

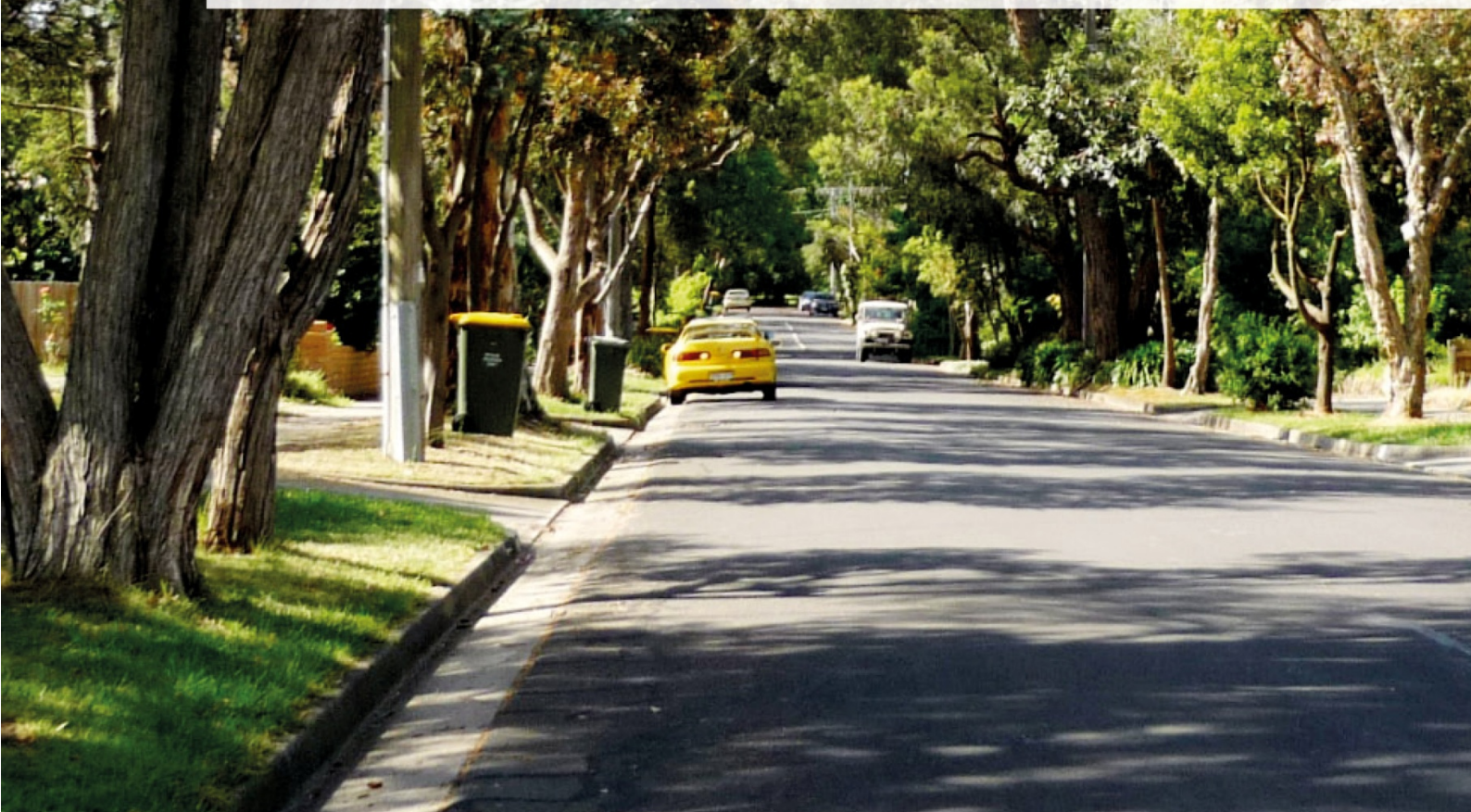
MUNICIPAL WIDE TREE STUDY

OPTIONS AND RECOMMENDATIONS REPORT

WHITEHORSE CITY COUNCIL

JUNE 2016


PLANNING + DESIGN + PEOPLE



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ACKNOWLEDGEMENTS

The Study Team recognises that the State of Victoria has an ancient and proud Aboriginal history and complex ownership and land stewardship systems stretching back many thousands of years. We would like to acknowledge the Traditional Owners of this land, and offer our respect to the past and present Elders, and through them to all Aboriginal and Torres Strait Islander People.

PROJECT CONTROL

NAME	NO.	PM APPROVED	PD APPROVED	DATE
Draft Report	1	KW	LR	18/03/16
Final Draft Report	1	KW	LR	15/04/16
Final Report	1	KW	LR	15/06/16

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GLOSSARY

Vegetation Protection Overlay (VPO): Planning Overlay that aims to protect areas of significant vegetation, preserve existing trees and other vegetation, ensure that development minimises loss of vegetation and to recognise vegetation protection areas as locations of special significance, natural beauty, interest and importance.

Significant Landscape Overlay (SLO): Planning overlay which seeks to identify significant landscapes and conserve and enhance the character of these significant landscapes.

Environmental Significance Overlay (ESO): Planning overlay which aims to identify areas where the development of land may be affected by environmental constraints and to ensure that development is compatible with identified environmental values.

Whitehorse Planning Scheme (WPS): A statutory document that sets out objectives, policies and controls for the use, development and protection of land in the City of Whitehorse. The Planning Scheme is administered by the City of Whitehorse and approved by the Minister for Planning.

ResCode: Residential design standards applied through Clauses 54, 55 and 56 of the planning scheme to residentially zoned land for buildings up to three stories in height. Sets out requirements for the siting and design of dwellings and associated buildings.

Tree Protection Zone (TPZ): An area established around the base of an established tree that seeks to provide for adequate root space to sustain tree health and viability.

Neighbourhood Residential Zone (NRZ): Planning Zone that recognises areas for its special neighbourhood character and seeks to limit opportunities for increased residential development.

General Residential Zone (GRZ): Planning Zone that seeks to support lower density development that respects the neighbourhood character of areas and implements neighbourhood character policy and adopted neighbourhood character guidelines

Residential Growth Zone (RGZ): Planning Zone that aims to support housing at increased densities in buildings up to and including four stories in locations with good access to services and transport.

Planning and Environment Act 1987 (P&E Act): Provides the legal framework for the operation of Victoria's planning system. Establishes land-use and development planning controls and establishes Planning Schemes administered through municipalities.

Section 173 (S173): A legal contract made between Council and a land owner made under Section 173 of the Planning and Environment Act 1987. The agreement sits with the land title. Provides for on-going requirements on the use or development of land beyond the requirements of the Planning Scheme. A Section 173 agreement may be used to protect native vegetation or to require landscaping in accordance with a plan on a parcel of land.

The image shows a close-up of a tree trunk with rough, textured bark. A dark gray rectangular overlay covers the right portion of the image. On this overlay, the number '1' is displayed in a large, white, sans-serif font.

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BACKGROUND

1.1 THE STUDY BRIEF

Whitehorse City Council is undertaking this Study to review, analyse and document the importance of vegetation, and especially tree canopy cover, to the municipality and the region. The study investigates ways in which this important aspect of the City can be protected and enhanced, as development and future growth inevitably occurs. The project is focussed on trees on private land, rather than on Council and other public land which is managed in a variety of other ways.

The Tree Study provides options and recommendations for policy and controls and other (non-statutory) mechanisms that will aim to ensure the future retention and regeneration of tree canopy. These include planning scheme changes to both protect existing trees and encourage the planting of future canopy trees. Options can also involve broader Council policy, advocacy and educational aspects to tackle the issue of tree retention on private land in a number of ways.

The Study will determine the types of trees that are most important as well as where in the City existing tree cover is lacking. While research and survey work is a significant part of the Study, the community's views are also very important in determining the final recommendations.

1.2 PROCESS

The Tree Study has involved two stages to date: Discussion Paper, and Options and Recommendations Report. The Discussion Paper is available in full via the Council's website at www.whitehorse.vic.gov.au/treestudy.html, however a short summary of some of the major findings is provided below. The method used to determine the importance of tree cover within Whitehorse and the effectiveness of the overlay tools being used to protect tree cover is detailed in the Discussion Paper and included background review, desktop analysis and fieldwork survey.

DISCUSSION PAPER

The Whitehorse Tree Study Part 1 (Discussion Paper) identifies the contribution of trees on private property in defining the character of the City of Whitehorse and the of Melbourne's eastern region.

Consultation to gather information, identify issues and discuss the project was undertaken exposing a wide range of community views and values relating to trees.

Considerable research has been gathered that documents the importance of trees to the image and character of areas, urban cooling, fauna habitat, social well-being, health and economic benefits. Most of these benefits apply equally to local indigenous trees as to exotic trees.

The community identified a number of issues with the current approach to protecting and planting trees in Whitehorse. It was clear that the community valued tree cover in Whitehorse particularly for its contribution to the character and amenity of the area. 'Moonscaping' of new development sites, involving clearing of the site well before applications for development, was identified by the community as a key issue that needs to be addressed with a strong feeling that canopy trees needed to be protected.

Additionally, there was a view that new development is not leaving sufficient space for replanting due to excessive site coverage and hard surfaces. Participants at the external stakeholder workshop agreed that community education is a key to tree retention and identified incentives to retain and plant trees; and better compliance and enforcement for tree protection controls as potential solutions for the future.

A number of existing tools are being used to manage trees in Whitehorse. Within the existing planning scheme local policy, residential zones and overlays are being used to protect established trees, provide space for future trees and encourage the planting of new trees. The application of the Significant Landscape Overlay, Vegetation Protection Overlay, and Environmental Significance Overlay provides some of the most robust protections for trees within the municipality.

The canopy cover of Whitehorse was assessed using iTree software. The analysis estimates that 26.6% of the City has tree canopy cover, with an additional 21.5% covered by other vegetation. The remainder of the ground cover comprising of buildings (also at 26.6%) and hard surfaces (25.3%). The analysis of tree cover over the City indicates that the municipality has a high level of tree cover when compared with most metropolitan areas, and even within the middle ring suburban municipalities, and slightly less or similar to adjoining municipalities. However the analysis confirmed anecdotal reports that tree cover is decreasing over the City, while building site coverage and other hard surfaces are increasing.

Across Whitehorse there is considerable variation in terms of tree cover depending on the neighbourhood character area. The area with the highest canopy cover is the Bush Environment character type, where tree cover is approximately 50%. Areas not covered by the neighbourhood character study, for example town centres and industrial areas are the least treed. Together with Garden Suburban these areas have a canopy cover of just 23%. The remaining character type, Bush Suburban, has 29% tree cover. Areas with tree protection controls have a significantly higher proportion of ground covered by trees, as do areas identified as 'Bush Environment' and 'Bush Suburban' in the neighbourhood character study.

Key findings of all the analysis, background research and community engagement have guided the development of the draft options contained within this report.

Council Officer and Community feedback was obtained on the Discussion Paper through meetings and workshops. A summary of the input provided through these processes is found at Appendix B, and has formed the basis of the Issues discussion later in this Options Report.

OPTIONS AND RECOMMENDATIONS REPORT

This Report was prepared in two stages; first as the Draft Options Report for consultation purposes, and now as the Options and Recommendations Report following consultation. The Draft Options report presented options for implementation of the findings of the Discussion Paper in terms of the additional or modified controls and other actions required to achieve the broad aim of retaining and enhancing canopy tree cover in Whitehorse. The report detailed statutory and non-statutory options that can be used in some cases concurrently.

The Draft Options Report, which outlined a preferred option among others, was presented to the community for comment and feedback in April – May 2016. The report was made available to the community through the Council's website and

feedback was sought via a Community Bulletin survey, an online survey and by invitation to one of three drop-in sessions. Invitations to drop-in sessions were made by:

- Project bulletin on the Council website and sent to interested residents and groups;
- Email to members of the community who signed up during stage one of the project; and
- Public notice in the regular Whitehorse City Council column in the local newspaper. A total of 56 responses were received.

Overall, the vast majority of responses to the Whitehorse Tree Study were supportive of additional planning controls to protect tree canopy. Of those who expressed an opinion on a preferred tree control option their preference was for an extension of the SLO controls in Whitehorse. In addition, respondents through the process have highlighted the benefits of trees to urban cooling, habitat, aesthetics as well as a wide range of other benefits.

Community feedback also included minor variations to the preferred controls, greater opportunities for enforcement and penalties (for illegal tree removal), greater education and a need to consider site coverage, setbacks and open space requirements closely.

As a result of this consultation process, the Options Report has been revised and provides greater detail or discussion on the following:

- Site coverage and setbacks in zone/overlay schedules
- Private open space requirements
- Existing SLO provisions
- Definition of canopy tree

A detailed summary of the consultation findings and responses can be found within the *Municipal Wide Tree Study – Engagement Summary Report, June 2016*.

The Report is now titled *Options and Recommendations Report* as a result of these changes.



Source: Whitehorse Tree Education Program - Ten Reasons to Plan More Trees



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GAP ANALYSIS

The Gap Analysis requires an examination of issues that have been raised during consultation with Council, Council officers and the community so far, the available tools for tree protection and increased planting, and the advantages and disadvantages of these options in addressing identified gaps.

2.1 AVAILABLE TOOLS

This section provides a detailed discussion of the issues and considerations identified for each potential tree protection method or control.

LOCAL PLANNING POLICY FRAMEWORK

The Whitehorse LPPF provides a strong framework for planning controls that seek to protect vegetation and trees.

Clause 21.05 Environment seeks to facilitate environmental protection and improvements to assets including water, flora, fauna and biodiversity. This Clause identifies trees as being an integral aspect of the character of Whitehorse, particularly in residential areas. A strategy supporting this Clause is to ensure that tree removal within significant areas requires permission and that the replanting of tall trees and indigenous vegetation is supported.

Clause 21.06 Housing also carries this theme. It sets out three 'categories' of housing change in the municipality – minimal change, natural change and substantial change. The former two comprise areas of strong cultural heritage or neighbourhood character. The role of vegetation is seen as integral to character in Whitehorse and the MSS notes that '*vegetation character is generally the most significant determinant of neighbourhood character.*'

The Tree Conservation Policy (Clause 22.04) seeks to provide an overarching link between the environmental and neighbourhood character values of trees in Whitehorse. It sets out detailed policies aimed at retaining and protecting existing trees; and providing sufficient space for the regeneration and growth of new trees.

The Residential Development Policy (Clause 22.03) also reinforces the importance of trees to the residential areas of the City, with an objective specifically relating to ensuring new development minimises the loss of trees and vegetation. Many provisions within the Policy including the Preferred Character Statements refer to the intrinsic importance of trees in the character of the area.

ISSUES

The issues identified with the LPPF, include:

- It cannot be used solely to protect trees, as it does not provide the relevant mechanisms to require a planning permit. It is therefore only applied in situations where a planning permit is required by a zone or Overlay.
- Currently the Tree Conservation Policy does not detail the importance of planting new large canopy trees and the need to monitor and protect new trees before reaching maturity.

- The Policies do not provide a definition for a significant or large canopy tree. A clear definition in the LPPF could be used as a guide to introducing further planning controls and providing greater vision for tree retention in the whole municipality, regardless of private ownership and zoning.

VEGETATION PROTECTION OVERLAY

The purpose of the overlay is:

To protect areas of significant vegetation.

To ensure that development minimises loss of vegetation.

To preserve existing trees and other vegetation.

To recognise vegetation protection areas as locations of special significance, natural beauty, interest and importance.

To maintain and enhance habitat and habitat corridors for indigenous fauna.

To encourage the regeneration of native vegetation.

The most common application of the VPO is at an individual property level, applying to each residential property that is known to contain a significant tree and requiring approval for removal or lopping of that tree within the property boundary.

The other approach to the application of the VPO is at a precinct level. This sees the VPO being applied across all properties within a larger area and defining a tree size and/or type threshold (for example) above which a planning permit is required for removal. This would assume that there is the potential for a significant tree to be located on all sites within the overlay area.

While application of the VPO to all trees throughout the whole municipality is problematic, a more targeted approach with parameters that define the permit triggers of the VPO would ensure that no large canopy trees are overlooked when considering removal and/or lopping.

In the case that a tree is approved for removal, the VPO can also provide the mechanism to require replacement planting.

Both methods – individual sites and precincts - currently apply within Whitehorse. The Whitehorse planning scheme contains 4 VPO Schedules. Schedules 1 and 3 implement the Significant Tree Register by applying to individual properties across the municipality with trees that have been identified as being significant for either their contribution to the landscape/streetscape or because the vegetation is of local provenance. Schedules 2 and 4 take a precinct approach and implement the Whitehorse Neighbourhood Character Study (2003) by identifying areas of protection for the large trees that contribute to dominant vegetation cover.

ISSUES

The issues identified with the application of the VPO include:

- It does not require a planning permit for development/construction works. This can mean that a significant tree is intended to be retained, but due to construction works within close proximity of the tree, it is critically injured or killed. Injured trees, depending on the species, are then likely to die over the next 5 – 10 years.

- There is no replacement mechanism for dying (as opposed to dead) trees (either due to age or construction impacts).
- It does not protect young trees that have the potential to become significant or large canopy trees.
- The VPO on individual sites (Schedules 1 and 3) only applies to the tree within the site boundary, therefore canopy that extends over the property boundary is not protected.
- Individually applied VPOs do not avoid issues of building overhang, as the control only applies to the tree specifically. Overhanging buildings can reduce tree canopy and lead to requests for tree removal.
- Many trees do not meet the existing permit triggers (i.e. are smaller and do not require a permit for removal). This is especially true in Schedules 1 and 3 where the VPO only protects trees that are listed within the Significant Tree Register. The register contains mature aged trees and not smaller trees that have the potential to be significant trees in the future.

Schedules 2 and 4 require a permit for trees that are at least 1m circumference at 1m above ground level. This excludes large canopy trees that have multiple trunks or are tall and narrow.

- A case study investigation of development sites around Whitehorse has found that a significant amount of 'moonscaping' is occurring on sites protected by a precinct VPO (2 and 4). It is possible that significant trees are being removed from these sites either with or without a permit, which indicates that the VPO may be ineffective, due to trees not meeting permit triggers. Trees are generally retained on property boundaries, where they are at risk of encroachment and damage by development on neighbouring properties.
- The VPO has been considered an inappropriate tool to implement at a precinct level by Planning Panels in the past, as the thresholds for tree selection may be insufficiently robust if permission to remove a tree was denied and the matter was reviewed by VCAT.
- Introduction of a municipal-wide VPO control would have significant resourcing implications for the Council.
- As a result of a Planning Panel recommendation for Whitehorse Planning Scheme Amendment C83, the *Statement of Tree Significance 2006* was revised to elaborate on the assessment criteria and holistic assessment approach. This is an incorporated document referred to in Schedule 3 only. It could be appropriate to refer to this in other schedules.

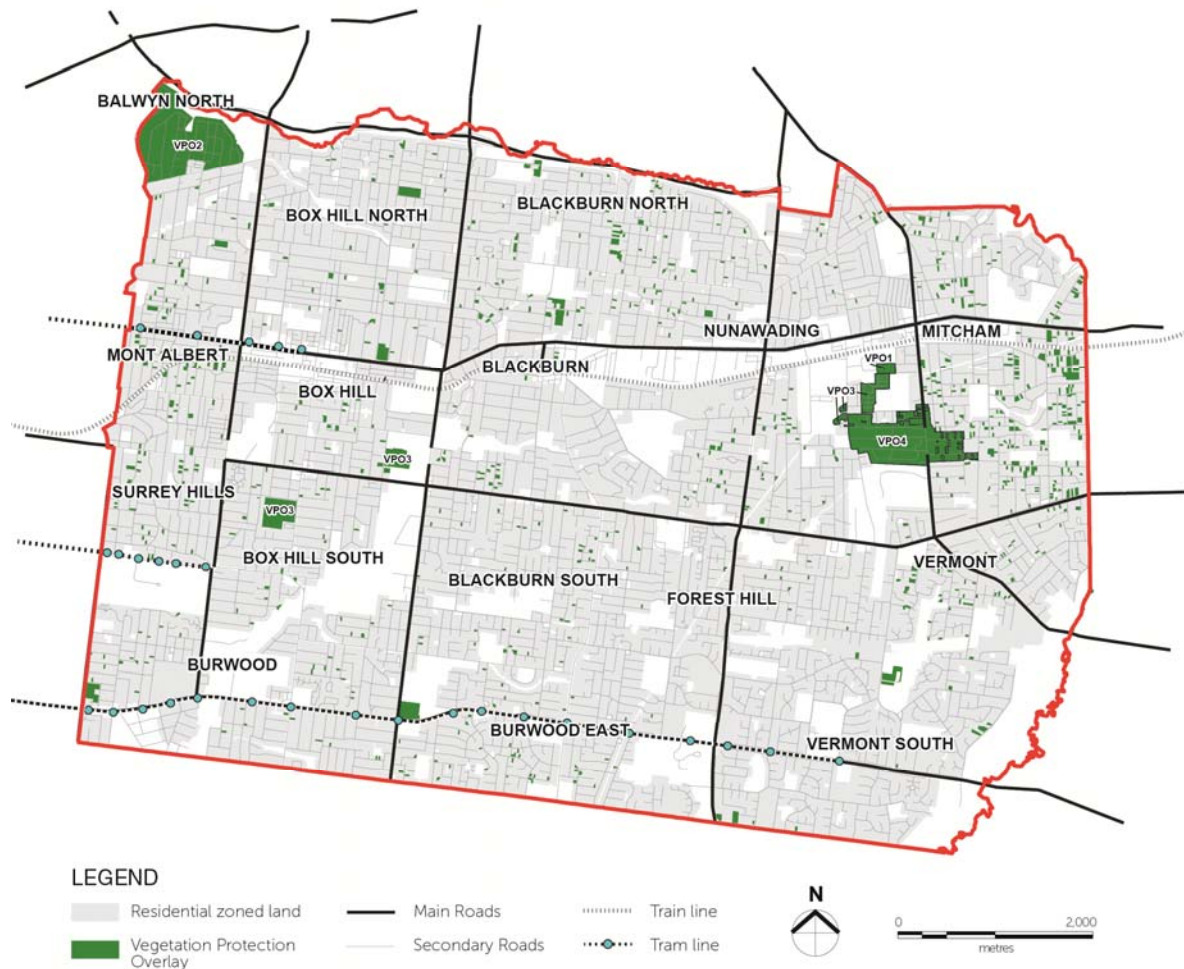


Figure 1: Vegetation Protection Overlays in Whitehorse

SIGNIFICANT LANDSCAPE OVERLAY

The purpose of the overlay is:

To identify significant landscapes.

To conserve and enhance the character of significant landscapes.

The Whitehorse planning scheme contains 8 SLO schedules, which have all been determined based on the *Whitehorse Neighbourhood Character Study 02/03*. The study identifies these areas to be within a Bush Environment character precinct. All Bush Environment areas are protected by an SLO, which generally seeks to retain the dominance of vegetation cover, protect large canopy trees and ensure development is compatible with the character of the area.

The 8 schedules vary by the landscape character objectives to be achieved and the permit requirements, based on the desired future neighbourhood character for each area.

The SLO is almost always applied using a precinct level approach and as highlighted by several Planning Panels, requires a very strong strategic justification for its application.

If neighbourhood character work can provide sufficient justification for its application in a municipal-wide approach, the overlay is very efficient in protecting large canopy trees, as a planning permit is also required for all buildings and works within the triggers applied.

ISSUES

The issues identified with the application of the SLO, include:

- There is no replacement mechanism for trees dying (either due to age or construction impacts).
- A very strong strategic justification is required to apply an SLO in a municipal-wide approach and therefore it can be difficult to achieve support from a Planning Panel. Panels in the past have required that the application of the SLO demonstrate the special characteristics of an area that warrant vegetation controls and make it distinct from other nearby areas.
- Development/construction works near SLO boundaries have often resulted in the loss of protected trees due to the development encroaching on the TPZ.
- The cost and resource implications of applying an SLO municipal-wide could be very high. This would depend on the permit requirements and exemptions outlined in the SLO schedules; however it is likely that a much larger number of permit applications would be received by the Council for residential developments that would not otherwise be required, for example single dwellings and extensions.
- Discussions with Council staff have indicated that VCAT often overturn decisions relating to the SLO, where a permit has been refused. Therefore, the practical effectiveness of the SLO should be further considered and the reasons behind VCAT decisions examined.

CURRENT WHITEHORSE SLOS

The following table provides an outline of the existing 8 SLOs in Whitehorse, including tree size above which a permit is required for removal or lopping; species protected (i.e. native, indigenous, exotic) and built form controls.

In many cases the SLOs require all trees with a circumference of at least 0.5m at 1.0 metre above the ground to be protected and all buildings and works to be located at least 4 metres away from the protected tree. The permit triggers for the SLO are designed to encourage buildings to be no more than 9m in height with low site coverage and side setbacks. Tree density requirements are contained in the Decision Guidelines for tree removal that aim to ensure that sufficient space remains on the site for future potential tree growth. These controls are discretionary, allowing for approvals outside these requirements.

Table 1 - Existing Whitehorse SLOs

	Tree Size Permit Trigger	Species Protected	Built Form Permit Triggers (above which a permit is required)	Tree density Decision Guideline
SLO ₁ – Blackburn Area 1	Circumference of 0.5m at 1.0 metre above the ground	All	<p>Max. 9m height</p> <p>Front setback – 9m single storey or 11m double storey</p> <p>Min. 1.2m side setback (3m from a road)</p> <p>Max. 25% site coverage</p> <p>4m from protected vegetation</p> <p>Max. 17% impervious surfaces</p> <p>Other buildings and works controls apply</p> <p>Front fence controls</p>	1 x 15m tree /150 sqm
SLO ₂ – Blackburn Area 2	Circumference of 0.5m at 1.0 metre above the ground	All	<p>Max. 9m height</p> <p>Front setback – 9m single storey or 11m double storey</p> <p>Min. 1.2m side setback (3m from a road)</p> <p>Max. 33% site coverage</p> <p>4m from protected vegetation</p> <p>Total building and impervious surfaces max. 50%</p> <p>Other buildings and works controls apply</p> <p>Front fence controls</p>	1 x 15m tree /150 sqm
SLO ₃ – Walker Estate	Circumference of 0.5m at 1.0 metre above the ground	All	<p>Max. 9m height</p> <p>Front setback – 9m single storey or 11m double storey</p> <p>Min. 1.2m side setback (3m from a road)</p> <p>Max. 33% site coverage</p> <p>4m from protected vegetation</p> <p>Max. 17% impervious surfaces</p> <p>Total building and</p>	1 x 15m tree /150 sqm

	Tree Size Permit Trigger	Species Protected	Built Form Permit Triggers (above which a permit is required)	Tree density Decision Guideline
			<p>impervious surfaces max. 50%</p> <p>Other buildings and works controls apply</p> <p>Front fence controls</p>	
SLO4 – Blackburn Early Settlement Neighbourhood Character – Vegetation Retention	Circumference of 0.5m at 1.0 metre above the ground	All	All buildings and works must be 4m from protected vegetation, including fences	1 x 15m tree /150 sqm
SLO5 – Nominated Large Sites	Circumference of 0.5m at 1.0 metre above the ground	All Pinus Radiata around the perimeter must be replaced by indigenous	<p>All buildings and works must be 4m from protected vegetation, including fences</p> <p>Max. 9m height</p> <p>Max. 9m front and rear setback</p> <p>Min. 1.2m side setback (3m from a road)</p> <p>Max. 33% site coverage</p> <p>Max. 17% impervious surfaces</p> <p>Total building and impervious surfaces max. 50%</p> <p>Building/massing to provide frequent pockets of existing/new trees</p> <p>Overall height should be below the predominant tree canopy</p> <p>Other buildings and works controls apply</p>	1 x 15m tree /150 sqm
SLO6 – Yarran Dheran, Somers Trail, Collina Dell and Menin Road	Circumference of 0.5m at 1.0 metre above the ground	All	<p>Max. 35% building site coverage</p> <p>Max. 15% impervious surfaces</p> <p>All buildings and works must be 4m from protected vegetation, including fences</p>	1 x 15m tree /150 sqm

SLO7 – Vermont (Glenburnie Rd and Environs)	Circumference of 0.5m at 1.0 metre above the ground	All	Max. 35% building site coverage Max. 15% impervious surfaces All buildings and works must be 4m from protected vegetation, including fences	1 x 15m tree /200 sqm
SLO 8 – Vermont (South of Canterbury Road)	Circumference of 0.5m at 1.0 metre above the ground	All	Max. 9m height Front setback – 9m single storey or 11m double storey Min. 1.2m side setback All buildings and works must be 4m from protected vegetation, including fences	1 x 15m tree /200 sqm

VCAT CASE STUDIES

A review of permit applications for tree removal within the SLO that were refused by Council and later overturned by VCAT was conducted to examine the reasons for VCAT's decision. Of the 13 cases examined, in ten of the cases VCAT disagreed with Council's decision and issued a permit, and in three instances VCAT upheld Council's decision to not issue a permit. The full details of the VCAT decision review can be found at **Appendix 1**.

In their assessment of planning proposals the tribunal considered a number of factors in relation to the application of the SLO.

In instances where Council believed that there was insufficient space within setbacks and open space to provide for meaningful planting of vegetation, the Tribunal generally concluded that the space provided within setbacks and open space for landscaping was sufficient to meet the objectives of the SLO. The Tribunal was generally satisfied with the configuration of open space able to support the planting of canopy trees and a garden setting of new development.

In response to landscape plans accompanying applications the Tribunal was broadly satisfied with the level of replacement vegetation including the identification of replacement trees on the plan. Trees identified by qualified arborists as having retention and conservation value were retained.

In some instances the Tribunal was supportive of the removal of established exotic trees that could be retained in preference for planting new native or indigenous trees as replacements.

Additionally, there are some examples of the Tribunal applying a lesser emphasis on the objectives of the SLO on sites that sit on the edge of SLO precincts. The Tribunal in some instances viewed these areas as being a transition between areas of significant landscape character and areas where vegetation is less prominent. As a result the Tribunal took the character of both the areas with and without the SLO into consideration.

Based on this analysis, it is clear that: there needs to be more emphasis on the benefits of exotic trees, as well as natives; TPZs would assist in ensuring that a

sufficient amount of space is always provided for canopy trees; further controls on all residential land would eliminate the need to 'transition' vegetation between SLO and non-control areas.



Figure 2: Significant Landscape Overlays in Whitehorse

ENVIRONMENTAL SIGNIFICANCE OVERLAY

The purpose of the overlay is:

To identify areas where the development of land may be affected by environmental constraints.

To ensure that development is compatible with identified environmental values.

The Whitehorse planning scheme contains 2 ESO schedules, which are applied to two individual sites. The two sites were determined to be a key habitat area for the Valley Heathy Forest endangered EVC and contain endangered remnant vegetation with high conservation status.

The application of the ESO was justified due to the contribution and significance of vegetation to broader biodiversity objectives; for instance on each site there is a variety of plant species of bioregional conservation significance. The overlay is very effective in protecting large canopy trees that form part of a broader significant vegetation community rather than just individual trees as important specimens.

The ESO is applied on sites with high levels of conservation value and as highlighted by the C96 and C73 Planning Panels, requires a very strong justification relating to environmental significance for its application.

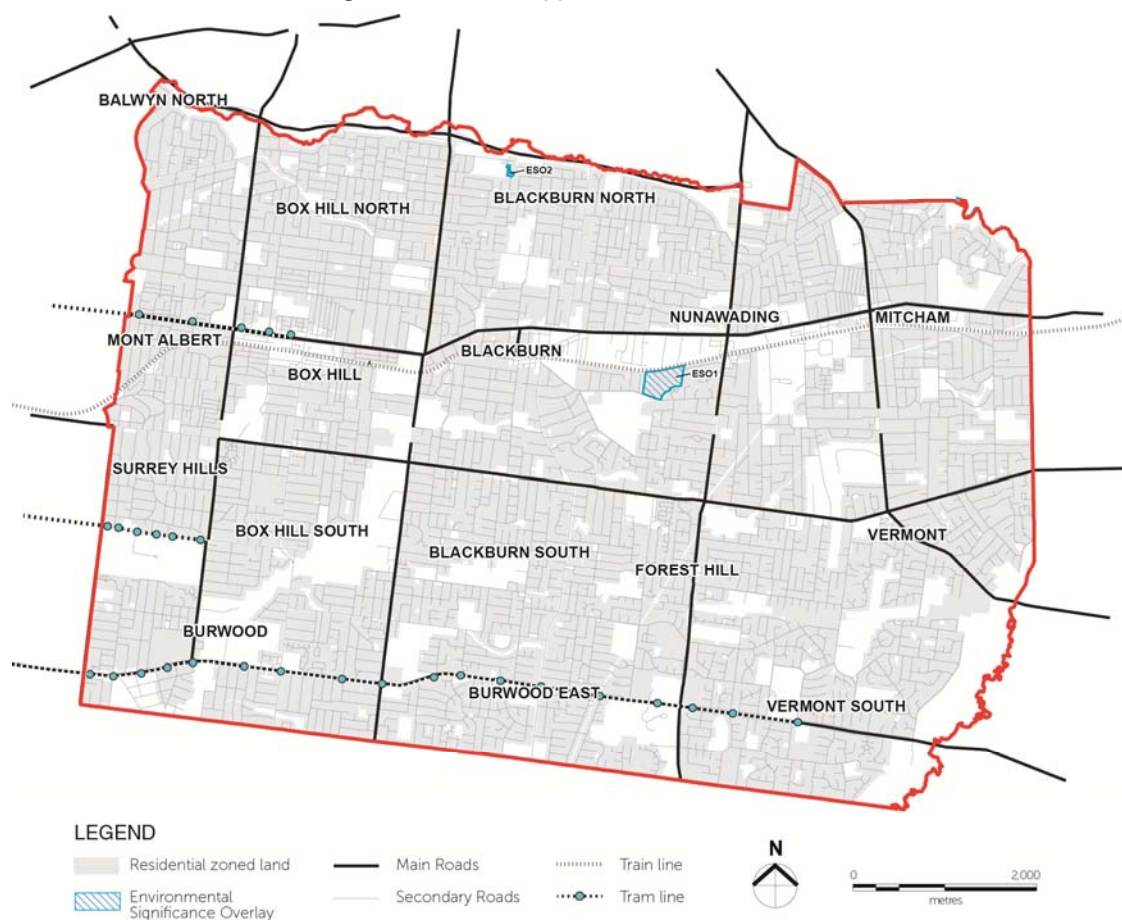


Figure 3: Environmental Significance Overlays in Whitehorse

ISSUES

The issues identified with the application of the ESO, include:

- There is no replacement mechanism for trees dying (either due to age or construction impacts).
- A very strong environmental justification is required to apply an ESO and therefore it can be difficult to achieve support from a Planning Panel. Panels in the past have required that the application of the ESO demonstrate the conservation value of a site to support controls. It is not, therefore appropriate for application on a municipal-wide basis to Whitehorse.
- Areas of environmental significance and high conservation value in an urban area are generally distributed in fragmented patches making a blanket application difficult to justify.

RESIDENTIAL ZONES

Three residential zones are applied in Whitehorse, including:

- Residential Growth – 3 schedules generally in and around larger Activity Centres and along the Burwood Hwy.
- General Residential – 6 schedules, which consist of approximately half of Whitehorse's residential areas, including to the north of Whitehorse Road and in the Burwood, Burwood East and Forest Hill areas.
- Neighbourhood Residential - 6 schedules, which consist of approximately half of Whitehorse's residential areas, including in the Mont Albert, Surrey Hills, Blackburn South, Blackburn and Vermont areas.

Zone schedules to the GRZ and NRZ provide the ability to vary requirements for minimum street setbacks, site coverage, permeability, side and rear setbacks and landscaping. The existing zone schedules, where they vary the requirements, require maximum site coverage of 40% or 50% depending on location and landscaping standards often require at least two canopy trees per dwelling (that reach a maximum height of 8 or 12m).

While the residential zone schedules are unable to provide the ability to protect trees, they are able to provide the built form and siting requirements that enable the space for replanting and new canopy trees. A lower site coverage or larger setback requirement will provide the opportunity for canopy trees to establish and flourish in the space.

The provision of trees requirement ensures that landscape plans for new residential development includes canopy trees. Assessment of the landscape plan provides Council the opportunity to check the appropriate placement, height and species of the tree.

The table below outlines the private open space requirements, tree planting requirements, site coverage and setback controls for each Schedule.

Variations to the residential zone schedules were introduced in late 2014 and therefore the controls have not been fully experienced on the ground to determine their effectiveness.

Table 2 - Existing variations to the residential zones

Zone	Private Open Space	Provision of trees	Site Coverage	Setbacks
RGZ1	35sqm (min. dimension of 5m)	1 canopy tree with min. 8m height	-	-
RGZ2	35sqm (min. dimension of 5m)	1 canopy tree with min. 8m height	-	-
RGZ3	-	-	-	-
GRZ1	35sqm (min. dimension of 5m)	2 canopy trees with min. 8m height	50%	-
GRZ2	35sqm (min. dimension of 5m)	2 canopy trees with min. 12m height	40%	2m side and rear (increased for height)
GRZ3	35sqm (min. dimension of 5m)	2 canopy trees with min. 8m height (1 in secluded pos)	50%	-
GRZ4	35sqm (min. dimension of 5m)	2 canopy trees with min. 8m height (1 in secluded pos)	50%	3m side and rear (increased for height)
GRZ5	-	-	-	-
GRZ6	-	-	-	-
NRZ1	35sqm (min. dimension of 5m)	2 canopy trees with min. 12m height (1 in secluded pos)	40%	1.2m side and rear (increased for height)
NRZ2	80sqm or 20% of the lot (but not less than 40sqm) Min. secluded pos - 35sqm (min. dimension of 5m)	2 canopy trees with min. 12m height (1 in secluded pos)	40%	1m side and 5m rear setbacks (increased for height)
NRZ3	80sqm or 20% of the lot (but not less than 40sqm) Min. secluded pos - 35sqm (min. dimension of 5m)	2 canopy trees with min. 12m height (1 in secluded pos)	40%	1 and 3 metre side setbacks, with a 5m rear setback (increased for height)
NRZ4	80sqm or 20% of the lot (but not	2 canopy trees with min. 12m	40%	10m front setback for carports/garages or 1m

Zone	Private Open Space	Provision of trees	Site Coverage	Setbacks
	less than 40sqm Min. secluded pos - 35sqm (min. dimension of 5m)	height (1 in secluded pos)		further than average setback on adjoining lots. 2m side setbacks on one boundary (increased for height)
NRZ5	80sqm or 20% of the lot (but not less than 40sqm) Min. secluded pos - 35sqm (min. dimension of 5m)	2 canopy trees with min. 8m height (1 in secluded pos)	50%	10m front setback for all new walls on boundaries or 1m further than average setback on adjoining lots.
NRZ7	-	-	-	-

ISSUES

The issues identified with varying the residential zone schedules, include:

- The standards require space to be provided through setbacks, site coverage and landscaping, including tree planting requirements. However, often the space provided is not adequate to allow a large canopy tree to grow to a mature height.
- There is no requirement to allow a sufficient amount of space between large trees and construction/works, which could therefore result in the tree being impacted and dying within a short timeframe.
- Tree retention is not specifically required, as the schedule allows for replacement planting instead. This is an issue due to landscape plans showing new trees, however they are often not planted (there is no follow up/compliance on landscape plans), are removed later, the species/size is not appropriate to the space or area and cannot survive, or the plant is too close to a building and cannot survive.
- Trees on private property outside the development site but close to boundary could be impact by development and works within the TPZ.
- Many residential developments do not trigger the need for a planning permit. This is especially the case for a single dwelling on a lot, where a site can be moonscaped and over developed, as long as it meets building permit requirements (which do not consider trees).
- Landscape plans are required through ResCode, however if they are not appropriately checked by a qualified landscape architect/ arborist or vegetation specialist, trees can be proposed that are not appropriate to the site or area, are an inappropriate size/species or do not have a sufficient amount of space for the mature size/soil volume requirements. Trees can often die in the few years after being planted as a result.
- Enforcement of landscape plans is time consuming and requires specialist skills.

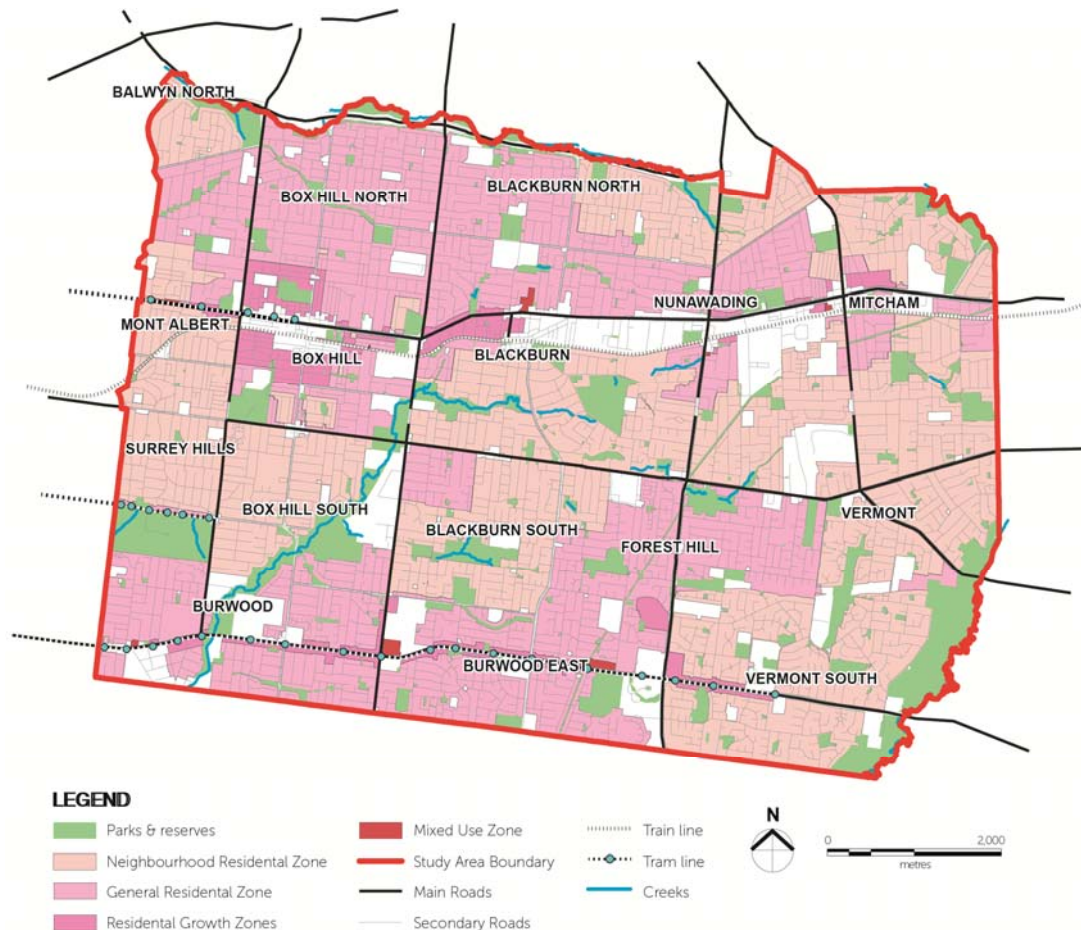


Figure 4 – Residential Zones in Whitehorse

NATIVE VEGETATION PROVISIONS

The purpose of the provisions is:

To ensure permitted clearing of native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity. This is achieved through the following approach:

Avoid the removal of native vegetation that makes a significant contribution to Victoria's biodiversity.

Minimise impacts on Victoria's biodiversity from the removal of native vegetation.

Where native vegetation is permitted to be removed, ensure that an offset is provided in a manner that makes a contribution to Victoria's biodiversity that is equivalent to the contribution made by the native vegetation to be removed.

To manage native vegetation to minimise land and water degradation.

To manage native vegetation near buildings to reduce the threat to life and property from bushfire.

Clause 52.17 of the Planning Scheme applies across the State, including the City of Whitehorse.

This particular provision requires a permit to remove, destroy or lop native vegetation, subject to numerous exemptions. The exemptions include vegetation on land which, together with all contiguous land in a single ownership, has an area of less than 0.4 hectare (excluding a road reservation).

Note that the Native Vegetation Provisions are currently being reviewed.

ISSUES

- The extensive exemptions that relate to Whitehorse (including: minimum site area, lopping or pruning for maintenance, fire protection and existing and approved buildings) mean that Clause 52.17 of the Planning Scheme rarely triggers a permit requirement in the City and cannot be used as a reliable tree protection method.

LOCAL LAW

The *Local Government Act 1989* permits local governments to create 'local laws' to assist the Council in its ongoing functions as a responsible authority. They are generally used to respond to particular issues and community needs.

A number of councils have implemented local laws to manage and better protect trees. For example, Boroondara City Council has a Tree Protection Local Law that requires the protection of:

- Any significant tree (listed on the Significant Tree Register),
- Any canopy tree (1.1m trunk circumference at 1.5m above ground level); and
- Any multi-stemmed tree where the total circumference of all its stems measured at 1.5m from the ground equals or is greater than 1.1m.

Similarly, Bayside City Council has a Neighbourhood Amenity Local Law that requires the protection of:

- Any significant tree (listed on the Significant Tree Register),
- Any protected tree that is a tree with a single trunk circumference or combined trunk circumference greater than 1.55 metres measured at one metre above ground level (excluding declared noxious weeds), and
- Any tree planted as a replacement tree under a permit condition.

ISSUES

The issues identified with a local law, include:

- As the local law operates under separate legislation it does not and cannot have a nexus to planning or building permits. In other words the local law cannot take into account town planning or building regulation objectives or provisions, or *vice versa*. For example, in circumstances where a planning permit is required for buildings and works, but not for vegetation removal, the existence of the local law does not provide justification for seeking to modify a building to protect a tree.
- A local law to protect trees would need to be implemented by a qualified Arborist who has the ability to make informed decisions on site. It was stated during the previous stages of the Study that there is insufficient knowledge by people assessing trees (including professionals who are called 'arborists' but lack the correct training in Arboriculture) and therefore wrong assessments may be being made.
- A dedicated Arborist/s would be required to implement the local law. As seen in Boroondara and Bayside where 2-4 Arborists are required full time and are not being able to get through all the site assessments.
- Local laws are generally reactive, where tree retention is only considered on a case-by-case basis when a resident/developer applies to Council to have it removed. This is unlike planning scheme controls that are proactive in determining a vision for an area and neighbourhood character objectives that then result in the protection of vegetation/canopy trees etc before an application is made to remove a tree.
- There is less structure with a local law compared to the planning scheme and no appeals process with VCAT.
- A local law cannot manage buildings and works and development.

ENFORCEMENT

Monitoring and enforcement of vegetation controls, planning permit and landscape plan requirements can assist in ensuring both awareness of the requirements and as a deterrent to potential non-compliance. It usually requires dedicated Council officers who understand the requirements, can readily identify and assess trees, and who can respond promptly to urgent situations of non-compliance.

Compliance processes are usually a reactive tool in planning systems. A response from a Council officer is usually required when a tree has been removed or is in the process of removal, and this is usually too late to require retention of the tree.

Proactive compliance is possible through monitoring of planning approvals and permit requirements. However this is time consuming and requires significant resources. There is no prescribed system to check planning permits at present. There is no mechanism under the legislation to alert officers as to when a development or construction process has begun or is completed. Informal monitoring is undertaken while officers are travelling around the municipality.

Unlawful vegetation removal will generally be recommended for prosecution, unless there are opportunities to mitigate, such as an amendment to a planning permit. Prosecution is often expensive and lengthy.

Offenders who face the Court will generally be fined or placed in a diversion programme. Under a diversion programme an offender may be required to (among other options) make a donation to a charity or environmental group, and/or write a letter of apology to the mayor.

The maximum fine in the Magistrate's Court for the unlawful removal of a tree under a local law is up to \$2,000 and up to \$143,000 under the *Planning and Environment Act 1987*. Planning cases may also result in a criminal conviction. The cases where substantial fines or criminal convictions are upheld are rare and extreme.

Breaches of planning permit conditions can escalate in the Magistrate's Court for prosecution if compliance is not achieved. However, in the majority of cases compliance is achieved and criminal prosecution are therefore rare. Applicants are usually provided with the opportunity to address the breach through an amendment to the landscape plan and the planting of replacement vegetation.

The focus of compliance of landscape plans issued as conditions of planning permit is tree retention and replacement planting. In many cases breaches occur when new property owners are unaware of previous planning permits. There is no mechanism to ensure that new owners are aware of their obligations under previous planning approvals.

ISSUES

The issues identified with the compliance process, include:

- Instances where developers or residents remove protected trees very early in the morning hoping to escape detection, before Council officers are made aware of the removal.
- In some cases, the person removing the tree is willing to accept the infringement fine, which is often a small fraction of the cost of development.
- Infringement fines are minimal and often not a sufficient deterrent.
- Prosecution is often expensive and lengthy.
- Developers occasionally use private 'arborists' to produce a report that recommends the tree be removed, even if the tree is healthy and should be retained. There is no mechanism to ensure the arborist is appropriately qualified.
- Neglect and wilful damage can lead to a loss of trees. Tree maintenance is not enforceable through the legislation.
- Landscape plans are not being enforced appropriately. While there is a process at Council whereby a qualified Landscape Architect or similar is able to assess the location, size and species of trees being proposed in a landscape plan for larger developments, this generally does not occur for all levels of development applications due to limited resources. In addition, there is no follow up for enforcing the actual planting of trees that are proposed in planning applications, unless it is a reaction to a complaint or known issue.

This often leads to trees not being planted, the wrong size/species being used, or insufficient space being retained for the size/species chosen and therefore the tree not surviving.

- Newly planted trees that have the potential to be large canopy trees are often removed by new owners, as they are not aware of past planning permit conditions.
- Enforcement processes are expensive and require dedicated, appropriately qualified staff.

COUNCIL PLAN

The Whitehorse Council Plan outlines Council's aims and vision for the future of the City of Whitehorse. The Plan is used to set organisational priorities and business plans.

The Plan sets a strategic direction to "protect and enhance our open space and natural environments" with the objective to increase the amount of quality open space and improvement in the sustainability of the natural environment. The Plan identifies aims to develop a municipality that retains, enhances and increases open space and sustainable streetscapes, identifies environmental priorities that preserve biodiversity and considers and plans for climate change impacts on the natural environment.

More specifically the Plan seeks to enhance Council's tree planting program and identifies a net increase in trees planted as a strategic indicator. Actions to achieve these aims include strengthening tree retention controls and the delivery of tree education programs.

ISSUES

The identified issues associated with Council Plan provisions, include:

- While the Council Plan identifies a number of broader issues that relate to trees there is limited mention specifically of protecting trees on private land.
- There is opportunity for the Plan to specifically mention and prioritise tree retention and planting (or 'greening') in the relevant strategic direction and strategies, and possibly greater emphasis on urban cooling, amenity, biodiversity and other benefits of tree protection.
- The Council Plan sets key directives however has limited scope to detail implementation and action.

SECTION 173 AGREEMENTS

A section 173 agreement is a legal agreement between two parties, such as Council and a landowner, under the *Planning and Environment Act (1987)*.

It can be used to protect native vegetation by registering the S173 on the title to the land. This ensures that all future owners of the land are aware of the agreement and are bound by the conditions.

An S173 could be used to protect significant trees and require the planting, maintenance and care for new trees.

ISSUES

The identified issues associated with S173 agreements, include:

- The cost of implementing many S173 agreements may be unreasonable due to the legal and resourcing costs of drawing up each individual agreement.
- The enforcement and chasing of bonds etc may place an unreasonable resource on the Council.
- Based on the high administration of implementing S173's, it may only be feasible to use this approach for new subdivisions to ensure that single dwellings on a lot do not fall through the cracks where a permit is not triggered.

PAYMENT OF BONDS

Payment of a bond is a security measure that can be implemented by Council to ensure a planning permit condition or agreed action is met.

Bonds could be required by residents or developers to ensure, for example, that trees are planted in accordance with landscape plans, replacement trees are provided or canopy trees are protected during construction. This could also be a good option to ensure the replanting and maintenance of large canopy trees, until a newly planted replacement tree is large enough to be protected by planning scheme controls.

A bond process can be implemented on any site and separate to the planning process, however a planning permit to remove a tree or construct may initially need to be the trigger to implement the bond.

ISSUES

The identified issues associated with payment of bonds, include:

- Chasing up bonds could be resource consuming, especially considering there could be quite a significant amount any one time.
- Depending on the size of the bond, some residents/developers may decide to wear the cost and not replace/protect the tree.

EDUCATION PROGRAMS

Implementing education programs will not provide formal tree protection, however if done well it could reduce the incidence of tree removal and lack of replanting.

The Whitehorse Tree Education Program is designed to raise awareness about the benefits of trees through free workshops and presentations for residential and community groups. It aims to encourage residents to retain and plant more trees. However, it is clear through community consultation and officer discussions that this approach could be expanded to inform newer residents of the existing tree protection controls, educate developers and residents about the benefits of trees generally and encourage greater levels of planting and maintenance.

This could be done a number of ways, many of which were raised during the Stage 1 Community Workshop and include:

- A new resident welcome pack with information on the benefits of trees, the Whitehorse vision and Council controls, in a number of languages.
- Education programs aimed at real estate agents, developers, schools etc.
- A facility with examples of green infrastructure and raingardens etc to inspire and educate residents.
- Incentives for residents, such as free trees or vouchers to Council's ParksWide nurseries.
- Incentives for developers to retain or plant and maintain trees.
- Access to or an incentive for an Arborist site visit for advice.

PROGRAMS IN OTHER MUNICIPALITIES

There are various examples of other education programs run in other municipalities designed to increase knowledge and understanding of the role of trees within the community.

Boroondara Backyard Biodiversity – the program involves a series of workshops and practical activities revolving around biodiversity within the municipality. The project encourages households, especially those living close to our biodiversity corridors, to set aside a section of their garden for indigenous plants and other wildlife-friendly habitat. The core aim of the program is to give residents the skills and knowledge to create a small habitat garden in their own home. Since 2010 over 250 Boroondara households have taken part in our Backyard Biodiversity project.

Knox Gardens for Wildlife – the program is a partnership between the City of Knox and the Knox Environment Society with the aim of encouraging households to create an area in their garden for local wildlife. Once participants have registered an assessor provides advice and answers questions on garden space and the type of wildlife people would like to attract. The program is similar to the Backyard Biodiversity program in Boroondara however it is administered through a grants program.

Brimbank Branching Out – is a program of tree related events and activities celebrating trees in Brimbank with the aim of encouraging the planting of more trees in the municipality. The program includes a website providing information on the benefits of trees. The program was particularly involved during the development of the Brimbank Urban Forrest Strategy running events such as a pop-up urban forest that demonstrated the impact of trees countering the urban heat island effect.

Urban Forest Map (US) – Is an interactive online map that plots each tree within a region, including both street trees and private trees. Each tree has information such as its species name and address listed on the map. The various benefits of trees such as greenhouse gas emissions, water benefits and energy benefits are quantified on the map. The map is administered by a number of non-for-profit environmental organizations however residents and community members can add trees of their own.

ISSUES

The issues identified with education programs, include:

- Residents and developers are only going to participate in or take notice of such programs if they are interested already or there is an incentive.
- Incentives and welcome packs would require dedication of Council resources.

Education programs would still need to be implemented in conjunction with other approaches that protect trees through the planning scheme or other legal avenues.

SUPPLY OF TREES AT REDUCED COST

Council's ParksWide Nursery produces more than 100,000 plants per year, 70% of which are indigenous to Whitehorse. The wholesale facility provides plants to revegetate Councils public spaces, such as parks, roads and shopping centres.

An opportunity to use the nursery to provide discounted trees as an incentive for residents and developers could assist in encouraging a greater rate of planting replacement trees or to simply increase the planting of private gardens.

In addition, one of Council's two community-based indigenous plant propagating nurseries (Greenlink Box Hill) provides 5 free indigenous plants with 5 purchased. A voucher is provided for community members on the rear page of Council's annual calendar.



2.2 ADVANTAGES AND DISADVANTAGES

The following table provides a summary of the advantages and disadvantages for each tree protection tool/approach:

	ADVANTAGES	DISADVANTAGES
LPPF	<ul style="list-style-type: none"> – Overall vision and general guidance – Referred to in all planning decisions regardless of zone/overlay – Ideal location for definition of canopy trees and TPZ – Low resourcing implications 	<ul style="list-style-type: none"> – Does not require a planning permit – Does not provide mandatory provisions
VPO	<ul style="list-style-type: none"> – Protects significant vegetation – Recognises vegetation protection areas for special significance, natural beauty, interest or importance – Enhances habitat corridors – Allows exemptions for removal (e.g. anything smaller than a 'large canopy tree' if a definition is provided elsewhere) 	<ul style="list-style-type: none"> – No buildings and works controls – No subdivision requirements – No replacement mechanism in current schedules – Unless a blanket approach is taken, it has only been used to protect older trees on the Significant Tree Register (further work would be required to protect other individual trees) – Trees on/near boundaries are not protected from neighbouring works/development – Medium resourcing implications
SLO	<ul style="list-style-type: none"> – Relates to neighbourhood character and the aesthetics of vegetation – Can protect all vegetation (unless exempt) – Recognises areas for special landscape character – Enhances habitat corridors – Allows exemptions for removal (e.g. anything smaller than a 'large canopy tree' if a definition is provided elsewhere) – Requires a permit to construct a building or carry out works, unless all permit requirements are met 	<ul style="list-style-type: none"> – Requires strong strategic justification – more difficult to implement – No replacement mechanism in current schedules – Trees on/near boundaries are not protected from neighbouring works/development that are not within an SLO – Higher resourcing implications

	ADVANTAGES	DISADVANTAGES
ZONE VARIATIONS	<ul style="list-style-type: none"> – Allow variations to ResCode, including: <ul style="list-style-type: none"> - Setbacks - Site Coverage - Landscaping – Can require space for the provision of a large canopy tree – NRZ can set a minimum lot size – Landscape plans to be provided 	<ul style="list-style-type: none"> – Does not protect trees specifically – Does not require the retention of trees – Many dwellings do not require a permit – Resourcing implications in checking and monitoring landscape plans
LOCAL LAW	<ul style="list-style-type: none"> – Allows decisions to be made on the spot – Provides resourcing relief to planning departments – Very responsive 	<ul style="list-style-type: none"> – Does not have a nexus to planning or building permits – Requires a qualified Arborist to assess trees on site. This could also have high resource implications – Minimal structure compared with the planning scheme – No appeals process with VCAT – No way to manage buildings/development – No follow up/monitoring required for replanting
NATIVE VEGETATION PROVISIONS	<ul style="list-style-type: none"> – Applies to all land regardless of zones/overlays – Protects native vegetation with a number of exemptions 	<ul style="list-style-type: none"> – Based on an exemption for sites less than 0,4ha, it rarely triggers a permit in Whitehorse
S173 AGREEMENTS	<ul style="list-style-type: none"> – Can legally bind a landowner to retain a tree – Is attached to the title, meaning if landowners are changed, the new landowner is made aware of the agreement – Is difficult to remove or alter an agreement – A useful way of protecting trees in new subdivisions that wouldn't require a planning permit for a single dwelling on a lot 	<ul style="list-style-type: none"> – Cost and resource implications could be high – No replanting mechanism – Difficult to administer on many individual lots
EDUCATION PROGRAMS	<ul style="list-style-type: none"> – Good education may prevent the desire to remove canopy trees and increase the willingness to replant canopy trees – Avoid illegal tree removal – Inform new residents of the benefits of trees and the requirements of tree removal – Could empower the community to increase and protect canopy cover 	<ul style="list-style-type: none"> – Does not protect trees – No legal requirement to retain trees

2.3 IDENTIFIED GAPS & OPPORTUNITIES

OVERVIEW

Based on the analysis undertaken to date, a number of gaps have been identified in the Whitehorse Planning Scheme, including:

- **Lack of formal tree protection** in areas where tree canopy is still an important part of the Whitehorse character, including most residential areas outside the existing VPOs and SLOs.
- **Tree protection zones** have not been formally identified within the planning scheme, so it is difficult to enforce a protection area around a significant or large canopy tree.
- **Definitions for 'canopy tree'** and other similar terms have not been determined, which are required in order to consistently protect canopy trees throughout the City.
- **Replacement trees** are not currently a requirement as part of the existing Whitehorse VPO schedules. There is an opportunity to provide replacement requirements.
- **Landscape plans** are often reviewed by statutory planning staff that may not have specialised knowledge, and therefore there is a gap in determining the most appropriate species/size of tree for the space. Soil volume requirements are generally not considered and replacement trees not always appropriate.
- **Building controls** to ensure sufficient space is retained for planting is provided to an extent in some residential zone schedules, however much of the City does not require adequate space to be provided for the planting of large canopy trees.
- **Monitoring** of newly planted trees, replacement trees and landscape plans could be better managed through a database and follow up site visits to assist in the protection and maintenance of trees that have the potential to be large canopy or significant trees.
- **Weed species** and exempting weeds that add value to the Whitehorse character and overall tree canopy cover.

Each of these will be examined in detail.

LACK OF FORMAL TREE PROTECTION

In many areas where tree canopy is still an important part of the Whitehorse character and more specifically the neighbourhood character, there are currently no tree protection controls.

This includes the majority of residential areas, which are outside the existing VPOs and SLOs.

This is a known gap and the basis for undertaking the Whitehorse Tree Protection Study.

TREE PROTECTION ZONES

The Whitehorse Tree Conservation Policy (Clause 22.04 of the Planning scheme) states that:

Appropriate minimum separation distances between any tree to be retained and proposed buildings and works be provided and maintained to ensure that an adequate proportion of the root system is protected from disturbance, and that adequate oxygen and nutrients are available for the tree to survive in the long term.

Note: Greater than usual separation distances may be required depending on the size and species of tree, and the nature and extent of the building or works proposed, and in the areas included in a Significant Landscape Overlay or Vegetation Protection Overlay due to the importance of retaining trees in this area and the predominance of very tall, native trees which are more sensitive to disturbance.

However, this guidance does not provide sufficient detail to enable decision makers and developers to make clear and consistent decisions relating to the appropriate space required around an existing or proposed tree, in order for it to thrive in the long term.

Tree protection zones (TPZ) aim to reduce any potential conflict between trees and buildings and allow designers/decision makers to determine how much space is required for a 'canopy tree' to meet Council requirements.

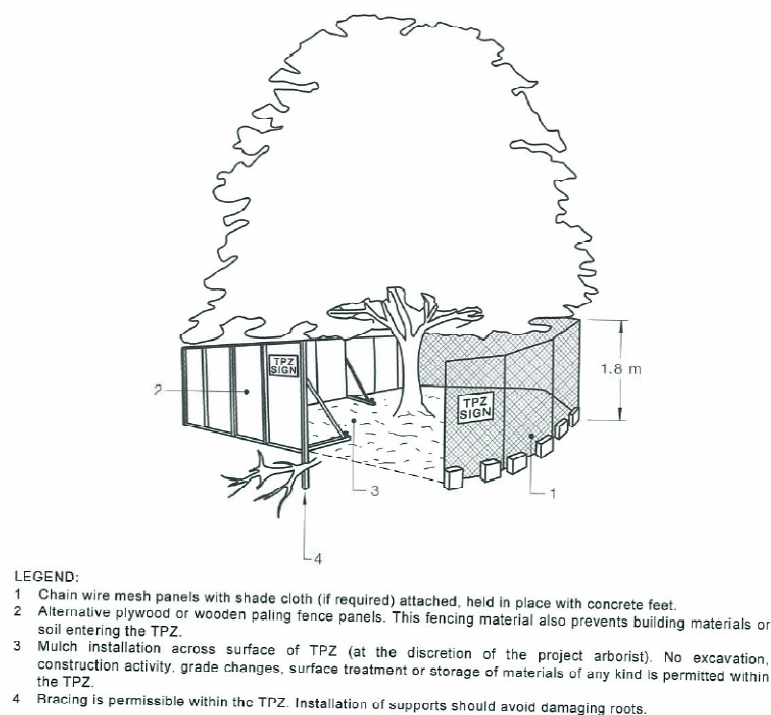


Figure 5: Features of a Tree Protection Zone

The long term preservation of trees within the development context has three primary components:

The preservation of sufficient soil volume to allow trees of a requisite size to flourish,

The preservation of sufficient soil volume to sustain existing trees, and

The protection of existing trees through the development process.

The preservation of sufficient soil volume to support canopy trees is relatively simple to achieve, although by reducing the available space for buildings it has its complexities.

Size, species and minimum soil volume requirements will ultimately determine the TPZ to be considered. Therefore, the drip line of the tree should be used to determine TPZs, as it will differ considerably between species.

This could be addressed by incorporating TPZ requirements in the LPPF, via an SLO or as a separate guidelines document incorporated into the scheme.

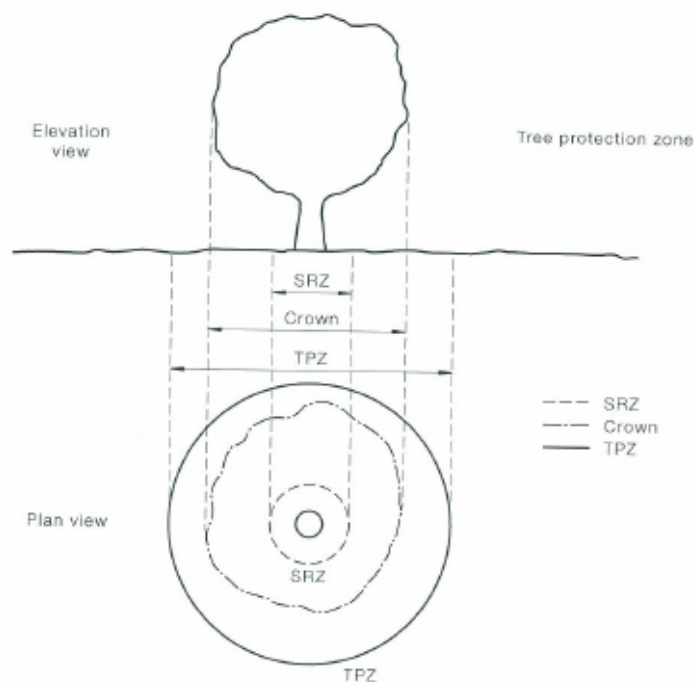


Figure 6: Method of determining the tree protection zone as shown in AS 4970-2009

DEFINITION OF CANOPY TREE

In order to have the greatest impact in terms of protecting or enhancing neighbourhood character, emphasis should be placed on retaining and replanting 'canopy trees'. However, currently there is a lack of clear definition to what constitutes a 'canopy tree' or 'large canopy tree' in Whitehorse.

A clear definition of 'canopy tree' in Whitehorse will need to be determined, especially considering the different contributions made to neighbourhood character between native and exotic species. The following definitions may assist in a definition for Whitehorse:

1. *A long lived woody perennial plant greater than (or usually greater than) 3m in height with one or relatively few main stems or trunks (or as defined by the determining authority)* **Source:** Australian Standard AS 4970-2009, Protection of trees on development sites, Australian Standards, Sydney, NSW, Australia.
2. *Long lived woody perennial plant greater than (or usually greater than) 3 m in height with one or relatively few main stems or trunks.* **Source:** Australian Standard AS4373-2007, Pruning of Amenity Trees, Standards Australia, Standards Association of Australia, NSW, Australia.
3. *Woody perennial having one dominant trunk and a mature height greater than 5m.* **Source:** International Society of Arboriculture (2007), Glossary of Arboricultural Terms (p. 108).

These definitions refer to the structure of the tree as well as a minimum height between 3 and 5 metres.

Bayside City Council's Arborist, in their Bayside Vegetation Controls Review study (2011), suggested canopy trees could fall into three categories, as outlined in the table at Figure 1. Note Bayside may have reviewed this definition.

Table 3 - Definition of a Canopy Tree

TREE SIZE	DIMENSIONS	APPROPRIATE USE
Small canopy tree	8 metres tall / 6-8 metre canopy spread	Medium density housing developments, particularly in front setback and private open space areas where available soil volume is strictly limited.
Medium canopy tree	8-15 metres tall / 10-15 metre canopy spread	Default replacement canopy tree requirement.
Large canopy tree	> 15 metres tall / > 10 metre canopy spread	Large trees, suitable for public realm use where infrastructure constraints do not apply.

Medium sized canopy trees, at up to 15 metres tall, have sufficient scale and canopy spread to make a significant contribution to neighbourhood character. Their height is sufficient to soften the appearance of developments that are subject to ResCode, which have a maximum height of 9 metres.

Smaller canopy trees also contribute to neighbourhood character, with trees of 6 metres in height contributing to character in Whitehorse. Their size makes them most suitable for use in medium density housing proposals where available soil volume is strictly limited.

It is noted that none of the definitions above relate specifically to native or exotic trees. While native trees often grow taller with smaller trunk and canopy circumferences than exotic trees, both make a contribution to the visual environment, habitat and urban cooling at any height over 6 metres. In addition, any future control that aims to retain future canopy trees should aim to retain trees at as low a height as practicable.

In order to benchmark a minimum height for tree protection in Whitehorse, planning controls in a number of comparable municipalities have been examined to determine how tree protection and definitions of canopy tree are being approached elsewhere. The following table outlines the minimum size requirements for tree protection within the VPO or SLO of 6 neighbouring municipalities, as appropriate.

Table 4 - Tree protection in neighbouring municipalities

	Minimum Girth (circumference of trunk at distance from ground)	Minimum Height(metres)
BANYULE		
SLO ₁	0.5m @ 1.0m	5 m
VPOs 1, 3, 4	0.5m @ 1.0m	5 m
VPO 5*	0.4m @ 1.4m	12 m
KNOX		
SLO 1-6*	0.5m @ 0.5m	5 m
VPO 3	0.3m @ 1.2m	8 m
VPO 4	0.5m @ 0.5m	5 m
BOROONDARA		
Local Law	1.1m @ 1.5m	
MAROONDAH		
SLO 1-4	0.5m @ 1.0m	5m
NILLUMBIK		
SLO 1 and 6*	0.5m @ 1.0m	6m
SLO 2	0.5m @ 1.0m (Native only)	
SLO 3-5, 7	0.5m @ 1.0m	
SLO 6	0.5m @ 1.0m	6m

MANNINGHAM

VPO 2	0.35m @ 1.3m	6m
SLO 1, 3, 6-8		6m

* Schedules that protect trees with minimum girth OR minimum height. All other schedules list protect trees with minimum girth AND minimum height.

Based on this benchmarking exercise, it can be seen that canopy trees are usually protected from 5 or 6m in height and for any species, whether it be indigenous or exotic. Based on this, it would be reasonable to suggest that a canopy tree in Whitehorse can be determined as a tree with a 0.5 metre circumference at 1.0 metre above the ground (being the most common measurement used in the existing Whitehorse controls and elsewhere) and/or a minimum height of 5-6 metres.

Emphasis should be placed on front setbacks and planting in private open space areas. This will require consideration of planting requirements during the building design phase.

Large canopy trees play a substantial role in defining the character of neighbourhoods and suburbs. Their scale is such that they are generally unsuitable for use on most private properties. Their use in the public realm needs to be carefully considered in order to protect infrastructure assets and avoid safety issues such as proximity to roadways.

In areas subject to change, such as the Major Activity Centres, the proposed density and height of new development will preclude the planting of medium and large canopy trees on development sites in most circumstances. In these areas emphasis should be placed on utilising front setback areas and street tree planting to support the establishment of a preferred future character.

REPLACEMENT TREES

Currently there is no requirement in the Planning Scheme to provide a replacement of canopy trees for any removed. However, VPOs and SLOs both have the ability to provide this requirement.

The lack of replacement requirements ultimately suggests that over time the canopy cover in Whitehorse will continue to decrease, regardless of tree protection controls. This is especially true when considering that many trees protected by the VPO are reaching the end of life or into decline.

Addressing this gap will be important to consider alongside reviewing the process of monitoring landscape plans and the adequate provision of space to accommodate TPZ, so that the replacement of trees on development sites are taking into account the longevity and protection of new trees.

Additional guidance is also required to ensure greater consistency in relation to requirements for replacement trees. This will require further analysis, particularly to determine the appropriate level to which the mix of indigenous, native and exotic trees is to be mandated depending on the vegetation precinct in which the land is located. The Whitehorse Neighbourhood Character Study could assist in determining

this, as it provides a detailed overview of the existing and preferred characteristics of an area, including whether or not vegetation is predominantly exotic or native.

LANDSCAPE PLANS

Landscape plans are a requirement of ResCode and therefore most residential developments that require a planning permit will be submitted with a landscape plan. The Whitehorse Landscape Guidelines provide further guidance on the process and quality of the landscape concept plans to be prepared by applicants.

Generally, the proposed landscaping is reviewed in conjunction with the proposed buildings and works by a statutory planning officer or the Landscape Architect for larger developments and is often considered for its ability to screen, act as a buffer, soften an appearance and for its overall provision of open space. The Landscape Guidelines encourage tree retention and an Arborists report that identifies trees to be protected during construction. However, the species, size, soil volume provided and overall TPZ for new trees and how they relate to the site or proposed buildings are often not considered and therefore the longevity of the tree in a particular location could suffer as a result.

Along with the inclusion of clear guidelines for planning staff, such as TPZ guidelines, landscape plans should also be reviewed by staff with knowledge of tree species and suitability to ensure the correct information is being assessed and provided to the applicant.

The monitoring and implementation of landscape plans also requires further consideration, as upon approval of a permit application, the exact trees shown on the proposed plans are not often planted, especially in the case of new owners taking over the property and/or development and being unaware of approved landscape plans. This could be a difficult and costly exercise to administer.

BUILDINGS AND WORKS CONTROLS

Based on site investigations and community consultation, there seems to be a lack of Buildings and works controls to ensure sufficient space is retained to allow the adequate provision of planting canopy trees. However, this conclusion is based on development sites appearing to be overdeveloped with minimal setbacks and potential 'moonscaping' in General Residential zoned areas, which may have been approved before the residential zone schedules were developed.

The GRZ schedules provide some restrictions around maximum site coverage, minimum permeability, private open space provisions and occasionally setbacks. Most GRZ schedules also require the provision of two canopy trees with a minimum mature height of 8 metres, one of which is to be planted within the secluded private open space. These requirements have only been in place for a short time therefore it is not possible to determine the long term success of the controls. However, it is possible these requirements are not requiring sufficient space for canopy trees to mature and thrive, as no TPZs are identified. It also seems the required canopy trees are not always being provided within the front setbacks, which could be due to no front setback requirements in the schedules. The two required canopy trees could be proposed to the rear of the dwelling where their planting and growth is not easily seen.

Development where built form is more considerate of tree protection seems to be provided within the NRZ areas, which are also protected by SLOs. While the NRZ schedule variations are not vastly different to the GRZ in terms of private open space, site coverage etc, the SLOs apply further buildings and works requirements.

The most important SLO requirement to note is that buildings must be *set back more than 4 metres from any vegetation that requires a permit to remove, destroy or lop under the provisions of this schedule. Works may be closer than 4 metres provided they do not alter the existing ground level or topography of the land.* Therefore, in SLO areas, even though the TPZ may be encroached, the health and longevity of existing canopy trees are being considered.

This does not occur in any areas that are not protected by an SLO, as even in VPO areas buildings are able to be constructed close to significant trees.

MONITORING

Monitoring of newly planted canopy trees, replacement trees and the implementation of landscape plans is not often common practice. While this is generally an issue in most municipalities, it is something that can be improved through officer review processes (in the case of landscape plans and implementation/compliance) and by implementing clear and robust tree protection controls (such as planning scheme overlays).

It would appear that significant trees are often being adequately identified within development sites and that, where identified, an effective process exists to ensure that sufficient soil volume is preserved to maintain the tree.

However the entire process appears to break down once the planning permit has been granted and the development actually proceeds. There does not appear to be any significant process currently in place, unless it is a large site/development with a construction management plan that could reasonably be expected to ensure the preservation of the tree.

This could possibly be addressed by the adoption of an inspection and certification regime as specified within *AS 4970-2009 Protection of Trees on Development Sites* being a part of the permit for the site.

The permit condition should place the onus on the developer to provide certification of tree protection at specified times throughout the development process with a final certification at the end of the development. Enforcement could then be triggered by the failure to provide the required certification at the specified time.

Enforcement of tree protection is usually reactive and only in the cases of large or significant trees protected by VPOs or SLOs. However, enforcement measures could also potentially be extended to include the monitoring of replacement trees and canopy trees proposed in endorsed landscape plans.

WEED SPECIES

Weed species of trees and shrubs are often used in exotic gardens in urban areas and contribute to the overall tree cover and neighbourhood character of an area.

It is important to understand that while promoting the 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, it is not considered appropriate to exempt weeds from any future tree controls on private land. In addition, any controls will be more readily understandable with less confusion about which trees need to be retained.

The background of the slide is a close-up photograph of a tree trunk, showing the rough, textured bark with various cracks and crevices. The colors range from light tan to dark brown. On the right side of the image, there is a solid dark grey rectangular area that serves as a backdrop for the title text.

3

IMPLEMENTATION OPTIONS

3.1 OPTIONS

In response to the gap analysis and background review work undertaken, a number of options have been developed for consideration by Council. These options have each been developed to focus on the enhancement of tree protection on private land within Whitehorse, as well as replanting as part of development decisions and ongoing vegetation management.

Policies and regulations governing tree protection and planting do not exist in a vacuum. Other policy objectives, such as encouraging housing diversity, are also important in Whitehorse and will in some cases compete with them. Regulatory decisions also have resource implications for Council that must be weighed against other important priorities. Finally, and just as importantly, is the delicate balancing of the community benefit attained from vegetation regulation against the constraint this may place on individual freedom of choice.

The options outlined below include recommendations about policy, regulation and operations. Most of them are capable of being concurrently implemented and will be mutually reinforcing. In each case a brief commentary is provided which outlines in broad terms the policy and resource requirements associated with it.

OPTION 1 - REVISE THE WHITEHORSE LOCAL PLANNING POLICY FRAMEWORK

MUNICIPAL STRATEGIC STATEMENT (MSS)

Amend the Municipal Strategic Statement (MSS) to strengthen the discussion about the various roles and values of vegetation within the municipality. This should address the role of vegetation in supporting biodiversity, significant landscapes, cultural heritage, sustainability, neighbourhood character, local amenity, erosion control, local climate and ecologically sustainable development. Processes that threaten these values should also be identified.

Consideration should be given to a vision and objective (both in the MSS and Council Plan) of enhancing the cover of vegetation, particularly canopy trees, in the municipality and recognising the value of canopy trees on private and public land. A hierarchical approach could be adopted, recognising that vegetation protection will have less priority in areas subject to change, such as Major Activity Centres, and greater priority in other places such as Bush Environment and Bush Suburban areas.

LOCAL POLICY

Amend Clause 22.04 (Tree Conservation) to strengthen Whitehorse's objectives to enhance the tree canopy cover across the municipality. This should detail the importance that all substantial trees (including trees that will be substantial at a mature height) make to the vegetation cover, as well as the importance and differences between exotic and native vegetation and how they contribute to neighbourhood character in different ways (width versus height).

A definition of 'substantial tree' should be formed based on height and width, to consider the protection of large canopy trees that are not subject to an overlay or do not trigger a vegetation permit.

The local policy should also consider the importance of planting appropriate new trees, including species and the need to monitor the growth and protection of new trees.

COMMENTS

An amendment to the MSS and Tree Conservation Policy could be undertaken immediately, using the existing strategic support.

The policy can include a definition of canopy tree that states:

Long lived woody perennial plant greater than 6 m in height and one trunk with a minimum circumference of 0.5m at 1 metre from the ground.

This definition is based on advice from Council's consultant arborist and the requirement within existing SLOs that a permit is required to remove, destroy or lop a tree that has a circumference of 0.5 metres at a height of 1.0 metre above ground level. A height of 6 metres will enable control over trees that contribute to the streetscape and provide significant shade and habitat, and with some potential for further growth to become a significant canopy tree.

It is considered that this option is best implemented alongside another option/s, as it provides a definition that can be used in controls but does not trigger the need for a planning permit for removal.

Besides the preparation and administration of a planning scheme amendment, this option would not incur any ongoing resource implications for the Council.

OPTION 2 – EXTEND THE SLO

The Significant Landscape Overlays in Whitehorse have proven to be effective in retaining existing large canopy trees. This option would consider applying the SLO to most, if not all, remaining residential areas within the municipality.

A SLO could be implemented using a number of schedules to tailor the statement of nature and key elements of landscape, and the character objectives to be achieved, based on neighbourhood character areas (as outlined in the Whitehorse Neighbourhood Character Study). This would allow permit requirements, exemptions and decision guidelines to be varied depending on the character objectives to be achieved, e.g. bush character versus exotic gardens.

The SLO could require a planning permit to be obtained:

- If the buildings and works exceed maximum height or site coverage requirements, or minimum distance from an existing tree of a certain size (whether on the same site or not);
- If a proposal seeks to remove, destroy or lop vegetation that is above a certain size; or
- For all healthy trees that do not fall into an exemption.

The decision guidelines would require neighbourhood character to be a key consideration and the ability to provide new large canopy trees on the site. The schedule should also consider replanting requirements, aimed at retaining and enhancing the existing tree canopy of the area. If considered necessary the SLO could also reiterate requirements in the residential zone schedules.

COMMENTS

The area-wide SLO approach seems to be a very effective and sophisticated method of protecting large areas of trees from development and the approach seems to work reasonably well in some other municipalities, such as Maroondah. The overlay would eliminate the need to vary the residential schedules further, as site coverage could be determined through the SLO schedule itself. It would also reflect the vision and objectives of the existing Neighbourhood Character work.

A blanket approach to SLOs may eliminate some of the issues associated with trees on property boundaries, as adjacent properties would also be required to obtain a planning permit.

Planning panels in the past have not agreed to blanket SLOs where a very strong strategic basis (neighbourhood character) has not been provided. However, amendments in the last 8 years have shown that where SLOs have not been supported, it has been due to those areas not seeming particularly different to areas not proposed for the SLO. It is acknowledged that much of the municipality, not already protected by an SLO, is identified as either Bush Suburban or Garden Suburban character, indicating that large areas of Whitehorse have similar key characteristics, particularly in relation to the importance of trees and gardens. This highlights that an SLO would be better applied to all residential areas, rather than only in certain precincts or neighbourhoods. Since these amendments were introduced in 2006, the Neighbourhood Character Study (2014) has been reviewed and provides an up to date strategic basis to consider the municipality as a whole.

Reviewing the existing SLOs would be required as part of the process to prepare new SLOs to ensure consistency in terminology, such as decision guidelines and replacement planting. The controls outlined in the existing SLOs may also require minor adjustment when considering the municipality as a whole.

An area-wide SLO approach is likely to have a significant impact on Council resources, with a higher number of planning permit applications and therefore increased resources required.

OPTION 3 – EXTEND THE VPO

The Vegetation Protection Overlay is effective in protecting the longevity of individual trees and has been used in Whitehorse to protect trees listed on the Significant Tree Register.

The VPO could also be implemented more widely on a precinct basis using a number of schedules to tailor the statement of nature and key elements of landscape, and the character objectives to be achieved. Separate schedules could be based on neighbourhood character areas (as outlined in the Whitehorse Neighbourhood Character Study), as demonstrated in VPOs 2 and 4.

The VPO would allow permit requirements, exemptions and decision guidelines to be varied depending on the character objectives to be achieved or the types of vegetation that currently exist in the area.

Unlike the SLO, buildings and works cannot be controlled by the VPO; however a planning permit could be required to be obtained for the removal or lopping of trees, based on size, type and replanting requirements. A list of exemptions would be applied such as pruning, as per the definition of pruning in the Australian Standards.

COMMENTS

Generally, the VPO is very effective in protecting individual trees and is usually applied to a whole site with a Significant Tree, occasionally applied to a tree rather than a whole site and in two areas to a whole precinct. Where Whitehorse has applied the VPO to entire parcels of land, the control only applies to the identified Significant Tree, causing some confusion among residents. There have been some issues with residents applying for permits to remove or lop vegetation that is not the Significant Tree or does not meet the size threshold in the precinct. This may cause some additional resourcing issues. If a blanket VPO approach was taken, the list of exemptions should include any vegetation that did not warrant protection (e.g. small exotic trees) and clarity for residents as to the trees that are covered by the control.

However, consideration for protection of all vegetation within the significant tree's TPZ would assist in ensuring the longevity of the significant tree and this could be accommodated within the VPO.

The City of Banyule is a good example where the blanket VPO approach has been effective. A VPO has been applied to most of Banyule (outside existing SLO areas) through 5 separate schedules, based on neighbourhood character. The garden suburban and garden court areas require a permit to remove, destroy or lop a tree that has a height of 12 metres or more or has a trunk of more than 400mm in diameter at breast height. In areas that have increased landscape significance, due to a bush character, a permit is required to remove or lop all trees except those which are less than 5 metres and have been planted for garden purposes.

The Banyule Planning Scheme Amendment C80 implemented a permanent VPO to incorporate the above controls on all residential land not already protect by tree controls, by preparing a *Strategy for Substantial Trees in Banyule's Garden Court and Garden Suburban Neighbourhoods (2013)*. This supplemented their *Neighbourhood Character Strategy (2012)* and both documents were made reference documents in the planning scheme. The Strategy for Substantial Trees provided a vision, objectives and further justification specific to areas that did not previously have tree controls in order to identify the importance that large canopy trees have in Banyule's neighbourhoods.

This approach would work effectively with Whitehorse's neighbourhood character areas, in a very similar way to Banyule.

The VPO approach would not require a planning permit for buildings and works and therefore it could not vary site coverage and building height requirements. In this case, the VPO approach may need to be implemented alongside variations to the residential zones, if building controls were to be implemented.

A blanket VPO approach is likely to have an impact on Council resources, with a higher number of planning permit applications and therefore increased resources required.

OPTION 4 – MIX OF VPO AND SLO SCHEDULES

Providing an increased mix of VPOs and SLOs would build on the existing approach to vegetation protection in Whitehorse and provide an option that can be implemented incrementally.

The VPO would be implemented to protect significant native and exotic vegetation and could be used to protect individual trees, sites or stands of trees. The existing VPOs are used to protect trees on the Significant Tree Register, but this could potentially be extended to protect new/younger trees that will become significant trees at maturity.

The SLO would be implemented to protect areas of landscape significance or special character values. The existing SLOs are used to protect areas of special neighbourhood character, such as the Bush Environment character precinct. This could be extended to protect areas where a more established bush garden character is prominent and important to the overall Whitehorse character. If accepted by an independent Planning Panel, this option could extend the SLO significantly.

COMMENT

This approach is the most common approach to vegetation protection, as it can be implemented incrementally and looks closely at sites/areas on a more individualised basis.

However, this approach could be very time and resource consuming to implement, and it would include further work, such as:

- Updating the Significant Tree Register and undertaking a study to determine which trees (size and species) should be protected from a younger age before reaching maturity.
- Strategic justification to present to a planning panel regarding further SLO areas and why some areas are more 'unique' than others.

A review of past panel decisions has found that generally a very strong strategic justification is required to implement SLO areas. This has been discussed further at Section 2.1.2 Option 2 – SLO.

This approach would provide further protection in some areas, but other areas still may remain unprotected, especially if this option was implemented without further residential zone variations.

This option would also require significant resources for the further investigation, implementation and amendment phases (multiple amendment processes would have significant resource implications), along with higher resources for the ongoing permit application processes. However, this option does not propose a blanket overlay approach and therefore the ongoing administration costs would be less than options 2 or 3.

OPTION 5 - RESIDENTIAL ZONE VARIATIONS

Residential areas within Whitehorse are predominantly zoned either General Residential Zone (GRZ) or Neighbourhood Residential Zone (NRZ). The Residential Growth Zone (RGZ) is generally located in and around Activity Centres where growth is proposed to be higher.

Both the NRZ and GRZ schedules provide the ability to vary requirements for minimum street setbacks, site coverage, permeability, side and rear setbacks and landscaping. The existing zone schedules, where they vary the requirements, provide maximum site coverage of 40% or 50% depending on location and in some cases with

the NRZ require a minimum 10 metre front setback. Landscaping requirements often require at least two canopy trees per dwelling (that reach a maximum height at maturity of 8 or 12m).

This option would include amending the residential zone schedules to be more stringent in the built form guidelines, in order to ensure sufficient space is provided for the retention and planting of large canopy trees, especially within the front setback.

COMMENT

It has been found through consultation with Council officers and the community, as well as the background analysis, that new residential buildings are often not allowing a sufficient amount of space for the planting and retention of adequately sized trees. This includes high site coverage and minimal setbacks.

In order to adequately ensure that canopy trees are being planted and maintained, the schedule should also refer to providing an area of land for the planting of a tree (TPZ at maturity), rather than simply saying a tree must be provided. Consultation with Council officers has suggested that new canopy trees are not reaching maturity or are perishing due to being too close to buildings or boundaries.

This approach requires site coverage, setbacks and landscaping variations to be provided in all zone schedules to cover all residential areas. It would potentially result in a higher impact on Council resources, as more development applications would require planning permits.

However, removing, destroying or lopping vegetation would not require a permit. Therefore, this approach would not deal with issues relating to tree retention specifically and should be undertaken in conjunction with an overlay or local law approach.

It should be noted the existing residential zone variations in Whitehorse were prepared based on the revised neighbourhood character strategy and have only recently been implemented (October 2014). Therefore the impacts of these controls have not yet been seen to their full effect and varying residential schedules further at this early stage may be difficult to justify.

Tree protection and planting would also not be addressed in non-residential zones, such as the Commercial, Industrial and Mixed Use Zones.

OPTION 6 – LOCAL LAW

Local laws enable Councils to exercise various powers to protect public health, safety or amenity within their municipalities. Local laws apply only within the particular municipality, and must complement or implement other legislation. They are subservient to federal and state laws and have a 10 year validity period.

The *Local Government Act 1989* provides the legislative basis for Councils to create local laws. Section 111 stipulates the following:

A Council may make local laws for or with respect to any act, matter or thing in respect of which the Council has a function or power under this or any other Act.

A local law must not be inconsistent with any Act or regulation.

A local law is inoperative to the extent that it is inconsistent with any Act or regulation.

If a planning scheme is in force in the municipal district of a Council, the Council must not make a local law which duplicates or is inconsistent with the planning scheme.

A local law is inoperative to the extent that it is inconsistent with a planning scheme that is in force in the municipal district of a Council.

A Council must have regard to any guidelines made by the Minister under section 111A when making local laws.

A Council must comply with any prescribed details relating to the preparation and content of local laws when making local laws.

Several of the above provisions highlight the complex relationship between local laws and planning scheme provisions. The question of whether a local law 'duplicates or is inconsistent with the planning scheme' is a particularly important principle which needs to be addressed on a case-by-case basis.

Currently, Whitehorse does not make use of any local law for the protection or planting of trees. However, this approach could potentially see decisions relating to tree retention being made outside of the planning process. This would essentially save time, money and be more responsive to community needs.

COMMENT

A local law would be a responsive option that would potentially see a much speedier process being delivered for the assessment of applications to remove trees.

However, local laws do not have any nexus with the planning or building systems and therefore have no ability to control buildings and works.

They are also a very reactive process, such that trees are only assessed if a landowner seeks approval to remove a tree. It does not consider the protection of trees from a broader perspective and has little to do with neighbourhood character. This can be seen in examples of Local Laws used in other municipalities, as discussed in section 1.3.7.

The resourcing implications of implementing a local law rather than a planning control are vague. Other municipalities that implement local laws require 2-3 full-time arborists (sometimes more) in order to keep up with the assessments and applications being made. Arborists would need to be fully qualified with experience to be capable of undertaking detailed assessments rather than just issuing permits. It is unclear whether this would be more or less of a strain on Council if the load was distributed more evenly with the planning department. In addition, as there is no review process through a Local Law, this may mean that landowners who receive a refusal under the local law may choose to remove the tree and accept the enforced fine.

OPTION 7 - OTHER TOOLS AND MECHANISMS

A number of other tools could also be implemented in conjunction with previous options, including:

- Educational programs
- A review and change to internal process
- Section 173 Agreements
- Advocating for increased fines

EDUCATIONAL PROGRAMS

Building on the existing Whitehorse Tree Education program, it is suggested to continue to develop further educational and information materials for residents and in particular new residents in the form of 'welcome packs'. These should include identification of appropriate canopy tree species for different precincts and conditions as well as State declared noxious weed species to be avoided.

Educational programs could also be aimed at real estate agents and developers so that the benefits of trees and tree retention are being passed down to landowners and purchasers.

In addition, incentives for tree planting, such as tree vouchers or free trees etc (as provided by Greenlink for indigenous plants), could be considered and may be a positive step towards creating awareness of the benefits of trees, as well as building relationships between the community and Council. This could be implemented through offering discounted trees via Council's ParksWide nursery.

COMMENT

The level of resources required by Council in undertaking increased educational programs, materials and incentives requires further consideration and would depend on the number/type of program agreed and if incentives were to be pursued.

INTERNAL PROCEDURES

This option includes reviewing internal Council procedures. Note that one or all of the following points could be implemented at concurrently or separately:

- Review the process by which landscape plans are reviewed to increase the number of plans that can be assessed to include all applications with a landscape plan. This may include up-skilling planners to learn how to assess the appropriateness of canopy trees based on the required TPZs and species for location, or introducing an additional landscape/arborist professional into the review process.
- Refine internal processes and databases so that tree removal approvals and replanting requirements are accurately recorded.
- Review tree assessment procedures to enhance transparency and consistency of decision making (e.g. size, species of tree used in developments and shown on landscape plans). This may include a review/update of the Landscaping Guidelines.

- Investigate the introduction of a self-auditing process for tree protection during the development phase that requires the developer/resident to ensure the tree is adequately protected and checked-off by Council arborists. The process should be consistent with the reporting and certification regime set out by AS 4970.
- Increase the proportion of proactive audits of the implementation of planning permit conditions relating to tree retention and replanting on site.

COMMENT

The above operational changes will require additional resources, particularly during the analysis and development phase. An ongoing resource commitment would be required in order to support increased proactive auditing and to monitor a self-auditing process. The resource burden may decline over time as community awareness of regulations and compliance processes increases.

However, additional resources to review landscape plans is likely to incur a slight increase in the long term.

SECTION 173 AGREEMENTS

This option includes requiring S173 Agreements on all new subdivisions to ensure tree protection and/or replanting requirements are upheld on newly created allotments that may not require a planning permit for the use and construction of a single dwelling on a lot.

COMMENT

In the case that a VPO or SLO is not applied to the land, entering into S173 agreements for newly created lots that have canopy trees or have been identified on the plan to include future/new canopy trees, is a robust way of ensuring that the said tree/s is protected and that new owners are made aware of it as it is registered on the title. An agreement could also include TPZs so that construction is less likely to impact on the tree.

This approach would not be reasonable to apply at a very large scale due to cost and resourcing implications, however it could be made a condition on a permit for subdivision.

ADVOCATE FOR INCREASED FINES

It has been identified through consultation with Council officers and the community that the State Government fines for tree removal are not deterring some residents and developers from removing trees and vegetation. Research has confirmed that 'moonscaping' is continuing to occur across the municipality and in some instances it is clear that the potential fine is only a fraction of the cost of development.

Discussion at the Community Workshop strongly suggested that increased fines are required for the removal of significant trees and those fines should be based on the value of the tree. E.g. bigger or rarer trees would incur even greater fines.

This option requires advocating to the State Government for greater fines or implications for the removal of significant trees. It may also include a requirement

that all illegally removed trees are replaced with a like tree species (if appropriate) and that it will reach a similar size at maturity.

COMMENT

It was suggested that Council could approach the State Government with other municipalities around Melbourne to advocate for an increase to the fines currently applied for illegal tree removal.

This approach is already being undertaken by Council through the MAV (Municipal Association of Victoria) and if successful, it would potentially provide a more substantial deterrent for residents and developers.

3.2 SUMMARY OF OPTIONS

Based on the 7 options described in section 3.1, a number of possible scenarios are presented for discussion, which uses a combination of options to best provide Whitehorse with further tree protection controls.

The table below summarises the possible scenarios for the project:

Table 5 - Summary of option scenarios

SCENARIO	OPTIONS	COMPONENTS
A. Existing model/mix of overlays	1- LPPF 4- Mix of schedules 5 – Res zone variations 7 – Other tools	Canopy tree definition in Local Policy Increased use of VPO to cover new/younger trees Expand SLO to cover Bush Suburban areas Possible zone variations to include sufficient open space / setbacks for canopy trees in areas not within SLO based on canopy tree definition Landscape plans review S173 agreements – new subdivision Community education
B. Extend the SLO	1- LPPF 2- Municipal-wide SLO 7- Other tools	Canopy tree definition in Local Policy Apply the SLO to all residential areas based on NC precincts (other than existing SLO and ESO areas) Landscape plans review Community education
C. Extend the VPO	1- LPPF 3- Municipal-wide VPO 5- Res zone variations 7- Other tools	Canopy tree definition in Local Policy Apply the VPO to all residential areas based on NC precincts (other than existing SLO and ESO areas) Zone variations to increase building controls in relation to providing sufficient space for canopy trees Landscape plans review Community education
D. Local law	1- LPPF 6- Local law 7- Other tools	Canopy tree definition in Local Policy Zone variations to increase building controls in relation to providing sufficient space for canopy trees Landscape plans review S173 agreements – new subdivision Community education

3.3 RESOURCE IMPLICATIONS

A Tree Protection Options Report was presented to the Whitehorse City Council at its Ordinary Meeting on 8 December 2014 in response to a Council request to "...appraise the options available to further protect canopy trees in the Whitehorse municipality."

The options outlined in the December 2014 report are based on a previous report (2011) discussing the various tree protection options available, to inform the 2015/2016 budget process.

In addition to the report on estimated costs of tree protection controls, the 20 October 2014 Council meeting resolved to advocate to State Government for harsher penalties for illegal tree removal and to request tree loppers be required to obtain a trade licence.

Section 9.2.1 of the Ordinary Council Minutes, 8 December 2014 states the following financial implications:

- A Planning Scheme Amendment would cost in excess of \$30,000 to finalise.
- Additional resources for assessment of applications, monitoring, legal and compliance costs including additional staff for up to 3 arborists, up to 2 enforcement officers and 1 administrative officer would cost approximately:
 - \$499,000 pa (plus 12.5% on costs such as superannuation) for salaries (based on arborists, rather than planning staff). Including total annual operating costs this equates to \$615,000 pa
 - \$163,000 upfront capital costs
- A communication and education program

Based on these figures, a broad cost estimate for the option scenarios listed at Section 3.2 includes:

SCENARIO	APPROXIMATE COST IMPLICATIONS
A. Existing model/mix of overlays	<ul style="list-style-type: none"> – A minimum \$30,000. Numerous Amendment processes would see this increase very quickly. – \$325,000 for staff increases, as impacts on applications /assessments would be slow and incremental over time.
B. Extend the SLO	<ul style="list-style-type: none"> – \$30,000 for a Planning Scheme Amendment. – Panel report and process – \$640,000-\$650,000 pa staff resourcing (including increases to 2016) – \$163,000 up front capital costs
C. Extend the VPO	<ul style="list-style-type: none"> – \$30,000 for a Planning Scheme Amendment. – Panel report and process – \$640,000-\$650,000 pa staff resourcing (perhaps less than Scenario B, with less applications) – \$163,000 up front capital costs
D. Local Law approach	<ul style="list-style-type: none"> – \$640,000-\$650,000 pa staff resourcing – \$163,000 up front capital costs

Note that the above costs do not include additional costs associated with:

- Up skilling planning staff to assess landscape plans in greater detail, approximately \$500 per staff (outside course or via consultant arborist)
- Education programs, including \$66,000 pa for one additional staff and approximately \$30,000 pa operational costs
- Incentives
- S173 Agreements.

Note that some of these costs could be offset with an application fee, which could be tailored to suit the type/size of proposal.

BENEFITS

There is numerous cost benefits that could be investigated further by implementing the recommended option and by increasing tree canopy cover, including:

- Cooling of buildings (reducing the energy costs of cooling devices).
- Reduced road repairs (this predominantly relates to street trees, increased tree cover protects the pavement from degrading).
- Increased property values for sites with greater tree canopy cover.

Indirect cost benefits relating to health also have been found and are discussed further in the Tree Study Part 1 – Discussion Paper.







4

RECOMMENDATIONS

4.1 RECOMMENDED OPTION

Based on the analysis and discussion as part of this Tree Study, the recommended option for further tree protection controls in Whitehorse is based on Scenario B – Extend the Significant Landscape Overlay.

This option includes:

- Improving planning policy within the Whitehorse LPPF and strengthening the Council Plan.
- Extending the SLO controls to the remaining residential areas and including the VPO areas.
- Strengthening the landscape plan review process.
- Extending education programs and including welcome packs in a number of languages as appropriate.
- Enforcing S173 agreements on new subdivisions to require canopy tree planting on all sites.
- Continuing to advocate for an increase in fines for illegal tree removal, to the State Government.
- Incentives such as discounted canopy trees or tree vouchers through Council and community nurseries.

It is important that the preparation of any new tree protection control considers the controls that already exist within the planning scheme and especially within the residential zone schedules, so that new controls build upon the existing variations and do not repeat or contradict these.

PLANNING POLICY

As discussed at section 2.1.1 it is recommended that the MSS be updated to strengthen the discussion around the roles of vegetation and to include a vision and objective to enhancing the cover of canopy trees on private and public land.

This vision and objectives should also be reflected in the Council Plan.

The Tree Conservation Local Policy is recommended to be updated to highlight the importance and differences between exotic and native vegetation and how they both contribute to character. The definition of canopy tree should be discussed in the policy, along with objectives to protect young/new trees with the potential to be canopy trees.

Based on the analysis within this report, the definition of canopy tree for Whitehorse should include both minimum girth and minimum height measurements. It is recommended that the definition of canopy tree is *'any tree that has a minimum trunk circumference of 0.5m at 1.0m from the ground and a minimum height of 6 metres.'*

SIGNIFICANT LANDSCAPE OVERLAY

The preparation of SLOs across all remaining residential areas is recommended to consider:

- Neighbourhood character statements and objectives.

- Buildings and works within the tree protection zones and the protection of trees within the TPZ of a canopy tree.
- Buildings and works requirements that may not be covered within the residential schedules, such as setbacks from new/existing canopy trees and site coverage where it doesn't already apply.
- Exemptions for pruning as defined by the Australian Standards 4373-2007 Pruning of Amenity Trees.
- Requirements for the removal or lopping of any canopy tree as defined in the Local Policy.
- Tree replacement requirements.

EXISTING CONTROLS

Development controls that currently exist within the residential zone schedules (as outlined on pages 18-19) apply to land that will also be proposed for an SLO control. It is important that these controls are not repeated and that any further built form controls in an SLO build on these, if necessary.

Therefore, existing building controls should be reviewed during the process of preparing new SLOs and any inconsistencies or recommendations for changes to zone schedules be considered.

However, the existing variations to the residential zone have only been in place since the end of 2014 and therefore the effectiveness of these controls have not yet been seen on the ground. It is not recommended at this stage to make changes to the residential zone schedules. The existing building controls will provide support to the protection of the landscape setting in new SLOs.

LANDSCAPE PLANS

Review the process by which landscape plans are reviewed to:

- Require staff with appropriate experience (e.g. understanding tree species, size and location requirements) to review all landscape plans.
- Monitor the implementation of landscape plans, especially the planting of canopy trees.
- Consider the option to implement bond agreements where canopy trees are proposed on the landscape plan and will significantly contribute to neighbourhood character and canopy cover.

RESOURCE IMPLICATIONS

Based on the preferred option for further tree protection controls in Whitehorse, the following resource implications need to be considered:

- Planning Scheme Amendment – a minimum cost of \$30-50,000
- Additional staff for increased permits, monitoring and enforcement of the new controls, including;
 - Up to 1 planner, 3 arborists, 2 enforcement officers, and 1 administration officer

- Approximately \$685,000 pa (salaries, including operational costs)
- Approximately \$163,000 upfront capita costs (e.g. staff on costs)
- Additional costs associated with education, marketing programs and other initiatives / incentives



The background of the slide is a close-up photograph of a tree trunk. The bark is deeply textured with numerous vertical and diagonal cracks, showing a range of brown and grey tones. In the center of the image, there is a solid dark grey rectangular box. Inside this box, the word "APPENDICES" is written in a bold, white, sans-serif font.

APPENDICES

APPENDIX A

VCAT CASE STUDIES

VCAT CASE STUDIES

476 Mitcham Road, Mitcham (2015) Permit Granted	Construction of five double storey dwellings on a lot. Tree removal under the SLO ₃ .	Council refused the application on the grounds that it was not consistent with the character of the area. Proposal failed to meet the objectives of the Significant Landscape Overlay.	The tribunal found that the subject site does not form part of the main Walker Estate, but is complementary to it. The tribunal found that the large setback, retention of mature trees, opportunities for new planting were sufficient in meeting the objectives of the SLO.
24 Wolesley Crescent, Blackburn (2015) Permit Granted	Demolition of an existing dwelling and the removal of all trees from the site. Construction of a double storey dwelling and a tennis court and swimming pool.	Council refused the application on the grounds that it was inconsistent with the NRZ ₁ , NCO ₁ and SLO ₄ . Council contended that the development would provide a visually dominant built form and provide insufficient opportunity for substantial upper canopy tree planting.	The tribunal found that there was sufficient space provided for the planting of canopy trees on the proposal. Suggested that the removal of non-native trees (and replanting with indigenous vegetation) was more consistent with the objectives of the SLO.
27 The Ridge, Blackburn 2015 Permit Granted	Construction of a three storey dwelling and the removal of two (out of eight) trees on the site.	Council refused the application based on the proposals response to the SLO ₂ . That the proposal failed to respect the bush environment area and doesn't respect neighbourhood character. The proposal will leave insufficient space for canopy tree planting.	Upon the condition of reducing the height of the development to two storeys the tribunal found the proposal to be an acceptable height within the landscape. Both of the trees to be removed were identified by the arboriculture report to be of low amenity value. There is sufficient space to respond to the landscape character objective of the SLO.
660 Canterbury Road, Vermont Permit Granted	Construction of four dwellings comprising two double storey and two single storey dwellings. Removal of vegetation (all trees on the site).	Council refused the application on the grounds that it was inconsistent with policy outcomes relating to landscaping, site response. The extent of built form will result in inadequate spacing around dwellings for landscaping and canopy trees.	The landscape plan provides for a total of 8 canopy trees to be located through the site. The proposed planting is to be native and will therefore make a significant contribution to the landscape character of the area. The tribunal noted that it would be preferable to remove non-native trees that could be retained with new native trees, which is encouraged within the planning scheme.

543 Canterbury Road, Vermont Permit Granted	Construction of four dwellings, three double storey and one single storey.	Council refused the application on the grounds that it was inconsistent with the character of the area including the extent of built form and lack of landscape opportunities.	The tribunal found that there is sufficient opportunity within the proposal to plant meaningful vegetation to soften the appearance of the building and to promote a garden setting. The landscaping plan includes the provision of several canopy trees in addition to the retention of a number of existing trees on site.
31 Gerald Street, Blackburn Permit Granted	Demolition of existing dwelling and construction of two double storey dwellings.	Council refused the application on a number of grounds including the failure to comply with policy, particularly in regard to environment and tree conservation. Additionally council contended the application didn't adequately respond to the SLO2.	The tribunal found that all trees of high retention value could be retained under the proposal and that there is sufficient area on site to plant seven canopy trees.
60 Main Street, Blackburn Permit Granted	Construction of three double storey dwellings and removal of trees.	Council refused the application on the grounds that the proposed development would have had a profound impact on the adjoining reserve. The existing interface between the reserve and the subject site would have changed from being one of characterised by vegetation to one where the reserve is strongly influenced by the presence of two prominent double storey dwellings.	The tribunal was satisfied with the landscape plan which provided for the retention of the significant trees as identified by the arborists report. The proposed setback was considered sufficient to provide an adequate spread of landscaping along the length of the site.
2 Walsham Road, Blackburn Permit Granted	Three lot subdivision and tree removal.	Council refused the application on the basis the proposal is inconsistent with neighbourhood character and housing policy and the extent of tree removal unacceptably affects the sites contribution to	The tribunal was satisfied that the three future dwellings as envisaged by the applications were guided by the objectives of the SLO. The tribunal was satisfied that the level of tree removal was acceptable, particularly as the trees on the site have the

		the neighbourhood's landscaped character. of	uncommon characteristic of extremely high but relatively small canopy cover. Additionally the trees were identified as being planted to close together for optimum canopy coverage.
20a Myrtle Grove, Blackburn (2013) Permit Granted	Construction of two double storey dwellings and removal of a tree.	Council refused the application on the basis that it was inconsistent with the provisions and objectives of the SLO2.	<p>The tribunal found that the proposed building footprint and building envelope was appropriate to the existing character of the area and the objectives of policy.</p> <p>The tribunal noted that the site was an interface site with the adjoining property to the west not comprising part of the SLO2.</p> <p>The proposed setbacks provided sufficient space to provide for a landscape setting.</p> <p>There is little landscaping on the existing site making the current built form dominant.</p>
22 Clifton Street, Blackburn Permit Granted	Amendment to approved development to grant permission to construct a double storey dwelling in lieu of a single storey dwelling (approved), removal of two trees.	Council refused to issue a permit on the grounds that the proposal was contrary to the character of the neighbourhood, including the scale and extent of built form and lack of landscape opportunities.	<p>The tribunal found that the area provided for landscaping was generally consistent with SLO performance measures.</p> <p>The tribunal was satisfied that the landscape concept plan aligns with the objectives of the SLO2.</p> <p>Satisfied that the plan shows the retention of one tree to the rear and that the one tree on the site worth of retention will be retained.</p> <p>The siting and open space of the development is consistent with the objectives and decisions guidelines of the SLO.</p>
190-192 Central Road, Nunawading Permit not granted.	Development comprising six dwellings on a large site near Blackburn Lake.	Council failed to grant a permit on the grounds that non-compliance with local policy, non-compliance with the Significant Landscape Overlay (Schedule 2) and non-compliance with certain listed ResCode objectives.	The tribunal was not satisfied that the layout meets policy in relation to the dominance of vegetation, landscape and the special character of the SLO2 area around Blackburn Lake.

8 Dawe Road, Mitcham (2013) Permit not granted.	Construction of two attached triple storey dwellings and vegetation removal	Council failed to grant a permit on the grounds that the proposal failed to meet neighbourhood character and tree conservation objectives and was not a site responsive design.	<p>The tribunal noted that local policy made it clear that significance is to be enhanced and protected.</p> <p>That heights and setbacks were inconsistent with the objectives of the SLO.</p> <p>The intrusion into the tree protection zones of a number of trees is not justified.</p>
31 Denis Street Mitcham Permit not granted.	Construction of three, double storey dwellings	<p>Refusal</p> <p>Relating to lack of respect for neighbourhood character, inappropriate impact on amenity and impacts on existing vegetation.</p>	<p>The layout of the dwellings and use of two driveways will not provide for the level of landscaping expected within the Bush Character Areas. This coupled with the loss of a significant number of trees, including those on neighbouring properties indicates that the proposal is inconsistent with the Neighbourhood Character of the area.</p>

APPENDIX B

COMMUNITY AND COUNCIL OFFICER FEEDBACK

STAGE 1 COMMUNITY SURVEY RESPONSES

13 responses were received to the questions provided on the first community bulletin. This is a summary of responses broken down by question.

WHY ARE YOU INTERESTED IN THIS PROJECT?

Concern with the impacts of development on trees:

- Moonscaping of blocks when new houses or units are built.
- Developers do not seem to retain healthy mature trees and shrubs when building medium-density development, even though sometimes development could've been planned to retain trees.
- Long time residents note they have witnessed the 'thoughtless removal of vegetation to accommodate developments'.
- Lack of tree guards for street trees during development
- Amenity and neighbourhood character concerns relating to the loss of trees.
- The treed environment is what makes suburbs like Blackburn, Vermont etc uniquely liveable.
- Retaining and improving the tree canopy in the Mitcham area is important.
- Amenity of residential areas is important.
- Long time residents are disappointed to see so much of the tree canopy in the Mitcham area being destroyed – especially in the last 5 years.
- Overall reduction of tree cover in suburbs.
- A high rate of removal of beautiful trees and a lack of replacement trees.
- The current treed environment is under pressure from developers, development and climate change.
- Environmental/economic/social benefits of trees.
- The economic advantages of having a treed environment.
- Importance of parks as an ecological system.
- Contribution of individual trees that warrant special monitoring, protection and propagation.
- Importance of historic trees, street trees, large canopy trees & wildlife.
- The many benefits of trees, such as climate, environmental, health and wildlife habitat.

ARE THERE PARTICULAR ISSUES YOU THINK THIS PROJECT SHOULD ADDRESS?

Prioritising the protection of different types of trees:

- Protecting indigenous trees should be the highest priority.
- Extend the current focus in the planning controls on canopy trees to middle storey trees.
- Protecting appropriate older canopy trees.

- Introduction of policies/programs to protect tree coverage.
- Need to balance the 'rights' of home owners with the overall need to retain tree cover, i.e.: not a blanket ban on tree removal – need a good compromise.
- Incentives scheme for developers of private land, e.g.: deposit or rebate or reduced rates to retain healthy trees.
- Establishing a significant tree register within the SLOs and parks and apply VPOs where needed.
- Compensation for rate payers who host significant trees.
- Linking street trees, private trees and public parks.
- The development of an integrated park system with vegetation cover on residential allotments.
- Linking street trees with public parks.
- Addressing issues relating to developers and new development.
- Moonscaping allotments prior to applying to council for permits to build.
- Need to introduce guidelines to minimise the impact of tree removal on the natural habitat.
- Total site clearing should not be permitted.
- 34 mature trees have been cut down in Edinburgh Road Blackburn South, 30 native over 25 years. Subsequently the amenity of the area has changed.
- Programs/policies to extend tree canopy and encourage new planting:
- Require the planting of new canopy trees, carefully considering what the requirements of new planting will be.
- New home builders should have to include large trees in their landscaping.
- Address issues such as the number of trees, type and size of trees in new developments, with the goal to plant trees of a reasonable size that provide habitat, food, shade in summer etc, that won't cause problems in the future.
- Recognition of all of the benefits of trees:
- Trees have an economic as well as environmental value and therefore should be treated as assets to our city like any other asset.

ARE YOU A MEMBER OF A RELEVANT COMMUNITY OR INTEREST GROUP? (IF SO, PLEASE NAME)

- Halliday Park Advisory Committee
- Blackburn Creeklands Advisory Committee
- Bolton Park Neighborhood Residents Group
- Whitehorse Community Indigenous Plant Project
- Heatherdale Creek Parklands Advisory Committee

EXTERNAL WORKSHOP RESPONSES

25 people attended an external workshop held on the 4th February 2016 at the Council offices. This is a summary of responses broken down by question.

WHERE ARE MOST TREES BEING LOST ON PRIVATE LAND? ARE THERE PARTICULAR TYPES OF TREES OR AREAS WHERE THIS IS MORE EVIDENT?

LOSS OF TREES DUE TO DEVELOPMENT:

- New residents removing trees is an issue.
- Loss of trees due to construction or damage.
- Overdevelopment of sites, no check of planting or plans.
- Infill development, including dual-dwellings and multi-units.
- Residents developing single dwellings with no space for planting (McMansions).
- Over-development of blocks in Box Hill, Surrey Hills and Mont Albert North.
- Renovations, extensions, more use of paving.
- 'Every 2nd house' in Blackburn North.

COMMERCIAL DEVELOPMENT:

- Commercial development on Whitehorse Rd has not incorporated any planting, e.g. tax office.
- Box Hill activity centre.

PARTICULAR AREAS OR TYPES OF TREES:

- Areas immediately surrounding SLO boundaries – Bush Suburban areas.
- Trees in the middle of lots.
- Loss of protected trees (with minimal sanctions).
- Inappropriate planting and overcrowding of trees are leading to loss.
- More treed areas are experiencing a greater loss (more to lose), including in the Bush Environment character areas.
- Institutional sites (buildings with larger footprints).
- Trees that die and are not replaced.
- Trees that impact on neighbour's property.
- Age of trees and falling branches.

WHERE IS TREE RETENTION OR REPLANTING SUCCESSFUL? WHY IS THIS WORKING?

WHERE IS IT WORKING:

- Street trees.

- Bushland parks.
- Streets where resident have established controls e.g. Jeffery Street, Linum Street.
- Only where individuals want to.

WHY IS IT WORKING?:

- Community enforced action.
- Educating new residents.

OTHER COMMENTS:

- Nowhere – even in SLO areas, developers remove trees but do not replant them.
- Rezoning/overlay controls has emphasised the value of the bush at the expense of garden area and exotic trees.
- Not working because there is no follow-up. Developer sells and no obligation on new owners.

HOW CAN WE ENCOURAGE DEVELOPERS AND OTHER PARTS OF THE COMMUNITY TO RETAIN AND INCREASE LARGE CANOPY TREES?

EDUCATING THE COMMUNITY ABOUT PLANNING CONTROLS AND BENEFITS OF TREES:

- Translating planning requirements and informing new residents.
- Welcome Packs to new residents in several languages.
- Active education with the community and real estate agents – to communicate benefits.
- Tree Education Unit.
- Education in schools.
- Education of developers.
- Information provided in different languages.
- Benefits of cooling are not being recognised and also need to be communicated to the community.
- Research on ambient air temperature to be promoted.
- Floating foundations could be promoted to protect trees.

COUNCIL INTERVENTIONS:

- Council to re-plant in baron areas to set an example.
- Better/more compliance/enforcement.
- Better and more consistent advice up front from Council.
- Independent arborists advice.
- Being proactive before removal.
- Better follow-up and monitoring of planting/landscape plans.

- Pro-active before the damage happens.
- Lobby state government re increased fines for illegal tree removal (amenity value as a measure).

PROVIDING INCENTIVES FOR RETAINING TREES:

- Banyule have incentives, e.g. free plants for new residents.
- Introduce incentives for developers to retain/plant trees.
- Use incentives or vouchers.
- Free tree scheme for residents

INTRODUCING PLANNING CONTROLS:

- Setback and site coverage controls to require space for tree planting in new developments.
- Extend the SLO to all of Whitehorse.

MONITORING AND DATA COLLECTION:

- Need for more monitoring and data of trees in non-protection areas.

OTHER

- More flexibility – individual case by case – more control in hands of land owners.
- Like for like replacement dead and removed trees.

OFFICER WORKSHOP

An internal officer workshop was held during the project to discuss issues, ideas and options for future tree protection. It was also to gather more information about what is and is not working in relation to protection and enforcement.

Nine attendees from Council were present at the workshop and included representatives from Statutory Planning, Parks and Recreation, ParksWide (Council's park maintenance department) and Strategic Planning.

ISSUES AND OBSERVATIONS

The following issues were identified and observations were made in relation to the existing planning controls. Issues and opportunities have been further detailed in Chapter 1.3 of this report.

EXISTING CONTROLS

- Front fences are exempt under Clause 62 of the Whitehorse Planning Scheme (WPS), which causes issues for properties outside an SLO as trees can be impacted by construction of a fence but there is no review mechanism.
- Within the SLO front fence requirements are not strong enough. E.g. replacement of same for same is exempt but can cause damage.
- There is no decision guideline for building too close to trees in the Significant Landscape Overlay (SLO). A decision guideline for Tree Protection Zones may help.
- The SLO works well in theory; however permit refusals are usually overturned by the Victorian Civil and Administrative Tribunal (VCAT).
- The Whitehorse Vegetation Protection Overlays (VPO) have no replanting requirements where a removal is allowed.
- There is some inconsistency in requirements between the SLOs that is unnecessary and should be standardised.
- Tree retention cannot be enforced through subdivision applications, it needs to be through a development application – therefore it is being missed by single dwellings on a lot not requiring a planning permit.
- Works associated with service trenches along/across properties can damage trees; this especially impacts on SLO affected areas and trees on other sites.
- Trees on boundaries within a VPO or on the edge of the SLO are often affected by buildings constructed on neighbouring properties and within the Tree Protection Zone (TPZ). This also applies to the lopping or branch removal of trees that have grown beyond the VPO/SLO boundary.
- Many trees protected by VPO 1 and 3 are nearing the end of their life or have structural issues and are therefore being removed. Recognition of the need to continually monitor and update the VPO / tree controls due to the natural cycle of tree life needs to be considered.

ADMINISTRATION

- Inappropriately sized trees are being planted in the wrong locations (e.g. a eucalypt next to a wall is not going to last long).
- New plants are usually exotics, or smaller natives such as acacias etc and very rarely gums or other large natives.
- There is a lack of education and knowledge of newer residents in regards to existing tree controls and responsibilities.
- Cultural issues are a factor (e.g. bad feng shui to have a tree in front setbacks, information only in English).
- Need to educate the community regarding the benefits, monitoring and maintenance of trees.

ENFORCEMENT:

- Neglect and wilful damage lead to a loss of trees – need stricter enforcement of conditions, e.g. ensure new trees grow to a height of X metres to the satisfaction of the local authority.
- Enforcement can deter, but often it is too late for the tree in question. Penalties are not high enough and there is no requirement to replace lost trees through this process.

SUGGESTIONS OR OPTIONS TO CONSIDER

The following points were raised as options to consider in the Tree Study. The options suggested have been further explored in Chapter 2 of this report.

- S173 Agreements that require a bond to retain trees could work. However, it may not be reasonable due to the high administrative cost in establishment and chasing bonds etc.
- VPOs should be used to protect smaller and younger trees that have a longer life expectancy.
- SLOs are a more sophisticated control to retain a treed environment (site coverage etc), however a VPO is better at protecting the longevity of specific trees.
- Retention, replanting and compliance are the three biggest things to cover.
- Look at tree canopy volume rather than height, e.g. 2x 8 metre trees may be better than 1x 10-12 metre tree.
- Boroondara Council issue permits on site using local laws. Whereas Maroondah Council has SLOs and need to write reports for the same number of tree applications, resulting in twice the administration costs and not necessarily saving more trees with the overlay.
- Local laws seem more responsive, as long as it's managed through the planning department and using a planning arborist.
- Need to consider resourcing and administration of various options.

- Arborists used to assess trees should really have a Diploma/Cert III or above in Arboriculture. There is not enough knowledge by people assessing trees and therefore wrong assessments are often being made.
- There needs to be a more thorough review of landscape plans and trees being proposed preferably by qualified specialists, or planners with more experience and skills in assessment of landscape plans.
- Biodiversity and a good mix of species is really important, however there is usually not that level of sophistication in landscape plans.
- Types of trees that are not appropriate need to be considered, e.g. replacing a eucalypt with a maple is not the same for habitat purposes.