

LOCAL PLANNING POLICY: TREES OF SIGNIFICANCE

Legislation / local law requirements	<i>Planning and Development Act 2005</i> This policy has been prepared under the provisions of Schedule 2, Part 2 and 3 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> .
Relevant delegations	16.1.1 Determination of various applications for development approval under the City's Local Planning Scheme.
Related policies, procedures and supporting documentation	City of Vincent Local Planning Scheme No.2 Community Funding Policy Trees of Significance Fund Guidelines Australian Standard 4970-2009: Protection of Trees on Development Sites

PART 1 - PRELIMINARY

INTRODUCTION

The City of Vincent (City) Strategic Community Plan 2022 – 2032 (SCP) sets the strategic direction, priorities and aspirations for the City. A key objective of the SCP includes ensuring “*our urban forest and canopy is maintained and increased.*”

The Trees of Significance Inventory, adopted in 1999, aims to protect trees of significant value within the City of Vincent and is an important strategic initiative in achieving the objective of the Strategic Community Plan to maintain and enhance the natural and built environment.

The function of the Trees of Significance Inventory (Inventory) is to provide an active document for the City to recognise a valuable natural resource and to establish long-term plans for the conservation, enhancement, maintenance and integration of this natural resource into Vincent's inner urban fabric. The Trees of Significance Inventory is linked to the City's Local Planning Scheme No.2 (LPS2) which provides for the protection of trees that are considered worthy of retention.

PURPOSE

The purpose of Local Planning Policy: Trees of Significance (Policy) is to provide a comprehensive framework for the management of trees included on the Inventory. The Policy also seeks to provide a mechanism for the nomination and assessment of trees for inclusion on the Inventory and the provision of incentives for the retention and maintenance of trees listed in the Inventory.

OBJECTIVE

The objectives of this Policy are to:

1. Encourage and facilitate the protection of trees worthy of retention and to maintain and enhance canopy cover in the City of Vincent.
2. Preserve and enhance neighbourhood amenity, character and sense of place.

LOCAL PLANNING POLICY: TREES OF SIGNIFICANCE

3. Inform property owners and the community that trees listed on the Inventory require a development application for works under the City of Vincent's LPS2.
4. Provide a framework for property owners or third parties nominate trees for inclusion on the Inventory.
5. Provide clear direction on the requirements for trees listed on the Inventory.
6. Provide incentive programs for trees listed on the Inventory.

SCOPE

The Policy applies to:

- Trees included on the Inventory; and
- Any tree subject to a nomination for inclusion on the Inventory.

PART 2 - POLICY PROVISIONS FOR TREES OF SIGNIFICANCE

STATUTORY AUTHORITY

Trees that are listed on the Inventory require development approval for any works in accordance with LPS2 (see below).

61. Development for which development approval not required

- 1) *Development approval is not required for works if-*
 - a. *the works are of a class specified in Column 1 of an item in the Table; and*
 - b. *conditions are set out in Column 2 of the Table opposite that item - all of those conditions are satisfied in relation to the works.*

	<i>Column 1 Works</i>	<i>Column 2 Conditions</i>
1A.	<i>Works to remove, destroy or interfere with any tree(s).</i>	<i>(a) The tree is not listed on the City of Vincent Trees of Significance Inventory.</i>

DEFINITIONS

All terms used in this Policy are defined in the *Planning and Development Act 2005*, *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations), Residential Design Codes (R Codes) and the City's LPS2, unless stated otherwise below.

Arborist Report means a report produced by a person who has obtained a minimum of Australian Qualification Framework Level 5 Certification in Arboriculture (AQF5 Arborist) or equivalent qualification. The arborist report has information that concerns the health, value and general state of the tree, the structural root zone and tree protection zone, and a Tree Management Plan that outlines the methodology to preserve the tree.

Destruction and/or Interference for the purposes of this Policy means the following:

LOCAL PLANNING POLICY: TREES OF SIGNIFICANCE

- The severing of branches, limbs, stems, trunk or roots of a tree;
- The ringbarking, topping or lopping of a tree;
- The killing or poisoning of a tree;
- Any other act that causes substantial damage to a tree; and
- Is not exempt from development approval as stipulated in **Clause 2 Exemptions to Development Approval**.

Emergency works means any works required to be undertaken for the protection of life or property on trees of significance which are in imminent danger.

Maintenance pruning is pruning that:

- a. Involves removing dead or diseased wood only; or
- b. Is the first pruning of the tree in the calendar year and affects less than 10% of the canopy, not altering the overall shape of the canopy; or
- c. Is of a fruit tree and done for fruit production; or
- d. Does not include removing limbs with a diameter of 100mm or more; or
- e. Is otherwise minor maintenance or thinning of the crown that does not adversely affect the health or general appearance of the tree or is to balance the tree.

It is recommended that maintenance pruning be undertaken in accordance with the standard for Pruning Amenity Trees ASNZ4373.

Primary Owner of a Tree of Significance is the owner of the land that contains the majority of the structural root zone of the tree.

Qualified Arborist means a person who has obtained a minimum of Australian Qualification Framework Level 5 Certification in Arboriculture (AQF5 Arborist) or equivalent qualification.

Secondary Owner of a Tree of Significance is the owner/s of a property for which portions of the tree is located. This can include the trunk, canopy or root zone.

Structural root zone means an area specified in Australian Standard 4970-2009 Protection of Trees on Development Sites (as amended), around the base of a tree required for the tree's stability in the ground.

Tree Protection Zone is an area specified in Australian Standard 4970-2009 Protection of Trees on Development Sites (as amended). This is the area above and below ground for the protection of a tree's roots and crown from development, to provide for the viability of a tree that is to be retained.

Trees of Significance/Significant Tree means any tree(s) listed on the City's Trees of Significance Inventory.

POLICY

1. Financial Assistance

- 1.1 Owners of a Significant Tree are eligible to receive financial assistance from the City. This assistance can be used to undertake works associated with the maintenance of a tree listed on the Inventory as well as the preparation of an arborist report. Refer to applicable **Tree of Significance Fund Guidelines** for further information.
- 1.2 The City may waive any fees associated with lodging a development application for maintenance works to a Significant Tree that is listed on the Inventory.

LOCAL PLANNING POLICY: TREES OF SIGNIFICANCE

2. Exemptions to Development Approval

2.1 The following works to a Tree of Significance are exempt from development approval:

- a. Works that are urgently necessary for any of the following:
 - i. Public safety;
 - ii. Safety or security of plant or equipment;
 - iii. Maintenance of essential services; or
 - iv. Protection of the environment
- b. Works to a Significant Tree is required as part of an approved Bushfire Management Plan.
- c. Works to a Significant Tree is **maintenance pruning**.
- d. The tree species is listed on the National, State or local weed register on the advice of the City's Parks team.
- e. The Department of Primary Industries and Regional Development or relevant authority has issued a direction to carry out works to a Significant Tree. A copy of this direction is to be provided to the local government prior to works occurring.
- f. Works undertaken by the City on Significant Trees located on Council owned land.

2.2 Prior to works occurring which meet the above criteria, it is recommended that owners of Significant Tree contact the City for further advice.

3. Development Approval

3.1 Unless stipulated in **Clause 2**, development approval is required required for the removal, destruction and/or interference of any tree listed on the Inventory.

3.2 All applications in relation to a tree(s) listed in the Inventory will require the following to be submitted with their application:

- Normal Development Application Form completed and signed by the **primary owner** or **secondary owner/s** of a **Tree of Significance** for where the works are to occur.
- Summary of the works to occur by a qualified arborist.
- Justification in accordance with **Part 2 Clause 2.3 and 2.4**.
- If development approval is proposed in close proximity to a Significant Tree, a **Tree Management Plan** prepared by a Qualified Arborist is to be required. Development works are to be undertaken as outlined in the Australian Standard 4970-2009: Protection of Trees on Development Sites (AS4970).
- A **Tree Management Plan** prepared by a Qualified Arborist which states the condition of the tree against the **Essential Criteria** listed in **Part 3 – Policy Guidelines**, must be provided during the assessment of an application for development approval where the City

LOCAL PLANNING POLICY: TREES OF SIGNIFICANCE

is concerned about possible impacts to a tree. The Tree Management Plan is to outline building options that reduce the impact to the tree.

- 3.3 Where works to a Significant Tree are proposed, the following will be given due regard in the assessment process:
- a. Health, maturity, species and location of the tree.
 - b. Ecological, biodiversity and environmental values of the tree.
 - c. Contribution of the tree to the streetscape.
 - d. The preservation of any other Significant Tree on the subject site.
 - e. The location of the tree within the development site and capacity for a modified building design or subdivision to maximise tree retention.
 - f. Any existing development on the site.
 - g. Design and location of proposed crossovers.
 - h. Topography and the potential impact from excavation/fill.
 - i. Possible safety risks due to tree limb failure and infrastructure and/or structural damage associated with the retaining the tree.
 - j. Tree Protection Zone(s) (as per AS4970).
 - k. Tree replacement and/or planting proposed.
 - l. Recommendations of an Arborist Report.
 - m. The objectives of this Policy.
 - n. Relevant matters of Clause 67 of The Regulations.
- 3.4 The following justification to works to a Significant Tree which are not exempt from development approval are not supported:
- a. Impact of views.
 - b. Variety of tree is disliked.
 - c. The tree variety causes nuisance by way of leaf, fruit or bark shedding or the like.
 - d. The trees impact on private gardens, solar installations, swimming pools or the like.
- 3.5 A Significant Tree is not to be approved to be removed while it is listed on the Inventory.
- 3.6 All efforts are to be taken to avoid impacts, or limit impacts to a Significant Tree as a result of development. Applicants are encouraged to engage with the City prior to designing a development, for assistance to design around a tree.
- 3.7 Proposed development, strata titling and/or subdivision of private land shall be designed to account for the ongoing viability of a Significant Tree, with consideration of the potential impacts

LOCAL PLANNING POLICY: TREES OF SIGNIFICANCE

and growth habits of a tree throughout its life cycle. All works adjacent to a Significant Tree are to be undertaken as outlined in AS4970.

- 3.8 Where works are required to a Significant Tree due to it overhanging or encroaching on an adjoining property, notice is to be provided to the owners of the tree prior to works being conducted.
- 3.9 Once approval has been granted, approved works must be undertaken by a qualified arborist or other tree maintenance specialist as approved by the City.

4. Emergency Works

- 4.1 Emergency works to a Significant Tree required for the safety of people and property, or maintenance of essential services can be undertaken without approval from the City. These works must be undertaken by a Qualified Arborist to the satisfaction of the City. Owners are to notify the City in writing within five working days following the emergency work having been undertaken and notification must include a report by the Qualified Arborist who carried out the work.

5. Departures to Development Standards

- 5.1 To facilitate a site responsive design to preserve a Significant Tree, the City can consider a departure to the relevant policy standards (except related to site area) of LPS2, a Local Planning Policy, the R Codes, a Local Development Plan or Structure Plan where desirable to facilitate the preservation of the Significant Tree. These may be considered on a case-by-case basis having regard to the:
 - a. Context of the site.
 - b. Relevant design principles/element objectives of the R Codes and the local planning framework.
 - c. The location and extent of the proposed development and its impact of the significant tree.
 - d. Advice received by a qualified arborist.

6. Condition of Development Approval

- 6.1 If development approval is granted within the **Tree Protection Zone** or in close proximity to a Significant Tree, a **Tree Management Plan** prepared by a Qualified Arborist may be required. Development works are to be undertaken as outlined in the AS4970. This is to be conditioned as part of any approval.

7. Amendments to the Trees of Significance Inventory

- 7.1 Trees are assessed for significance in accordance with the assessment criteria outlined in **Part 3 - Policy Guidelines**.
- 7.2 Amendments to the Inventory are made in accordance with the procedures outlined in **Part 3 - Policy Guidelines**.

LOCAL PLANNING POLICY: TREES OF SIGNIFICANCE

PART 3 – POLICY GUIDELINES

The function of the Inventory is to provide an active document for the City to recognise a valuable natural resource and to establish long-term plans for the conservation, enhancement, maintenance and integration of this natural resource into the City's inner urban fabric. The Inventory is linked to Clause 61 of LPS2 which provides for the protection of trees that are considered worthy of retention.

Trees are nominated and assessed in accordance with the Policy Guidelines.

1. Assessment of a Significant Tree Nomination

1.1 To be considered for nomination, the tree must meet the following **preliminary criteria**:

- Healthy specimens with ongoing viability; and
- Species is not included on a National, State or local area weed register; and
- Height of at least 4m. Xanthorrhoea species from a height of at least 1.2m and banksia species from a height of at least 3m will be considered; and/or
- Trunk diameter of at least 160mm, measured 1m from the ground; and/or
- Average canopy diameter of at least 4m; and/or
- Any other species likely to be a remnant or regrowth local native tree with a height or canopy width deemed significant by the city; and/or
- Any mature specimens that provide habitat or food for local fauna. For example, Banksia and Hakea are known food sources for the Carnaby's Black Cockatoo; and/or
- Established trees that are significant from an aboriginal heritage perspective. This can include Nuytsia Floribunda (Western Australian Christmas tree).

1.2 Once the City is satisfied that the preliminary criteria has been met, the City will seek arborist advice (which may include an arborist report if required) to inform an assessment of the following **essential criteria**:

- The tree must have a natural life expectancy of greater than 15 years based on the current age and species of tree;
- Have a 'Tolerable' Quantified Tree Risk Assessment rating at the time of assessment;
- Be of sound form and structure without major faults; and
- Not be hosting significant pests or disease, to an untreatable level or a level likely to cause decline.

1.3 Only trees that meet the **Preliminary** and **Essential Criteria** of this process will warrant inclusion to the Inventory.

LOCAL PLANNING POLICY: TREES OF SIGNIFICANCE

2. Assessment and Notification and Nomination

- 2.1 Should a tree be nominated for inclusion:
 - a. In the case of a nomination by the **primary owner**, all **secondary owners** of the tree will be notified of the reasons for its proposed entry.
 - b. In the case of a nomination by a **secondary owner**, the **primary owner** will be consulted upon in accordance with the Community and Stakeholder Engagement Policy. All other **secondary owners** of the tree will be notified of the reasons for its proposed entry.
 - c. In the case of a nomination by a third party, the **primary owner** will be consulted upon in accordance with the Community and Stakeholder Engagement Policy. All **secondary owners** of the tree will be notified of the reasons for its proposed entry.
- 2.2 The nomination will be assessed in accordance with **Part 3 Clause 1**.
- 2.3 Should the City support the nomination by the **primary owner**, Council, the nominator and all other **secondary owners** of the tree within 10 business days of the City's final decision.
- 2.4 Should the **primary owner** of a tree object to a nomination by a **secondary owner** or a third-party, this will be determined by Council. Administration will prepare a recommendation for Council in considering the provisions of this Policy.

3. Removal of Trees from the Inventory

- 3.1 Requests for removal of trees from the Inventory can be made by the **primary owner** or other **secondary owners** of a **Tree of Significance**. The request is to be submitted in writing to the City.
- 3.2 In accordance with the Community and Stakeholder Engagement Policy, consultation will be undertaken for a minimum of 14 days with all the owners of the **Tree of Significance** and all adjoining properties.
- 3.3 Restrictions to potential development of land is not sufficient reason to remove a Significant Tree from the Inventory.
- 3.4 Requests must demonstrate that the Significant Tree no longer meets or cannot be restored to ensure its health and ongoing viability to meet the **Essential Criteria** and the relevant criteria of **Part 2 - Clause 3.3 and Clause 3.4**. Costs associated with obtaining evidence that the Significant Tree no longer meets the criteria are the responsibility of the applicant.
- 3.5 The City may commission an independent arborist report if required.
- 3.6 Requests to remove Significant Trees from the Inventory will be determined by Council. Administration will prepare a recommendation for Council in considering the provisions of this Policy.

4. Arborist Reports

- 4.1 When a tree is nominated for the Inventory and on the advice of the City's DRP or internal landscape architect, the City may obtain an arborist report to determine the suitability of the tree

LOCAL PLANNING POLICY: TREES OF SIGNIFICANCE

and what work to the tree is required to preserve it. A copy will be provided to the **primary** and any **secondary owners**.

- 4.2 On the advice of the City's DRP or internal landscape architect the arborist report for a Significant Tree may be updated at the City's cost every 5 years, with a copy of the report provided to the **primary** and any **secondary owners**.
- 4.3 The City may arrange an inspection of a Significant Tree upon receiving a written request by a **primary** and/or **secondary owner** no more than once each year, and on the advice of the City's DRP or internal landscape architect can arrange for an arborist report if deemed necessary.
- 4.4 A City obtained arborist should identify:
 - a. Whether the tree is worthy of retention;
 - b. Any matters contributing a threat to the tree;
 - c. Specify a timeframe in which any amelioration work will need to be undertaken to ensure its preservation;
 - d. Any ongoing works that may be necessary over a 5 year maintenance program; and
 - e. Any works to the tree that could be undertaken, whilst ensuring the trees viability.

OFFICE USE ONLY	
Responsible Officer	Manager Urban Design & Strategic Projects
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