



WHITEHORSE

# Significant Hedge Maintenance Policy



## **1. PURPOSE**

Trees provide environmental, social and health benefits for our municipality. They shade our streets, attract wildlife, and add to our sense of place and make our suburbs more liveable. 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. DEFINITION**

For the purpose of this Policy a significant hedge means a cypress hedge.

## **4. PROPERTY OWNER OBLIGATIONS**

Property owners 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 2024

Council's Community Local Law 2024 (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;

### 3.6 Trees and Vegetation

The owner or occupier of land must not allow vegetation on that land to:

- (a) overhang onto the footpath, road or Council land at a height of not less than 2.5 metres from the surface of the adjacent footpath or nature strip;
- (b) obstruct or impair the vision or clear passage of a vehicle using the adjacent road;
- (c) obstruct or interfere with the safe and accessible use of the footpath or road adjacent to or near the land;
- (d) encroach upon any adjacent road or Council land; or
- (e) obscure streetlights or traffic control items.

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.

- Significant hedges must be maintained so that they do not overhang the footpath or nature strip 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.

Hedge owners can make application for a Council permit to widen the footpath where appropriate. The costs of works and the permit fee is at full cost of the property owner. All permit applications will be assessed on a case by case basis taking into account existing infrastructure and location.

## 5. 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

## 6. COMPLIANCE

Property owners are responsible for maintaining their hedge so that it does not encroach on or over Council owned, managed or vested land. 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, people with prams and children.

## Enforcement

The maximum penalty for breaching section 3.6 of the Community Local Law 2024 is 20 penalty units. As an alternative to prosecution an infringement notice may be issued. The infringement amount is indexed annually by the Treasurer.

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.

## 7. RELATED DOCUMENTS

- *Local Government Act 2020*
- *Disability Discrimination Act 1992*
- Australian Standard 1428.1
- Community Local Law 2024
- The Whitehorse Planning Scheme - Vegetation Protection Overlay
- The World Health Organisation Age-Friendly Cities Framework
- Whitehorse Disability Action Plan
- Whitehorse Health and Wellbeing Plan



## ACKNOWLEDGEMENT OF COUNTRY

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Whitehorse City Council acknowledges the Wurundjeri Woi-wurrung people of the Kulin Nation as the traditional owners of the land. We pay our respects to their Elders past, present and emerging.

## CONTACTING COUNCIL

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**Postal Address:** Whitehorse City Council  
Locked Bag 2  
Nunawading 3131

**ABN:** 39 549 568 822

**Telephone:** 9262 6333 (including language support)

**NRS:** 133 677 then quote 9262 6333  
(Service for deaf or hearing impaired people)

**Service Centre:** Whitehorse Civic Centre  
379-399 Whitehorse Road,  
Nunawading 3131

**Website:** [www.whitehorse.vic.gov.au/contact-us](http://www.whitehorse.vic.gov.au/contact-us)

**Email:** [customer.service@whitehorse.vic.gov.au](mailto:customer.service@whitehorse.vic.gov.au)

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