Moonah;
5. Reconfiguration of identified camping sites to accommodate Moonah reserves;
6. Identification and preparation of areas for future planting, identification of species, numbers and planting locations resulting in nett increase in tree numbers;
7. Preparation of a park masterplan

## DISCUSSION

### Environment and Management of Public Parks

The number and range of uses of the three parks and the failure to address long term tree management issues has resulted in major challenges to address public risk while maintaining the recreation uses and conservation values of the three parks.

The Strategy found that a large number of the trees in the parks were in poor condition and structurally unsound and therefore recommended for removal. The majority of trees in this category are over mature Monterey Cypress located across all three parks. The Strategy recommends higher levels of tree management, redirecting public events and having more active strategies to direct pedestrian activity in Princess and Citizens Parks.

In Victoria Park, a number of indigenous Moonahs were identified as presenting an unacceptable risk and are recommended for removal by coppicing which will enable the tree to reshoot from the stump. The Strategy proposes to create a number of reserves to preserve Moonahs that are structurally unsound but can be safely retained if public access is restricted beneath them and campsites removed. In addition, as an alternative to removal, a significant number of Moonahs are recommended for propping and cabling works.

The lack of attention to tree management and replacement has created the current situation where obvious conflicts exist between tree management and park use, particularly in Victoria Park. A key debate has centred on the role of Victoria Park and the types of activities that should be accommodated. From a planning perspective, the park is zoned 'Public Park and Recreation Zone', the purpose of which is:

- To recognise areas for public recreation and open space;
- To protect and conserve areas of significance where appropriate;
- To provide for commercial uses where appropriate.

The park currently includes passive recreation and caravan and camping on a seasonal basis. The park also boasts a number of trees of conservation value (Moonah) which are protected under the Flora and Fauna Guarantee Act. A number of these uses could be considered to be conflicting.

The Moonah reserves proposed by the strategy are a compromise between providing for public uses such as camping and the preservation of the older Moonahs that are not structurally sound but demonstrate the life cycle of the trees and provide habitat for local birdlife. The Moonah



reserves proposed will allow the retention of some trees which would otherwise form an unacceptable risk to the public.

### ***Response from Department of Sustainability & Environment***

Council officers have regularly communicated with DSE regarding the development and outcomes of the Tree Management, Removal and Replacement Strategy. DSE have received and provided comment on the draft report (**Appendix 5**). In summary DSE correspondence:

- Supports Council's active approach to providing and maintaining tree safety and management
- Supports the Strategy's recommended actions to address risk and safety issues
- Does not support intrusive arboricultural techniques such as cabling and bracing;
- Supports adoption of Moonah reserves;
- Provides various information relevant to legislative requirements related to management of native vegetation.

### **Risk Management**

The Tree Management, Removal and Replacement Strategy prepared by John Patrick P/L identified significant risks to public safety and this is reflected in the recommendations to remove and manage trees in Princess, Citizens and Victoria Parks.

### ***ArbEcology Risk Assessment***

Council commissioned an additional 'Quantitative Tree Risk Assessment' report on Princess, Citizens and Victoria Parks prepared by ArbEcology (**Appendix 4**). This report utilised a quantitative approach to assess risk management of those trees recommended for removal in the John Patrick P/L report and other selected Moonah trees in Victoria Park identified for significant remedial works. The ArbEcology assessment only considers the risk presented by the tree and not the many other reasons for routine tree removals (tree health, amenity, long term planning) considered in the John Patrick report.

In summary the key findings and recommendations of this report both support and contrast with findings and recommendation of the John Patrick P/L report. The ArbEcology report confirms the proposed management/removal of the mature Monterey Cypress trees across Princess, Citizens and Victoria Parks. The report also recommends a range of other interventions consistent with the John Patrick P/L report in terms of managing pedestrian activity, re-locating public events and park infrastructure.

While the ArbEcology report supports the creation of Moonah reserves in Victoria Park it does not support the removal of Moonah in Victoria Park on the basis of risk. This is a clear contrast to the findings and recommendations in the John Patrick P/L report.

### ***Harwood Andrews legal advice***

Council have received legal advice from Harwood Andrews Lawyers (**Appendix 6**) regarding Council liability in relation to its responsibility concerning the Tree Management, Removal and Replacement Strategy. The formal legal opinion and subsequent phone conversation between Mr Warwick Nelson, Harwood Andrews, Mayor Bob Merriman and Mr Lenny Jenner, CEO, highlights the responsibility of Council to take action in response to the report recommendations. The legal



advice also indicated that were Council to take no action, the Council, individual Councillors and officers would be at risk both in terms of public liability and staff's Occupational Health & Safety.

The question of members of the public indemnifying Council was also raised with Mr Warwick Nelson. He indicated that while it is possible to request an adult of sound mind to complete a Council indemnification and release, he would regard such an action as very very unwise given the difficulty in managing or containing the array of circumstances that might arise in a public camp park.

#### ***Civic Mutual Plus legal advice***

Council also sought legal advice from Council insurers, Civic Mutual Plus. Mr Michael Beasley advised that Council's insurance excludes liability for its role as Crown land manager. Mr Beasley's interpretation of the Department of Sustainability & Environment's insurance coverage is that in a case of negligence Council officers may be in the position that they are not insured and therefore potentially, personally liable.

#### **Statutory Requirements**

The report recommendations will require Council to meet a range of statutory requirements in the process of implementing this strategy.

The removal of native trees identified in the strategy will require a planning permit unless exempted under the emergency works provision of the planning scheme in circumstances where, *'The native vegetation presents an immediate risk of personal injury or damage to property and only that part of vegetation which presents the immediate risk is removed, destroyed or lopped.'*

The trees in Princess and Citizens Parks which are subject to heritage controls are not recommended for removal. There are no trees in Victoria Park that are subject to heritage controls.

In relation to recommended works on Moonahs in Victoria Park, Council must apply for a permit under the *Flora and Fauna Guarantee Act 1988*.

#### **Council Plan**

The following strategies from the 2009-2013 Council Plan are relevant to this report:

- 1.2** Responsibly manage financial, human and physical resources.
- 1.3** Promote strong community engagement and active participation and advocate on issues of importance to the community.
- 2.1** Work in partnership with the community and other organisations to protect and restore the local environment and promote sustainable practices.
- 2.7** Protect and restore landscapes and heritage plantings in the Borough.





- 3.1** Work in partnership with businesses and the community to promote and support business and tourism opportunities, sensitive to the social and environmental amenity of the community.
- 3.2** Promote seasonal and adventure tourism opportunities.
- 3.3** Promote the unique natural and heritage attributes of the Borough which will lead to increased local work opportunities.
- 4.2** Facilitate opportunities in sport, recreation, cultural and civic activities
- 5.1** Protect, conserve and add value to the unique natural, built and heritage values of the Borough of Queenscliffe, drawing on an understanding of the limitations of the natural environment and the municipality's historical background.

### **Financial Implications**

Most of the Borough's public parks are located on Crown land, and this is true of Princess, Citizens and Victoria Park for which Council is the Committee of Management. The Department of Sustainability and Environment is the custodian/owner of the Crown land.

Substantial revenue is generated for the Borough by the parks both directly and indirectly. For example, Princess and Citizens Parks are located close to the town centre and adjacent to the foreshore. They contribute substantially to the visual amenity and attractiveness of Queenscliff as a tourist destination and community, although this benefit is not easily quantified. The parks are also frequently utilized for community events, markets and festivals.

The largest income produced by the three parks is generated by camping at Victoria Park, at approximately \$220,000 per year. This income is returned to the Crown Land Reserves fund and contributes to maintenance, revegetation and improvements to the coastal Crown land.

The draft strategy proposes to remove 8 - 10 campsites initially to provide for Moonah reserves. Those reserves must be created prior to the camping season in summer 2009/10. The loss of 10 sites will mean an estimated loss of \$25,000 (approximately \$2500 per site) in income in this financial year, although possible alternative sites are being investigated for those people who have pre-booked a site and will be displaced.

In addition to this loss of income, the cost of the implementation of the strategy is substantial, with 45 trees to be removed in Year One, intensive management of other trees to be undertaken, and replacement plantings to occur. Total cost of Year One has been estimated by the consultants to be \$300,000 (Council officers have reviewed costs and concluded that this implementation estimate can be reduced to \$250,000).

Council will need to identify alternative sources of income to implement this project and/or reallocate funds from existing capital works/new initiatives in the 2009/10 Council Plan. One option may be to defer the purchase of the Recreation Reserve cabin (\$85,000) to future years. Council's 2009/10 budget currently includes a \$50,000 allocation for implementation of this Strategy. Council officers have investigated State Government funding options and outcomes are likely to be known by mid October 2009.



## **Social Benefits**

Princess, Citizens and Victoria Parks are of significant value to the Queenscliff community for reasons of amenity, landscape, sense of place and recreation. The parks contribute to the economic and social wellbeing of the community. Victoria Park is valued by some residents as a botanical garden (although not gazetted as such) and contains indigenous species (Moonah) of high environmental value.

The Strategy seeks to address the identified public risks while at the same time limiting the impact on the above values by keeping to a minimum the number of trees to be removed, the staging of removals, intensive management of some structurally challenged trees and creating Moonah reserves at Victoria Park.

The value of camping at Victoria Park also needs to be recognised given the role the park plays in connecting families and building social networks.

## **CONCLUSIONS**

Despite undertaking a range of arboricultural and landscape assessments of Princess, Citizens and Victoria Parks in Queenscliff, the vast majority of recommended actions remain outstanding. As a result public safety has become a matter of increasing urgency in Princess, Citizens and Victoria Parks, reflected in the number of incidents and near misses associated with tree failure. The Strategy defines the nature of works that are required for every tree and clearly recommends the removal of those that pose an immediate risk.

In all parks the majority of Monterey Cypress are at the end of their lives and are dangerous. Both the John Patrick P/L report and the ArbEcology report recommend removal of these trees.

While Princess and Citizens Parks are important locations for public events there are opportunities to reduce risk through temporary exclusions of identified areas and event re-location.

In Victoria Park the Strategy seeks to find a balance between recreational and conservation values by creating Moonah reserves and continuing to utilise this park for seasonal camping.

The Strategy commits Council to its stated objective to achieve a nett increase in the number of trees.

The costs associated with implementing the Strategy will present a significant challenge for Council in 2009/10 and beyond. Attention will need to be given to sourcing funds from State Government and reviewing Council's budget to identify opportunities to redirect existing budget allocations in 2009/10. Consideration will also need to be given to ongoing tree management in formulating future budgets

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The Tree Management, Removal and Replacement Strategy provides Council with a clear direction for managing trees in the three parks over the next ten years. The Strategy both addresses the legacy resulting from years of inaction and presents the opportunity to implement a plan that will create a positive legacy for future generations.

**Recommendations:**

**That Council**

- (1) Adopt the Tree Management, Removal and Replacement Strategy for Princess, Citizens and Victoria Parks (September 2009) as presented by John Patrick P/L;**
- (2) Implement the priority actions identified for year one including tree removals across the three parks and creation of Moonah reserves in Victoria Park;**
- (3) Undertake extensive replanting to achieve a nett increase in the number of trees in the three parks by 2013;**
- (4) Review 2009/10 budget to identify opportunities to re-allocate funds to implement the Strategy;**
- (5) Pursue State Government funding opportunities to implement the Strategy;**
- (6) Identify affected campsites in 2009/10 and seek to find alternative arrangements for those impacted**
- (7) Develop and implement an Action Plan for addressing affected campsites beyond year one**
- (8) Ensure that Council's long term financial plan and all future budgets include appropriate allocation of funds for ongoing implementation of the Strategy;**
- (9) Identify funding opportunities and progress a masterplan for Princess, Citizens and Victoria Parks**



**Councillors: Butler/Davies**

That Council defer this item until a further special meeting of Council, no later than Friday 9 October 2009. During this time the Project Control Group, under the chairmanship of Cr David Mitchell and the CEO, are to conduct with Dave Williams, ArbEcology, a full on-site inspection of his report and examine his risk advice and action that needs to be taken as recommended by him.

This procedure is consistent with the process undertaken following the receipt of the John Patrick P/L report.

Also before the next Special Meeting, Council will further consider and consult with its legal advisors, insurance advisers and the Department of Sustainability and Environment.

**Carried Unanimously**

**5. CLOSE OF MEETING**

7:09pm

Confirmed

Cr B Merriman

**MAYOR**

21 October 2009