

Frequently asked questions – Amendment C191

What is Planning Scheme Amendment C191?

Amendment C191 seeks to introduce interim planning controls to protect large, established trees and the landscape character of the municipality.

Why has Amendment C191 been introduced?

The controls came from the Municipal Wide Tree Study.

Council undertook the Municipal Wide Tree Study in late 2015 and 2016. The Study was initiated by Council in response to continued concerns (from residents and Council) about the removal of trees and in particular “moon scaping” (total removal of all vegetation) of properties, which had no tree controls on them, prior to any development occurring. The Study looked at the mechanisms available to Council to protect trees in Whitehorse, including new planning controls as well as non-statutory tools such as a local law and tree education.

What are interim controls?

Interim controls are temporary controls that are not implemented through a full planning scheme amendment process. The request for interim controls was made under section 20(4) of the *Planning and Environment Act 1987* based on the criteria outlined in the Practice Note “Intervention in Planning and Heritage Matters”.

Where do the interim controls apply?

The interim planning controls apply to all land included in the Neighbourhood Residential Zone, General Residential Zone, Residential Growth Zone and Low Density Residential Zone that is not already covered by the Significant Landscape Overlay. Landowners can identify the zoning and overlays that apply to their land at <http://www.whitehorse.vic.gov.au/Whitehorse-Maps.html>

The interim controls do not change the zoning of the land.

Why did Council request interim controls?

A request for interim, municipal wide controls was made to protect trees while the planning scheme amendment for the permanent controls is prepared. The interim controls will expire on 31 December 2018.

The Minister for Planning directed Council to undertake additional work towards applying the same controls on a permanent basis. Council may seek an extension to the interim controls, depending on the status of this work.

Why wasn't I consulted about the interim controls?

Interim controls are not implemented through a full planning scheme amendment process and therefore do not go on public exhibition. The interim controls are based on the Municipal Wide Tree Study that was undertaken in 2016.

The Municipal Wide Tree Study included community consultation and Council invited feedback on the draft study in April and May 2016. The community consultation undertaken for the Tree Study included:

- Notification in the Whitehorse Leader for four weeks between late April and mid May. This notification included advertising the project webpage, drop in sessions and how to comment on the draft report;
- Three drop in sessions (held at Sportlink, Box Hill Mall and Blackburn Lake Visitor Centre);
- Project webpage for the life of the project which is still active today and includes the documents associated with the project; and
- Three project bulletins over the life of the project (which are available on the project webpage).

Council received a variety of feedback which was incorporated into the Final Options and Recommendations Report. The Whitehorse Tree Study Final Options and Recommendations Report ultimately recommended that Council extend the Significant Landscape Overlay (SLO) to all residential zoned land in the municipality. More information about the Tree Study and final report can be found online at: <http://www.whitehorse.vic.gov.au/TreeStudy.html>

Is there any chance for me to make comments?

The Minister for Planning directed Council to undertake further strategic work towards applying the same controls on a permanent basis. Council will need to apply to the Minister for Planning if it wishes to apply the same controls on a permanent basis. If the Minister for Planning approves the preparation of the permanent controls, Council anticipates that a full planning scheme amendment process would follow and at that stage the community will have an opportunity to make comment on the amendment.

Who received a letter about the new controls?

All owners and occupiers of land included in the Neighbourhood Residential Zone, General Residential Zone, Residential Growth Zone and Low Density Residential Zone that is not already covered by the Significant Landscape Overlay.

Why was I notified by letter?

Notifying all affected owners and occupiers by letter was considered to be the most effective way to advise and assist owners and occupiers in understanding the new controls. Council was concerned that owners and occupiers might inadvertently remove a tree that would now otherwise require a permit.

What do the new controls mean for me now?

This means that a planning permit is required to remove, destroy or lop certain trees.

What happens if I don't have any trees on my property?

The new tree controls are intended to protect larger canopy trees that form part of the landscape and neighbourhood character.

If you do not have any trees that now need a permit to be removed, then you do not need to do anything further regarding the new controls.

However, the new controls are also intended to protect future trees which may contribute to the landscape and neighbourhood character.

Therefore if you have any trees on your property in the future that are over 5m in height and/or have a trunk circumference of 1m at 1m above the ground, then you will require a planning permit to remove them.

Does this change the zoning or existing overlays on my land?

No, the zoning of your land hasn't changed.

The interim controls are in addition to existing overlay controls which already apply to your land. Landowners can identify the zoning and overlays that apply to their land at <http://www.whitehorse.vic.gov.au/Whitehorse-Maps.html>

Are there any exclusions in the new controls?

A planning permit is not needed for:

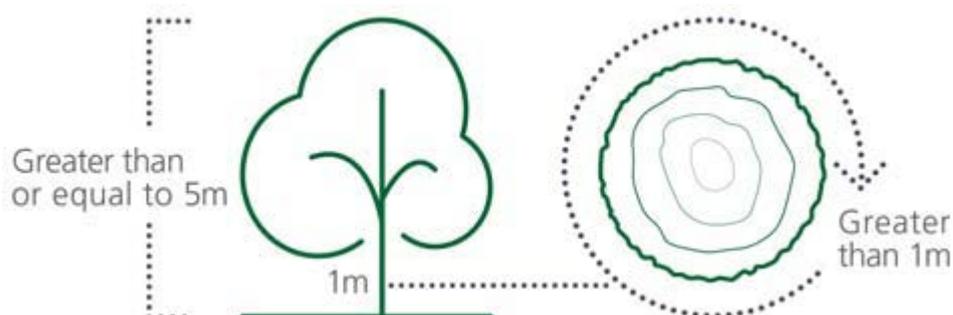
- A tree less than 5m in height and having a single trunk circumference of 1.0 metre or less at a height of one metre above ground level; or
- The pruning of a tree for regeneration or ornamental shaping; or
- A tree which is dead or dying or has become dangerous to the satisfaction of the responsible authority; or
- A tree outside the Minimum Street Setback in the Residential Growth Zone.

What if I think my tree is dead, dying or dangerous?

Please contact Council's Planning and Building Department on 9262 6303 to ascertain the best way forward.

What trees can't I remove without a permit?

Any tree that has a trunk circumference of greater than 1.0m at 1.0m from the ground and/or a height of 5 metres or more requires a planning permit to be removed (see diagram).



What trees can I remove without a permit?

Trees that are less than 5m in height and with a girth of 1m or less at 1m high do not need a permit to remove under the new controls.

If there are any additional planning overlays on your land or existing planning permits this may also affect what trees you can remove.

What about weed species?

All trees contribute to the overall tree cover and neighbourhood character of an area. Although promoting increased planting of weed species is not desirable, these species rarely endanger the landscape environmental qualities in urban areas. They often provide habitat, contribute to urban cooling and support large canopy trees (e.g. protection from wind).

Based on these benefits, weed species of trees that are greater than or equal to 5m in height and with a girth of 1m or greater at 1m high require a planning permit. The tree species may be taken into account when the permit application is assessed.

Can I prune my trees?

Yes, a permit is not required to prune a tree.

What is the difference between pruning and lopping?

- **Pruning** of a tree is defined as removing branches (or occasionally roots) from a tree or plant using approved practices, to achieve a specified objective such as for regeneration or ornamental shaping.
- **Lopping** is defined as the practice of cutting branches or stems between branch unions or internodes.

Can I still prune overhanging branches from neighbouring property?

Talk to your neighbours first if you are concerned about a tree on their property.

You have the right to prune an overhanging tree to the boundary fence line (refer to pruning guidelines above), without a planning permit. You do not have the right to enter their property without permission.

A permit may be required to lop a branch, or branches.

What about trees on the nature strip or street trees?

Trees in the nature strip/road reserve of a road in the Road Zone Category 1 (generally larger arterial roads such as, but not limited to, Whitehorse Road) are not protected by the new controls, or any other vegetation controls.

Trees in the nature strip/road reserve on any other road that falls within a residential zone are protected by the new controls and any other vegetation controls.

Can I still develop my land?

The interim overlay does not prohibit development. However, any development must comply with the overlay. This means that careful design and planning will be necessary to make sure that development either allows for the retention of trees that are protected by the SLO or provides justification for their removal and allows enough space to plant new trees.

Any buildings and/or works on private land within 4 metres of any tree protected under the new controls on your own land, on neighbouring land and in the nature strip will require a planning permit. Buildings and works includes, but is not limited to:

- New habitable and non-habitable buildings, extensions to existing buildings and structures;
- Crossovers (new or modifying existing);
- Authority pits and works (e.g. road opening for drainage, Telstra pits, etc.);
- Excavation for driveways/hard surfacing, or general site cuts; or
- Building works includes retaining walls/front fences/side boundary fencing within 3 metres of the frontage.

The interim controls will allow Council to consider how a proposed development will impact the tree canopy in the area or whether a proposal for tree removal is appropriate.

What about unlawful removal of trees?

The interim overlay will also enable Council to take enforcement action should vegetation be removed without the appropriate approval.

The maximum fine at the Magistrates Court for illegal tree removal is approximately \$174,000.

How long will it take for me to get a planning permit?

If a permit is required for the removal of one tree, it may be possible to obtain this through the VicSmart application process, which aims to fast track decisions on minor planning applications in 10 business days.

More information about VicSmart is available from

<http://www.whitehorse.vic.gov.au/VicSmart.html>, however landowners should contact Council to determine if a permit can be obtained through this process.

Please contact Council's Planning and Building Department on 9262 6303.

What is the cost to get a planning permit?

The fees for a planning permit can be found online at: <http://www.whitehorse.vic.gov.au/Planning-Fees.html>

Please contact Council's Planning and Building Department on 9262 6303 to confirm the fees.

What happens next?

The new interim controls will remain in place until 31 December 2018 while Council continues strategic work to consider the merits of applying the same controls permanently.

If Council decides to apply the same controls on a permanent basis, then Council will need to apply to the Minister for Planning to undertake an amendment to the Whitehorse Planning Scheme. At this point, landowners will be able to comment on the proposed controls.

More information is available from www.whitehorse.vic.gov.au/Amendment-C191.html