

**Policy Title:** Footpath and Nature Strip Maintenance Policy

**Classification:** Parks and Gardens

## Date Adopted by Council

26 July 2016

## Council Minute Number

2016/07/26.12

## Effective Date

26 July 2016

## Review Date

26 July 2017

## Responsible Officer

Manager Parks and Gardens

## Responsible Department

Community & Environment

## Revokes:

Policy Number: POLC-CE-LL-002

Policy Name: Nature Strip Maintenance Policy

Adopted: 27 March 2013

### INTERNAL USE ONLY

Policy Number: 42 Version: 1

**NOTE:** This cover page is not to be included when submitting a report to a Council meeting

## **1. BACKGROUND AND PRINCIPLE**

Whilst Council has responsibility for the maintenance of footpaths and nature strips in the region, if Council was to maintain all Council owned footpaths and nature strips, the cost to Council, and thus ratepayers, would be excessive.

To keep the general rates as low as possible, Council relies on residents in urban and rural residential areas to maintain the footpath and nature strip adjacent to their property.

The maintenance of footpaths and nature strips is important as it improves the amenity of the area, removes potential nuisances and hazards and maintains pedestrian access.

Council's Subordinate Local Law No.4 (Local Government Controlled Areas, Facilities and Roads) 2014 states that *the occupier of the property adjacent to or adjoining a footpath must not allow a footpath to become overgrown or allow vegetation on a footpath to cause a nuisance or become unsightly, in the opinion of an Authorised Person.*

## **2. SCOPE**

This Policy applies to all urban and rural residential areas in the Whitsunday Regional Council area.

## **3. POLICY OBJECTIVES**

The objectives of this Policy are to:

- set out the respective responsibilities of both Council and residents in relation to the maintenance and mowing of nature strips;
- ensure the nature strips in the Whitsunday Regional Council area are kept in good repair for pedestrian access and to ensure prevention of nuisances and preservation of visual amenity; and
- ensure the cost to Council of maintaining nature strips is minimised.

## **4. POLICY STATEMENT**

### **4.1 Council shall maintain;**

- a. nature strips adjoining or within public reserve areas such as bushland, parks or gardens;
- b. nature strips adjoining or within Council owned or controlled land for which Council provides mowing (e.g. Council's Administration Centres); and
- c. constructed (e.g. formed concrete) footpaths.

**4.2** If it is the opinion of an *Authorised Person* that the footpath or nature strip is not in good repair or the vegetation on the footpath or nature strip, has become a nuisance, unsightly or a danger to any person or property, Council may issue a Compliance Notice requiring the owner or occupier to undertake action pertaining to the footpath or nature strip to remedy the nuisance, unsightly appearance or danger within the time specified on the notice where the owner or occupier through neglect or an intentional act has contributed to the need for the works.

- 4.3 An owner or occupier of premises to whom a Compliance Notice is given, must comply with the Notice, unless the owner or occupier has a reasonable excuse.
- 4.4 Council will determine the levels of service and intervention levels for maintaining footpaths and nature strips.

**Request for assistance with maintaining a nature strip**

- 4.5 Council may provide assistance with maintenance of the footpath and/or nature strip where:
- a) residents are not physically able to perform the task and are unable to afford a contractor; or
  - b) where the footpath or nature strip extends beyond 12 metres from the property boundary in an urban or rural residential area; or
  - c) where the resident believes maintenance of the footpath or nature strip is not possible.
  - d) where the footpath or nature strip poses a risk or threat to the community or detracts from the amenity of the area.
- 4.6 Residents who require assistance due to the reasons stated in clause 4.5, may submit a Request to Maintain a Footpath/Nature Strip Form ("Request Form"). Resident applying for assistance due to the reasons listed in clause 4.5(a) must submit with their Request Form:
- a) a medical certificate from a registered physician which states that the resident is unable to maintain their footpath or nature strip due to medical reasons; and
  - b) a Statutory Declaration stating that the resident does not have the financial capacity to employ a contractor or documentary support of their pensioner status.
- 4.7 The resident making the request will receive a letter acknowledging their Request Form within Council's Policy timeframes.
- 4.8 Once a resident is recognised as requiring continued assistance with the maintenance of their footpath or nature strip, residents will be required to submit a new Request Form and associated documentary evidence on an annual basis. If a resident's original medical certificate confirmed a permanent disability, the resident is not required to submit a new medical certificate, but must submit a new Request Form and statutory declaration or evidence of pensioner status on an annual basis.
- 4.9 Upon receipt of a request for assistance, Council Officers shall consider whether the cost of providing the service to the resident is within budgetary constraints prior to undertaking the work.
- 4.10 Where Council has agreed to provide assistance in accordance with this Policy, Council shall maintain the footpath or nature strip to a level of service acceptable to the Council, not the resident.

**5. RELEVANT LEGISLATION**

*Local Government Act 2009*

*Transport Operations (Road Use Management) Act 1995*

*Transport Operations (Road Use Management – Road Rules) Regulation 1999*

Whitsunday Regional Council Local Law and Subordinate Local Law No. 1 (Administration) 2014

Whitsunday Regional Council Local Law and Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2014

## **6. DEFINITIONS**

**Authorised Person** shall mean a Council officer appointed as an Authorised Person under Council's Local Laws.

**Council** shall mean the Whitsunday Regional Council.

**Footpath** means an area open to the public that is designated for, or has as one of its main uses, use by pedestrians.

**Nature Strip** means an area between a road (except a road-related area) and adjacent land, but does not include a bicycle path, constructed footpath or constructed shared path.

**Rural Residential** shall mean lot sizes of 2.5 hectares or less.

**Urban** shall mean high density residential areas which usually have a house density of approximately 10 houses per hectare.

## **7. DATE REVIEWED**

July 2016

## **8. NEXT REVIEW**

July 2017