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CITY COUNCIL

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GLEN EIRA CITY COUNCIL

Canopy Tree Protection Local Law Policy

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Contents

1.	TITLE	3
2.	OBJECTIVES	3
3.	BACKGROUND	3
4.	SCOPE	3
5.	POLICY STATEMENT	4
6.	DEFINITIONS.....	4
7.	POLICY	5
7.1.	Permits	5
7.1.1.	When is a Permit required?	5
7.1.2.	Who can apply for a Permit?.....	5
7.1.3.	Permit fee.....	5
7.1.4.	Permit application form	5
7.1.5.	Decision making for Permits	5
7.1.6.	Pruning trees on private land.....	5
7.1.7.	Internal Review	6
7.2.	Classified Tree Register	6
7.2.1.	Who can nominate a tree for inclusion in the Classified Tree Register	6
7.2.2.	Nomination fee	6
7.2.3.	Nomination form.....	6
7.2.4.	Assessing eligibility for inclusion in the Classified Tree Register	6
7.2.5.	Expedited assessment of a nomination for inclusion in the Classified Tree Register in extenuating circumstances.....	7
7.2.6.	Who can apply to delisting a Classified Tree from the Classified Tree Register	7
7.2.7.	Application fee	7
7.2.8.	Application form	7
7.2.9.	Process for assessment of an application to delist a Classified Tree from the Classified Tree Register.....	7
7.2.10.	Further applications to delist a Classified Tree from the Register.....	8
8.	LEGISLATIVE COMPLIANCE.....	8
9.	ASSOCIATED COUNCIL DOCUMENT	8
10.	EXTERNAL REFERENCE/RESOURCE.....	8

1. TITLE

Canopy Tree Protection Local Law Policy (Amended Classified Tree Policy)

2. OBJECTIVES

The objective of this Policy is to effectively administer the process for permitting Canopy Trees and for the inclusion or delisting of trees from the Classified Tree Register.

3. BACKGROUND

Canopy trees can be very long-lived and contribute to the sense of character and identity of Glen Eira. Retention of canopy trees ensures that they continue to grow and mature increases the overall canopy cover of our urban forest. This benefits the community helping to reduce the impact of an increasingly urbanised environment, by storing and filtering stormwater, reducing the heat island effect and aiding in mitigating the impacts of climatic change, filtering of airborne pollutants thereby ensuring cleaner air, providing habitat for local fauna and contributing to the psychological well-being of the community.

The removal of canopy trees from private land is an issue that has the potential to impact on targets within the Glen Eira Urban Forest Strategy (UFS) and the outcomes of the Glen Eira Climate Emergency Strategies (CES). It is an issue that does not involve one simple solution but requires a multi-faceted approach that will not only see tree canopy protected and enhanced, but also see the community take ownership of the urban forest to ensure that Glen Eira remains a great place to live for current and future generations. As such, protection of private canopy trees is a critical element in this approach.

Council applies a range of regulatory and operational measures aimed at protecting vegetation, including trees, on both private and public land.

In relation to public and private land, clause 52.37 (Canopy Trees) of the Glen Eira Planning Scheme and the Vegetation Protection Overlay, Heritage Overlay and Significant Landscape Overlay of the Glen Eira Planning Scheme facilitate vegetation protection.

Glen Eira's Urban Forest Tree Management Guidelines 2024 protect and enhance the tree canopy located on Council owned and managed land. Clause 12 of the Community Local Law protects trees on Council land.

On private land the Canopy Tree Protection Local Law facilitates protection of both Canopy Trees that meet a specified size trigger, and Classified Trees that are trees that have been assessed as meeting the Categories of Significance and have been endorsed by Council onto the Glen Eira Classified Tree Register.

4. SCOPE

This Policy is limited in its application to trees that:

- meet the prescribed size trigger to be deemed a canopy tree as per clause 8 (1); or
- are nominated for inclusion in the Classified Tree Register; and
- listed on the Classified Tree Register.

5. POLICY STATEMENT

Council is committed to providing an attractive and sustainable, liveable environment for the municipal community and visitors to the municipality, as well as future generations. To this end Council have endorsed an Urban Forest Strategy that seeks to protect, maintain, and grow tree canopy across the municipality.

Canopy trees can be identified as trees that have attained a certain size and as such have been deemed to be adding a positive contribution to the overall urban forest. Protection of these trees is seen as a critical factor in ensuring that this contribution continues and the trees are able to grow and mature adding to Glen Eira's overall tree canopy.

Some canopy trees, through age, size, rarity of planting or association with historical events achieve a higher level of importance than others on public and private land, and Council is committed to acknowledging and documenting their existence because these trees are regarded as integral to Glen Eira's identity and in some cases also contribute to Melbourne as a whole. As such Council has developed the Glen Eira Classified Tree Register to ensure these trees are both documented, and their details made available to members of the public.

Research has confirmed that the tree canopy is gradually being eroded. Trees that are canopy trees are being lost due to land development, risk aversion, infrastructure and property maintenance, climate change, natural attrition, and pests and diseases.

A proactive approach to protecting and enhancing tree canopy is needed to maintain the high levels of amenity and the character of Glen Eira's suburbs.

6. DEFINITIONS

Unless the contrary intention appears in this Policy, words defined below have that meaning in this Policy.

- a) words have the same meaning as in clause 8 of the Glen Eira City Council Canopy Tree Protection Local Law; and
- b) words defined below have that meaning in this Policy.

Term	Meaning
AS 4373-2007	means Standards Australia, Pruning of Amenity Trees (AS 4373-2007) (or as updated/replaced by the equivalent Australian Standard).
AS4970-2025	means Standards Australia, Protection of Trees on Development Sites (AS 4970- 2025) (or as updated/replaced by the equivalent Australian Standard).
Local Law	means the Glen Eira City Council Canopy Tree Protection Local Law.

7. POLICY

7.1. Permits

7.1.1. When is a Permit required?

A Permit must be obtained as set out in subclause 23(2) of the Local Law including to remove or Prune a Canopy Tree or Classified Tree or to carry out Works within the Tree Protection Zone of a Canopy Tree or Classified Tree or a tree which requires to be planted as a condition of a Permit or a direction in a Notice to Comply.

The circumstances where a Permit is not required are set out in subclauses 23(3) - (9) of the Local Law, including:

- where Pruning is limited to 10% of the trees volume and branches less than 100 millimetres in circumference; or
- to control an immediate danger to life or property.

7.1.2. Who can apply for a Permit?

Anyone can apply for a Permit. If the applicant for a Permit is not the owner of the tree to which the Permit applies, then the consent of the owner must be provided with the application.

7.1.3. Permit fee

There is no Permit fee.

7.1.4. Permit application form

An application for a Permit must be made in writing through Council's electronic portal or via a permit application form available for download from Council's website or collection from Council's customer service centre.

7.1.5. Decision making for Permits

In determining whether to grant a Permit under the Local Law, Council must consider, to the extent it considers appropriate, the matters outlined in subclauses 36(1)(a) to (h) of the Local Law and the Canopy Tree Local Law Assessment Guidelines.

7.1.6. Pruning trees on private land

Pruning of a Canopy Tree or Classified Tree must be carried out in accordance with AS 4373-2007. This Australian Standard encourages pruning practices and procedures that reduce the potential for a tree hazard developing, branch failure, fungal infection, or premature tree death and to improve the overall health and structure of the tree.

7.1.7. Internal Review

If an applicant for a Permit is dissatisfied with the decision of an Authorised Officer made under clause 37(1) of the Local Law to refuse a Permit or to issue a Permit with conditions, the applicant may apply in writing for an internal review.

The internal review process ensures that decisions are reconsidered fairly, transparently, and on their merits, consistent with Council's obligations under the Local Law and the Assessment Guidelines.

The review will be carried out by a different Authorised Officer who will reconsider the matter as if making the decision for the first time. The reviewing officer will consider:

- all information that was before the original decision-maker; and
- any new or updated information provided by the applicant or obtained through the review.

All reviews will be conducted in accordance with Appendix 6 – Internal Review Procedure in the Policy and the Assessment Guidelines.

7.2. Classified Tree Register

7.2.1. Who can nominate a tree for inclusion in the Classified Tree Register

Anyone can nominate any tree located in the municipality for inclusion in the Register.

7.2.2. Nomination fee

There is no nomination fee.

7.2.3. Nomination form

Nominations can be made using Council's online form or in writing.

7.2.4. Assessing eligibility for inclusion in the Classified Tree Register

Nominations are assessed under Part 3 of the Local Law and the process in Appendix 3 of this policy. In summary, when a nomination is received, an Authorised Officer will consider whether the tree is potentially eligible for inclusion in the Register. One of the considerations in assessing eligibility for inclusion in the Register is the criteria in Appendix 1 of this Policy which is based on the criteria used by the National Trust of Australia (Victoria) for its register. If the tree is potentially eligible for inclusion, contact will be made with a relevant landholder to arrange, if required, an inspection of the tree to assist in determining if it has any of the Categories of Significance and any of the negative criteria listed in Appendix 2 of this policy.

If the inspection identifies the tree as potentially eligible for inclusion in the Register, an Authorised Officer must notify all the relevant landholders.

The Authorised Officer's assessment of the tree is subject to internal review.

If the assessment is that the tree is eligible for inclusion in the Register, a report will be prepared for Council with a recommendation for inclusion of the tree in the Register.

Council makes the final decision on whether to include a tree in the Register, notifies the person who nominated the tree and the relevant landholders of its decision and, if the tree is included in the Register, publishes a notice in the Government Gazette.

7.2.5. Expedited assessment of a nomination for inclusion in the Classified Tree Register in extenuating circumstances

If:

- land within all or part of the Tree Protection Zone of the nominated tree is marketed for sale after a valid nomination is received by Council; or an application is made for a planning permit which directly impacts land within the Tree Protection Zone of a nominated tree; or
- an interim protection order is granted under subclause 24(1) of the Local Law

then, if the nomination is still being assessed by an Authorised Officer, any request for internal review, as set out in Appendix 3, will be expedited to the Manager of Parks Services.

7.2.6. Who can apply to delisting a Classified Tree from the Classified Tree Register

An application to delist a Classified Tree from the Register may be made by any relevant landholder or Council may nominate a Classified Tree on its own initiative to be delisted from the register. An application must include reasons why the Classified Tree no longer meets any of the criteria in Appendix 1.

7.2.7. Application fee

There is no application fee.

7.2.8. Application form

Applications may be made using Council's online form or in writing.

7.2.9. Process for assessment of an application to delist a Classified Tree from the Classified Tree Register

Applications are assessed under Part 4 of the Local Law and the process in Appendix 4 of this policy. In summary, when an application is received an Authorised Officer will determine whether the Classified Tree is potentially eligible for delisting from the Register.

Council assesses eligibility for delisting a tree from the Register using the criteria in Appendix 1 of this Policy which is based on the criteria used by the National Trust of Australia (Victoria) for its register. If the tree is potentially eligible for delisting, contact will be made with a relevant landholder to arrange, if required, an inspection of the Classified Tree to determine if it has any of the Categories of Significance.

If the inspection identifies the Classified Tree as potentially eligible for delisting from the Register, the Authorised Officer must notify all the relevant landholders. If the Authorised

Officer determines that the Classified Tree is eligible for delisting from the Register, a report will be prepared for Council with a recommendation for delisting.

Council makes the final decision on whether to delist a Classified Tree from the Register, notifies the relevant landholders of its decision and, if the tree is delisted from the Register, publishes a notice in the Government Gazette.

7.2.10. Further applications to delist a Classified Tree from the Register

Council must not consider a further application to delist a Classified Tree from the Register within two years of the receipt of a valid request to delist the Classified Tree from the Register, unless there are exceptional circumstances relating to its condition.

8. LEGISLATIVE COMPLIANCE

This policy has been assessed as being compatible with the *Charter of Human Rights and Responsibilities Act 2006 (Vic)*.

9. ASSOCIATED COUNCIL DOCUMENT

Canopy Tree Protection Local Law
Canopy Tree Protection Local Law Assessment Guidelines
Glen Eira Urban Forest Strategy
Glen Eira Urban Forest Tree Management Plan
Glen Eira Urban Forest Tree Management Guidelines
Glen Eira Community Local Law

10. EXTERNAL REFERENCE/RESOURCE

Planning and Environment Act 1987
Standards Australia, Pruning of Amenity Trees (AS 4373-2007)
Standards Australia, Protection of Trees on Development Sites (AS 4970-2025)

Appendix 1- Categories of Significance

The Categories of Significance are based on the National Trust of Australia criteria for identification and classification of trees.

For a tree to be considered as eligible for inclusion in or to remain on the Classified Tree Register it must be an exceptional example as demonstrated by meeting one or more of the criteria in the table below.

No.	Criteria	Description	Example in Glen Eira
1	Horticultural or genetic value	Any tree which is of exceptional horticultural or genetic value and could be an important source of propagating stock, including specimens that are particularly resistant to disease or environmental conditions. This could include Australian native, locally indigenous or exotic tree species.	The River Red gum (<i>Eucalyptus camaldulensis</i>) located within the Outer Circle parks.
2	Unique location or context	A tree that occurs in a unique location or context and provides a major contribution to the landscape and trees which form part of a historic garden, park or town. This may include the blanket inclusion of trees of various sizes in parks.	Sections of Boyd Park where the significance of the tree(s) relates to the broader landscape context.
3	Rare or localised distribution	Any tree of a species or variety that is rare or is of very localised distribution. This could include trees that are classified as threatened indigenous or endemic species within its locality or a rare exotic specimen.	The African Bush Willow (<i>Combretum caffrum</i>) in Hopetoun Gardens.
4	Particularly old specimen	Any tree that is a particularly old or venerable example of the species such as pre- colonial trees.	The large River Red gum (<i>Eucalyptus camaldulensis</i>) located within Greenmeadows Gardens.
5	Outstanding size (girth height spread)	The outstanding size of a tree will relate specifically to the tree species and may vary considerably depending on its height, trunk circumference or canopy.	The Holm Oak (<i>Quercus ilex</i>) located within Caulfield Park.
6	Aesthetic value	The tree is a particularly well-formed example of the species that is in a location that makes it striking in the landscape. The loss of a tree in this category would result in a substantial change to the local landscape and a loss of amenity for the community.	The Peppercorn (<i>Schinus molle</i>) located within The Wedge.

7	Curious growth habit	Any tree which exhibits a curious growth form or physical feature such as abnormal outgrowths.	A large Peppermint Gum (<i>Eucalyptus nicholii</i>) located in Gardenvale Park that is growing sideways along the ground.
8	Historical significance	Any tree commemorating a particular occasion, individual or associated with an important historical event may be considered in this category.	The Lone Pine Tree, Gallipoli, located in Caulfield Park.
9	Connection to Aboriginal culture	A tree associated with Aboriginal activities or culture such as Scarred trees or Corroboree trees.	Council has no records of trees on Council Land which are within this criterion.
10	An outstanding example of species	Any tree that is an outstanding example of the species at an International / National / State / Regional / Local level or of particular aesthetic value.	The large River Red gum (<i>Eucalyptus camaldulensis</i>) located within Booran Road Reserve.
11	Outstanding habitat and biodiversity value	A tree that has outstanding value as habitat for indigenous wildlife, including providing breeding, foraging or roosting habitat, or forming a key part of a wildlife corridor.	The Eucalyptus species located within the Outer Circle parks as well as the Elster Creek Trail.

Appendix 2 - Negative assessment criteria

In determining whether a tree is ineligible for inclusion in the Register, an Authorised Officer must consider, to the extent the Authorised Officer considers appropriate, the criteria listed in the table below.

The Authorised Officer will first work out which criteria in the table below are relevant to the assessment of a nomination for inclusion in the Register, as not all of the criteria will be relevant for every nomination.

1. The condition of the tree, (such as, for example, its health, appearance and structural integrity)

A tree is ineligible for inclusion in the Register if it is:

- dead or it is dying and is unlikely to respond well to recommended arboricultural techniques to improve its health; or
- structurally unsound and it cannot be made safe through recommended arboricultural techniques to improve its structural integrity.

2. The appropriateness of the tree for its location on the property having regard to the existing buildings on the property.

An Authorised Officer must consider:

- The extent of the tree's Tree Protection Zone.
- The proximity of the tree to any buildings or areas of recreational open space on the property.
- Whether the tree can be Pruned to reduce any unreasonable impacts that it may be having on the property.

3. The appropriateness of the tree for its location on the property having regard to reasons of health or safety

A tree is ineligible for inclusion in the Register if it poses a health or safety risk which cannot be alleviated through recommended arboricultural techniques.

An Authorised Officer must consider:

- The risk presented by the tree to health and safety, as determined by a risk assessment undertaken by a suitably qualified and experienced arborist.
- History of any limb failures including the reasons for such limb failures.
- What is physically located beneath and surrounding the tree, including how the area is used.
- Whether fruit, litter or similar drop from the tree gives rise to any risks to health and safety or property damage.

- Whether the tree is causing any property damage which gives rise to health and safety risk.
- Whether the tree can be Pruned to manage the health and safety risks presented by the tree.
- Whether any other steps can be taken to mitigate the health and safety risks presented by the tree.
- Any report from a licensed and/or qualified person in their field which provides evidence that the tree is causing a health or safety risk which can only be overcome by implementing a remedy that is unreasonable or greatly disproportionate to the value of the tree.

A tree is ineligible for inclusion in the Register if a certificate from a specialist dermatologist or clinical immunologist/allergy specialist demonstrating the cause and effect between the tree and the allergy. The Australasian Society of Clinical Immunology and Allergy website advises a skin prick test and/or blood allergen specific IgE test can be undertaken to determine an allergy link.

4. Whether the tree has caused property damage, and the extent of the damage and cost of repair of the damage caused.

The reference to 'property damage' in this criterion refers to damage occurring on the land on which the tree is located or on any other adjacent property.

An Authorised Officer must consider:

- Any evidence of property damage being caused.
- The extent of property damage being caused.
- Whether the property damage can reasonably be repaired without impacting on the viability of the tree. The estimated cost of repairing the property damage.
- If the tree's roots are blocking, breaking or otherwise damaging pipes, whether the pipes can be cleared and relined without removing the tree, or whether the pipes can be replaced without the digging of a trench.
- Whether the tree can be Pruned to reduce the property damage being caused.
- Any report from a licensed and/or qualified person in their field which provides evidence that the tree is causing structural damage to a building, services or infrastructure or is a risk to property, which cannot be alleviated through recommended arboricultural techniques and can only be overcome by implementing a remedy that is unreasonable or greatly disproportionate to the value of the tree.

An Authorised Officer must also consider whether to obtain the following information if the circumstances require:

- Closed-circuit television footage of damage to underground pipes, collected by a suitably qualified person such as a licensed plumber.
- A report from a suitably qualified and experienced structural engineer detailing the extent of damage, the likely cause of the damage and detailing the range of options available in repairing the damage.
- A Tree Management Plan from a suitably qualified and experienced arborist assessing whether the property damage can reasonably be repaired without impacting on the viability of the tree.

5. Whether the tree is causing a public nuisance or creating any other nuisance to relevant landholders

An Authorised Officer must consider:

- The conditions beneath the tree.
- The species of tree, including the frequency and extent of litter, leaves, bark, fruit and similar dropped by the tree.
- Whether any fruit, litter or similar drop from the tree gives rise to any risk of property damage.
- Whether the conditions beneath the tree could reasonably be changed to reduce the impact of the nuisance.
- Whether the tree can be Pruned to reduce the nuisance being caused.

6. Whether the tree is an environmental weed

An Authorised Officer must consider:

- The Advisory list of environmental weeds in Victoria (as amended from time to time).
- Whether the tree is listed as a Noxious Weed.
- Whether the location of the tree and the specific context in which the tree is situated may be considered a weed, including the proximity of the tree to Public Land.
- The species in relation to its location. (Note: for example, some trees are only considered to be weeds in circumstances, such as if they are located close to waterways or near areas of environmental significance).
- Whether the tree is materially contributing to the spread of weed propagules.

7. Any other matter relevant to the circumstances associated with the nomination.

An Authorised Officer must consider any demonstrated financial hardship and inability to conduct routine maintenance of the tree (financial hardship includes where the resident has no source of income to pay for the maintenance and is receiving Centrelink benefits.)

Appendix 3 - Nominating a tree for inclusion in the Classified Tree Register

Nominating a tree for inclusion in the Classified Tree Register

A person may nominate any tree within the Municipal District for inclusion in the Register.

Grounds to reject a nomination.

Council may reject a nomination if:

- the nominated tree is already listed on the Register; or
- the nominated tree was delisted from the Register; or
- land within all or part of the Tree Protection Zone of the nominated tree is directly impacted by proposed activities in a planning permit application received by Council prior to the date the nomination is received by Council; or
- is directly impacted by activities permitted by a planning permit which is issued by the responsible authority prior to the date the nomination is received by Council; or
- is marketed for sale as at the date the nomination is received by Council; or
- within the last five years, Council resolved not to include the nominated tree in the Register.

Council must notify the person who nominated the tree of the grounds for rejection.

Council's preliminary assessment of a nomination

The Authorised Officer will identify any relevant landholders and may conduct a preliminary assessment of the tree, including an inspection, to assess whether the tree meets any of the criteria in Appendixes 1 and 2.

If a preliminary assessment identifies the tree as ineligible for inclusion in the Register, notice will be provided to the owner of the tree and the person who nominated the tree.

If the preliminary assessment identifies the tree as eligible for inclusion in the Register, the Authorised Officer will place the tree on a list for trees that are eligible for inclusion in the Register (**the list of eligible nominations**) and will provide notice to the relevant landholders. Any relevant landholder may provide a written response following receipt of the notice from the Authorised Officer.

If a written response is received from a relevant landholder within 28 calendar days of receipt of the notice objecting to the inclusion of the tree in the list of eligible nomination, an independent consulting arborist will be engaged at Council's cost to assess the eligibility of the tree. If the independent consulting arborist identifies the tree as eligible for inclusion in the Register, the assessment may be included with the list of trees Council considers for inclusion of the tree in the Register. Council will then consider whether to endorse the recommendation to include the tree on the register or reject the nomination.

Assessing eligibility for inclusion in the Classified Tree Register

In determining whether a tree is potentially eligible for inclusion in the Register, Council must consider the following, to the extent it considers appropriate:

- a) the criteria in Appendix 1; and
- b) the criteria in Appendix 2; and
- c) any written submissions received by Council regarding the nominated tree.

Notification of decision

Council may:

- a) include a tree nominated in the Register; or
- b) not include a tree nominated in the Register.
- c) Council must notify the person who nominated the tree and all relevant landholders of its decision

Council must publish notice in the Government Gazette of its decision to include a tree in the Register.

Classified Tree Audit

Council must undertake an audit of trees in the Classified Tree Register every two years to ensure that they still meet one or more of the Categories of Significance.

Appendix 4 - Application to delist a Classified Tree from the Classified Tree Register

Application for delisting

A relevant landholder may apply in writing to delist a Classified Tree from the Register.

The application must include reasons why the Classified Tree no longer meets any of the criteria in Appendix 1.

Grounds to reject an application

Council may reject an application if within the previous two years Council determined that the Classified Tree meets one or more of the criteria in Appendix 1, unless there are exceptional circumstances relating to its condition.

If Council rejects an application, it must notify the applicant of the grounds of rejection.

Council's preliminary assessment of an application for delisting

The Authorised Officer must identify any relevant landholders and may conduct a preliminary assessment of the Classified Tree, including an inspection, to assess whether the Classified Tree still meets one or more of the criteria in Appendix 1.

If a preliminary assessment identifies the Classified Tree as potentially ineligible for inclusion on the Register, the Authorised Officer will provide notice to the relevant landholders.

Any relevant landholder may provide a written response following receipt of the notice from the Authorised Officer.

If a written response is received from a relevant landholder within 28 calendar days of receipt of the notice of the preliminary assessment, the Authorised Officer will consider the written response, may request additional information from the relevant landholder as outlined in Appendix 5, and either provide further notice to the relevant landholder or indicate whether, subject to receipt of any application for review, the Authorised Officer proposes to place the Classified Tree on a list of trees that are ineligible for inclusion on the Register (**the list of ineligible Classified Trees**).

If any relevant landholder is dissatisfied with the Authorised Officer's notice, the relevant landholder may apply in writing for a review of the Authorised Officer's preliminary assessment. If no written response or application for review is received within 28 calendar days of receipt of the Authorised Officer's notice, the Authorised Officer may determine whether to place the Classified Tree on the list of ineligible Classified Trees. If placed on this list, Council notifies the person who nominated the Classified Tree and the landholders of its inclusion.

If an application for a review is received within 28 calendar days of receipt of the

Authorised Officer's notice, the matter is referred to another Authorised Officer to conduct an assessment. If the Officer considers that the Classified Tree is ineligible for inclusion on the Register, a notice will be sent to relevant landholders.

Any relevant landholder may provide Council with a written submission in response to the secondary assessment notice. If a written response is received from any relevant landholder within 28 calendar days of receipt of the secondary assessment notice, the Authorised Officer

will consider the written response and may request additional information as outlined in Appendix 5. After considering any written responses from relevant landholders the authorised officer will determine whether to place the Classified Tree on the list of ineligible Classified Trees.

Council must notify the person who nominated the Classified Tree and the landholders of the decision to place the Classified Tree on the list of ineligible Classified Trees.

Assessing eligibility to delist a Classified Tree from the Classified Tree Register

In determining whether a tree is ineligible to remain on the Classified Tree Register, Council must consider, to the extent it considers appropriate, the criteria in Appendix 1 and any written submission received by Council.

Notification of decision

Council will decide whether to delist a Classified Tree from the Register.

Council must notify all relevant landholders of its decision.

Council must publish notice in the Government Gazette of a decision to delist a Classified Tree from the Register.

Appendix 5- Obtaining additional information

- (1) Council may request in writing any additional information which it requires to conduct a review from the landholder.
- (2) If Council makes a request under subclause (1), it must suspend the review until the earlier of:
 - a) 42 calendar days from the date specified in the document making the request as the date of the document; or
 - b) the date when the additional information is provided.
- (3) Within 28 calendar days of service of the request for additional information by Council, the landholder:
 - a) may provide the additional information; or
 - b) if additional time is required, may request in writing an extension of time to provide the additional information.
- (4) If the applicant requests additional time under subclause (3)(b), Council may:
 - a) refuse to extend the time for the provision of the additional information; or
 - b) grant an extension of time for that information to be provided.
- (5) If Council grants an extension of time under subclause (4)(b), Council must inform the landholder in writing of the period of the extension.
- (6) If a landholder fails to provide the information requested under subclause (1) to Council within the period specified in subclause (3) or, if an extension is granted under subclause (4)(b), within the period of that extension, Council:
 - a) may conduct a review without the additional information; or despite subclause (3)
 - if the landholder provides the additional information to Council out of time, may accept that late information; and
 - may conduct a review with that late information.

Appendix 6 – Internal Review Procedure

This Appendix sets out the process to be followed for internal reviews under Part 10 of the Canopy Tree Protection Local Law 2024.

Scope and Purpose

This procedure applies to the following decisions made under the Local Law:

- refusal to issue a Permit;
- issue of a Permit subject to conditions;

It provides an open and transparent mechanism for applicants to seek reconsideration of such decisions.

Eligibility

Only the original applicant for a Permit, or a person acting with the applicant's written consent, may request a review.

The review right applies to decisions made under clause 37(1)(a) or (b) to issue or refuse a Permit, including any conditions imposed under clause 38(1) of the Local Law.

Lodgment Requirements

An application for internal review must:

- be made in writing to Council within 28 calendar days of the applicant becoming aware of the decision;
- state the grounds upon which the review is sought;
- include any new or supporting information; and
- be addressed to the Manager Park Services.

The internal review must be conducted by an Authorised Officer who was not involved in making the decision under review.

The Authorised Officer allocated the internal review by the Manager Park Services will acknowledge receipt in writing and confirm whether the application meets the requirements of clause 56 of the Local Law.

Request for Additional Information

If additional information is required, Council will request it in writing under clause 57 of the Local Law.

Subject to any request for an extension of time to provide information by the applicant, the

applicant may provide additional information within 28 days from the date which is specified in the document making the request.

The review process will be suspended until the earlier of 42 days from the date of the request for further information or the date the information is received.

The applicant may request an extension of time (within 28 days of the request). The Authorised Officer will confirm in writing whether the extension is granted.

If the information is not received within the specified or extended period, the Authorised Officer may proceed with the review without it or may, at its discretion, accept late information.

Nature of the Review

The Authorised Officer, when undertaking the review:

- they must stand in the shoes of the original decision-maker and make the *correct or preferable decision* on the merits;
- they must consider all information that was or ought to have been considered originally, and any new or updated information; and
- they must address, to the extent appropriate, each of the assessment matters set out in clause 36(1) of the Local Law, having regard to the Assessment Guidelines.

Review Report

The Authorised Officer may engage an independent arboricultural consultant to review the original assessment and provide a written report.

The Authorised Officer will prepare a report (the Review Report) including:

- a description of the application and the decision under review;
- a summary of the applicant's grounds for review;
- the independent arboricultural consultant's assessment and recommendations (if obtained); and
- detailed consideration of each relevant matter under clause 36(1).

The Review Report will include a short compliance checklist confirming that only relevant considerations were taken into account, procedural requirements were followed, and the decision is reasonable and proportionate.

The Review Report and supporting documentation must be recorded in Council's records management system.

Decision-Making Process

The internal review will be determined by an Authorised Officer.

The Authorised Officer may, under clause 59(1):

- issue a Permit;
- refuse to issue a Permit; or
- determine that a Permit is not required.

A written notice of the decision will be provided to the applicant, including the reasons for the decision.

Procedural Fairness and Administrative Law Obligations

Council must ensure that:

- the review and decision are free from actual or perceived bias;
- the applicant is afforded procedural fairness, including:
 - o notice of the decision under review;
 - o an opportunity to provide written submissions;
- only relevant considerations are taken into account;
- irrelevant considerations are disregarded;
- all procedural requirements in the Local Law and Assessment Guidelines are met;
and
- the decision is reasonable and proportionate in all the circumstances.

Record-Keeping and Notification

The Authorised Officer must:

- retain the full record of the internal review, including application, correspondence, and arboricultural report; and
- notify the applicant in writing of the decision under clause 59(2), including reasons and any conditions imposed.



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