1.0 Purpose

1.1 This policy outlines Council’s position in relation to its duties and obligations imposed through environmental legislation and Council’s Strategic Plan.

2.0 Objective

2.1 The objective of the policy is to outline Council’s position on environmental matters and provide guidance on the implementation of environmental legislation.

3.0 Scope

3.1 The policy applies to all actions and decisions taken by Council and staff in relation to the environment within the municipal area.

4.0 Policy

4.1 In accord with the resource management and planning suite of legislation and Council’s Strategic Plan Council will seek to support the following objectives:
   (a) To promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity.
   (b) To provide for the fair, orderly and sustainable use and development of air, land and water.
   (c) To encourage public involvement in resource management and planning.
   (d) To facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c).
   (e) To promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.

4.2 These objectives will be supported by the following actions commensurate with available resources:
   (a) Decision making that protects and enhances the quality of the environment.
   (b) The prevention of environmental degradation and adverse risks to human and ecosystem health with promotion of pollution prevention, clean production technology, reuse and recycling of materials and waste minimisation programmes.
   (c) The promotion of a reduction or elimination of the discharge of pollutants and hazardous substances to air, land or water consistent with maintaining environmental quality.
(d) To promote allocation of the costs of environmental protection and restoration equitably and in a manner that encourages responsible use of, and reduces harm to, the environment, with polluters bearing the appropriate share of the costs that arise from their activities.

(e) To require persons engaging in polluting activities to make progressive environmental improvements, including reductions of pollution at source.

(f) To provide for the monitoring and reporting of environmental quality on a regular basis.

(g) To promote control of the generation, storage, collection, transportation, treatment and disposal of waste with a view to reducing, minimising and, where practicable, eliminating harm to the environment.

(h) To adopt a precautionary approach when assessing environmental risk to ensure that all aspects of environmental quality, including ecosystem sustainability and integrity and beneficial uses of the environment, are considered in assessing, and making decisions in relation to, the environment.

(i) To facilitate the adoption and implementation of standards agreed upon by the State under inter-governmental arrangements for greater uniformity in environmental regulation.

(j) To promote public education about the protection, restoration and enhancement of the environment.

(k) To co-ordinate all activities as are necessary to protect, restore or improve the municipal environment.

4.3 Implementation of the policy and enforcement action will be undertaken in a manner, which complements the environmental enforcement policy principles of the Department of Primary Industry, Water and Environment (DPIWE). The guiding principles for environmental enforcement action by Council staff are set out as follows:

(a) The objective of all enforcement action will be to achieve a defined and measurable outcome;

(b) Enforcement action will be taken in proportion to the magnitude of the offence taking into account implications for the administration of the Environmental Management and Pollution Control Act 1994 (EMPCA) more generally;

(c) Decisions on enforcement action will be responsive to the situation in both timing and extent with flexibility retained to respond to additional information or change in circumstances;

(d) All non-trivial breaches will be subject to enforcement consideration and this will be communicated to the offender. A transparent process will determine the type of enforcement measure to be taken, so that any disagreement can be based upon fact. The enforcement action will be clear to enable all parties to understand what constitutes compliance;
(e) The enforcement action will be carried out in a fair, consistent and equitable manner;
(f) Enforcement action will be carried out within the limitations of the powers conferred under EMPCA, subsidiary legislation or associated State Policies;
(g) As part of a continuum of administrative measures, enforcement powers are to be exercised when they are likely to produce a desired outcome in a cost effective manner. The desired outcome includes meeting the other principles in this policy and the implications for the administration of EMPCA more generally (including consideration of deterrence and precedent) as well as the environmental outcome in a particular case; and
(h) Any enforcement action will be carried out in a manner consistent with other legislative responsibilities of Council for sustainable development, land use planning and public health.

4.4 The guiding principles for enforcement action are underscored by the following criteria in deciding on appropriate enforcement action:
(a) The seriousness of the incident having regard to the damage to the environment caused or likely to be caused, impact on people and the implications for the administration of Council’s obligations under EMPCA;
(b) Whether there has been a failure to comply with any formal requests by Council staff in relation to the incident;
(c) The culpability of the person whether it is a corporation, or employee or individual, including any mitigating or aggravating circumstances;
(d) The previous history of the person involved in the incident in relation to compliance with environmental legislation;
(e) The level and nature of public concern;
(f) The prevalence of the alleged offence and the need for deterrence of the offence;
(g) Due diligence procedures already in place and used by the person; and
(h) Voluntary actions and co-operation by the person to mitigate any damage to the environment and put in place mechanisms to prevent a recurrence of the incident.

5.0 Legislation

Environmental Management and Pollution Control Act 1994
Local Government Act 1993

6.0 Responsibility

6.1 Council is the responsible body for ensuring decisions made at Council meetings are consistent with the policy. The operational implementation of this policy is the responsibility of the Executive Manager Development Services.
7.0 Minute Reference

Minute No. 12.2

8.0 Council Meeting Date

15 November 2010