



# SIGNIFICANT HEDGE MAINTENANCE POLICY

## 1. OVERVIEW

Trees provide environmental, social and health benefits for our municipality. They shade our streets, attract birds and insects, add to our sense of place and make our suburbs more livable.

However, hedges that are not maintained can pose a significant risk to the community particularly to those with restricted mobility.

This policy establishes a guideline for the management of Hedges to ensure Council footpaths provide clear and unobstructed access for all pedestrians.

## 2. OBJECTIVE

Overhanging or encroaching vegetation including hedges is potentially dangerous, reduces the area people can safely walk on the footpath and limits access for people with disabilities.

The objective of this Policy is to provide a framework that provides unhindered pedestrian access along our footpath network ensuring hedges that encroach on the public space are appropriately maintained removing all obstructions associated with them.

## 3. PROPERTY OWNER OBLIGATIONS

### Duty of Care

Property or Business Owner have a Duty of Care to pedestrians. A Duty of Care means that property or business owners have a responsibility to ensure that the vegetation on their property is maintained in a way that creates an environment with acceptable levels of risk. If a tree damages someone's property or injures a person, the property owner could be held liable. Maintaining the trees on private property so that they do not obstruct pedestrian access or encroach over footpaths will reduce the likelihood of persons being injured.

### The Whitehorse City Council – Community Local Law 2014

Council's Community Local Law 2014 (Local Law) is designed to protect the community and local environment from health and safety concerns and make living in the City of Whitehorse more pleasant for all residents.

The Local Law provision that relates to Hedges is outlined below;

### Section 4.9 - Overhanging vegetation

A person who owns or occupies any land abutting any road or municipal place must not permit any vegetation on that land:

- a) To overhang at a height of less than 2.5 metres from the level of the adjacent footpath or nature strip; or
- b) To interfere with –
  - I. a Council sign on a road or municipal place; or
  - II. a vehicle using a road.

A property owner must ensure their hedge does not protrude or obstruct any footpath.

## **Hedge Maintenance**

The City of Whitehorse has a number of overlays that protect trees and vegetation on private and Council land. These overlays are intended to preserve and enhance the landscape within Whitehorse. Under some of the overlays tree removal, lopping, pruning and works may require a planning permit.

## **4. COUNCIL OBLIGATIONS**

### **The Disability Discrimination Act 1992 (DDA 1992)**

#### **Section 23 – Access to Premises**

The DDA 1992 states that it is unlawful to discriminate against people with a disability in relation to access to, and use of, any premises that the public is allowed to enter or use, such as public footpaths and walkways.

Council are responsible for ensuring the safety and accessibility of footpaths by pedestrian traffic and not discriminating against those who have disabilities. Vegetation that overhangs or encroaches on footpaths can become dangerous and can discriminate against certain groups of people indirectly by preventing access or creating barriers to those premises.

#### **Australian Standards – 1428.1**

Under Australian Standard 1428.1 access for persons with disabilities must be provided with particular attention on;

- Continuous accessible paths of travel and circulation spaces for people who use wheelchairs
- Access for people with ambulatory disabilities
- Access for people with sensory disabilities

#### **Maintenance of a Significant Hedge**

- Significant hedges must be maintained so that they do not overhang the footpath or naturestrip at a height less than 2.5 metres from the adjacent ground surface and must be pruned back to the property line
- The canopy of any significant hedge must not extend past the line of the kerb
- It is recommended that the property owner construct a fence in front of the pruned section of the hedge to hide the exposed dead wood. This will enhance the significant hedge's overall appearance.

## **5. COMPLIANCE**

Where a constructed footpath exists, within a road reserve that Council manages, it is Council's responsibility to provide safe, accessible and unimpeded access free of trip / fall hazards and obstructions, for pedestrians, including people with disabilities, parents with prams and children.

Property owners are responsible for maintaining their Hedge so that it does not encroach on or over Council managed land.

If Council provides a direction to a property owner to prune a Hedge so that it does not protrude over the footpath and the required works are not carried out, a penalty may be issued.

#### **Enforcement**

The maximum penalty for breaching section 4.9 of the Community Local Law 2014 is \$2,000. As an alternative to prosecution an infringement notice may be issued. The infringement amount is set annually by Council.

Property owners must ensure that their hedges are fully compliant under the Local Law. If Council is required to undertake any works on the property due to the property owner failing to comply with a Direction to clear or maintain their Hedge, all costs will be at the owner's expense including any administrative charges.

## **6. RELATED DOCUMENTS**

- Local Government Act 2020
- Disability Discrimination Act 1992
- Australian Standard 1428.1
- Whitehorse Planning Scheme
- The Whitehorse Planning Scheme Vegetation Protection Overlay: Information on whether a permit is required can be determined at <https://www.whitehorse.vic.gov.au/planning-building/do-i-need-permit/treeremoval-logging-and-pruning>
- Whitehorse Disability Action Plan
- Whitehorse Municipal Public Health and Wellbeing Plantural Strategy.

## **INTERNAL USE ONLY**

### **7. REVIEW**

Date Adopted: March 2021.

Responsible Manager: Manager Community Safety