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GLEN EIRA CITY COUNCIL CLASSIFIED TREE ASSESSMENT GUIDELINES



Classified Tree Assessment Guidelines

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Classified Tree Assessment Guidelines

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Classified Tree Assessment Guidelines

Introduction and purpose

The purpose of the Classified Tree Assessment Guidelines (the **Guidelines**) is to provide a framework for the assessment of Permit applications under the Classified Tree Local Law (the **Local Law**).

These Guidelines will assist Officers in considering the matters set out in subclauses 36(1)(a) to (h).¹

Officers must consider these Guidelines when assessing Permit applications.

These Guidelines ensure that decision-making in relation to the assessment of Permit applications is consistent and equitable.

These Guidelines require that in the assessment of a Permit application, the Officer considers the three key elements in subclauses 36(1)(a) to (h), namely the:

- (a) location of the Classified Tree;
- (b) health, condition and hazard status of the Classified Tree; and
- (c) reason for the Permit application.

Assessments are to be guided by the objectives of the Local Law:

- (a) to provide for the registration of Classified Trees within the Municipal District; and*
- (b) to create offences and other enforcement measures to protect Classified Trees and trees required to be planted in satisfaction of a condition of a Permit or a direction in a Notice to Comply on private land within the Municipal District.*

whilst also seeking to safeguard the right of the current owners and occupiers of residential properties to the reasonable enjoyment of their property.

Assessment of a Permit application

Subclause 36(1) requires that:

In determining whether to issue a Permit, Council must consider the following, to the extent it considers appropriate—

- (a) the condition of the Classified Tree (such as, for example, its health, appearance and structural integrity); and*
- (b) the appropriateness of the Classified Tree for its location on the Property having regard to the existing buildings on the Property; and*
- (c) whether the proposed action is to be undertaken for reasons of health or safety; and*
- (d) whether the Classified Tree has caused property damage, and the extent of the damage and cost of repair of the damage caused; and*

¹ All references to clauses and subclauses in these Guidelines are to the Classified Tree Local Law unless otherwise stated.

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- (e) *whether the Classified Tree is causing any public nuisance or creating any other nuisance to relevant landholders; and*
- (f) *whether the Classified Tree is an environmental weed; and*
- (g) *any legislative requirements; and*
- (h) *any other matter relevant to the circumstances associated with the application.*

Building works on a residential property

These Guidelines, as they apply to Classified Trees, include a hierarchy of need in relation to the most common building works undertaken to residential property. The purpose of this hierarchy is to assist Officers in exercising their discretion when assessing Permit applications concerning:

- 1) a proposed dwelling; or
- 2) proposed improvements to an existing dwelling.

In regards to proposed improvements to an existing dwelling which provide for the reasonable enjoyment of the property by its owners and occupants, and which are used as the justification for the request to remove a Classified Tree, the Guidelines seek to provide direction regarding the core improvements undertaken on residential properties. These are:

- Alterations and additions to existing dwellings (including extensions to the dwelling, and structures such as garages, carports and outbuildings);
- Swimming pools;
- Patios and decks; and
- Tennis courts.

Definitions

Unless the contrary intention appears in these Guidelines—

- (a) words have the same meaning as in clause 8 of the Glen Eira City Council Classified Tree Local Law; and
- (b) words defined below have that meaning in these Guidelines.

Officer, means Authorised Officer;

AS 4373-2007 means Standards Australia, Pruning of Amenity Trees (AS 4373-2007) (or as updated/replaced by the equivalent Australian Standard).

AS4970-2009 means Standards Australia, Protection of Trees on Development Sites (AS 4970-2009) (or as updated/replaced by the equivalent Australian Standard).

Application of Guidelines

The Guidelines set out the matters that Officers must consider when assessing an application for a Permit.

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These Guidelines exist to assist Officers in the exercise of their discretion to make decisions under the Local Law.

These Guidelines do not change or supplant the criteria in subclause 36(1).

The Guidelines

In determining whether to issue a Permit, under subclause 36(1), the Officer assessing the Permit application must have regard to these Guidelines.

Tree Management Plan

A Tree Management Plan prepared by a suitably qualified and experienced arborist must be submitted as part of the Permit application for:

- 1) the Pruning of a Classified Tree;
- 2) Works within the Tree Protection Zone of a Classified Tree.

Pruning of a Classified Tree

A Permit for the Pruning of a Classified Tree must include a condition requiring that the Pruning is carried out in accordance with AS 4373-2007.

Works within the Tree Protection Zone of a Classified Tree

A Tree Management Plan submitted as part of the Permit application must:

- be in accordance with AS4970-2009; and
- demonstrate that a suitably qualified arborist (AQF Level 5 or higher) will be engaged to manage the Works.

A Permit must not be granted for Works within the Tree Protection Zone of a Classified Tree unless the Tree Management Plan submitted as part of the Permit application demonstrates to Council's satisfaction that the proposed Works will be carried out in such a manner that the Classified Tree will not be unreasonably impacted by the proposed Works.

Permits allowing Works within the Tree Protection Zone of a Classified Tree may include conditions requiring that:

- 1) the Works must be managed by a suitably qualified arborist (AQF Level 5 or higher) who is nominated in the application for a Permit;
- 2) the Works must be carried out in accordance with:
 - a. the Council approved Tree Management Plan submitted with the application for a Permit; and
 - b. the recommendations of an Officer.
- 3) the Works must be carried out in accordance with AS4970-2009;
- 4) non-destructive root excavations are undertaken to determine the location, type and size of tree roots;
- 5) maintenance work is carried out to the Classified Tree to Council's satisfaction.²

A Permit may be granted for Works to be carried out within the Tree Protection Zone of a

² See Guidelines applicable to conditions on a Permit requiring maintenance work to a Classified Tree on page 15.

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Classified Tree to control damage caused by the Classified Tree which cannot be remedied through any other means, subject to those Works being managed by a suitably qualified and experienced arborist.

Works undertaken by a homeowner or occupier

An application for a Permit is still required where Works within the Tree Protection Zone of a Classified Tree are to be carried out by a homeowner or occupier.³ The homeowner or occupier may request that a Council arborist attend the site and direct how the Works are to be carried out to comply with the Tree Protection Zone conditions in the Permit, so eliminating the requirement for the homeowner or occupier to engage a private arborist to manage compliance with those Permit conditions.

Removal of a Classified Tree

A Permit allowing removal of a Classified Tree may include conditions requiring replacement planting to Council's satisfaction.⁴

Criteria in subclause 36(1)

Officers must first work out which criteria in subclause 36(1) are relevant to the assessment of the application, as not all of the criteria will be relevant for every application.

Subclause 36(1)	Criteria	Guidelines
(a)	the condition of the Classified Tree (such as, for example, its health, appearance and structural integrity)	<p>In addition to ensuring an assessment of the Classified Tree's condition and risk is undertaken by a suitably qualified and experienced arborist, Officers must consider and critically analyse any arborist's Tree Management Plan provided with the application, including whether Council must obtain the opinion of an external consultant arborist.</p> <p>A Permit must be granted to:</p> <ul style="list-style-type: none">• remove a Classified Tree if it is dead or it is dying and is unlikely to respond well to appropriate arboricultural techniques to improve its health.• Prune a Classified Tree if the branch/es to be removed are dead or dying and the branch/es are unlikely to respond well to appropriate arboricultural techniques to improve the branch/es health.

³ Such as replacement of a stormwater pipe that encroaches into the Tree Protection Zone of a Classified Tree.

⁴ See Guidelines applicable to conditions on a Permit requiring replacement tree planting on page14.

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Subclause 36(1)	Criteria	Guidelines
		<ul style="list-style-type: none"> • Prune a Classified Tree if the Pruning is necessary to maintain the Classified Tree’s viability or maintain an aesthetically pleasing appearance having regard to AS 4373-2007. • remove a Classified Tree if the applicant can demonstrate that the Classified Tree is structurally unsound and that it cannot be made safe through appropriate arboricultural techniques.
(b)	<p>the appropriateness of the Classified Tree for its location on the Property having regard to the existing buildings.</p>	<p>If the application has not been made because of proposed Works on the property, Officers must consider, as relevant to the application:</p> <ul style="list-style-type: none"> • The extent of the Classified Tree’s Tree Protection Zone. • The proximity of the Classified Tree to any buildings or areas of recreational open space on the property. • Whether the Classified Tree can be Pruned to reduce any unreasonable impacts that it may be having on the property. <p><i>Note: this criterion only permits consideration of existing buildings and conditions on the property, not proposed buildings or conditions.</i></p>
(c)	<p>whether the proposed action is to be undertaken for reasons of health or safety</p>	<p>Officers must consider, as relevant to the application:</p> <ul style="list-style-type: none"> • The risk presented by the Classified 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 Classified Tree, including how the area is used. • Whether fruit, litter or similar drop from the Classified Tree gives rise to any risks to health and safety or any property damage. • Whether the Classified Tree is causing any property damage which gives rise to health and safety risks. • Whether the Classified Tree can be Pruned to manage the health and safety risks presented by the Classified Tree. • Whether any other steps can be taken to mitigate the health and safety risks presented by the Classified Tree.

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Subclause 36(1)	Criteria	Guidelines
		<p>A Permit must be granted to remove a Classified Tree if it poses a hazard which cannot be alleviated through means other than removal.</p> <p>A Permit must be granted to Prune a Classified Tree if the branch/es to be Pruned poses a hazard which cannot be alleviated through means other than Pruning.</p>
(d)	<p>whether the Classified Tree has caused property damage, and the extent of the damage and cost of repair of the damage caused</p>	<p>The reference to ‘property damage’ in this criterion refers to damage occurring on the land on which the Classified Tree is located or on any other adjacent property.</p> <p>Officers must consider, as relevant to the application:</p> <ul style="list-style-type: none"> • Any evidence of property damage being caused. • The extent of property damage being caused including by litter, leaves, bark, fruit and similar dropped by the Classified Tree. • Whether the property damage can reasonably be repaired without impacting on the viability of the Classified Tree. • The estimated cost of repairing the property damage. • If the Classified Tree’s roots are blocking, breaking or otherwise damaging pipes, whether the pipes can be cleared and relined without removing the Classified Tree, or whether the pipes can be replaced without the digging of a trench. • Whether the Classified Tree can be Pruned to reduce the property damage being caused. <p>Before considering an application under this criterion, Officers must consider whether to request the following information from the applicant under the provisions of the Local Law, if the circumstances require:</p> <ul style="list-style-type: none"> • Closed-circuit television footage of damage to underground pipes, collected by a suitably qualified person such as a licenced 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 Classified Tree.

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Subclause 36(1)	Criteria	Guidelines
		<p>Note: This does not limit Officers’ discretion under the Local Law to request other information from the applicant if the particular circumstances require.</p> <p>A Permit must be granted to Prune a Classified Tree if the branch/es to be removed are causing structural damage to private assets which cannot be alleviated through means other than Pruning.</p> <p>A Permit must be granted to remove a Classified Tree if it is causing structural damage to private assets which cannot be alleviated through means other than removal.</p>
(e)	whether the Classified Tree is causing any public nuisance or creating any other nuisance to relevant landholders.	<p>Officers must consider, as relevant to the application:</p> <ul style="list-style-type: none"> • The conditions beneath the Classified Tree. • The species of Classified Tree, including the frequency and extent of litter, leaves, bark, fruit and similar dropped by the Classified Tree. • Whether any fruit, litter or similar drop from the Classified Tree gives rise to any risk of property damage. • Whether the conditions beneath the Classified Tree could reasonably be changed to reduce the impact of the nuisance. • Whether the Classified Tree can be Pruned to reduce the nuisance being caused.
(f)	whether the Classified Tree is an environmental weed	<p>Officers must consider, as relevant to the application:</p> <ul style="list-style-type: none"> • The Advisory list of environmental weeds in Victoria⁵ (as amended from time to time). • The location of the Classified Tree and the specific context in which the Classified Tree may be considered a weed, including the proximity of the Classified Tree to public land. • The species in relation to its location (<i>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</i>). • Whether the Classified Tree is materially contributing to the spread of weed propagules.
(g)	any legislative requirements.	Officers must consider, as relevant to the application:

⁵ White, M., Cheal, D., Carr, G. W., Adair, R., Blood, K. and Meagher, D. (2018). Advisory list of environmental weeds in Victoria. Arthur Rylah Institute for Environmental Research Technical Report Series No. 287. Department of Environment, Land, Water and Planning, Heidelberg, Victoria.

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Subclause 36(1)	Criteria	Guidelines
		<ul style="list-style-type: none"> • Whether the removal, Pruning or Works can be modified so that the Classified Tree remains viable. • Whether there is a court order requiring the removal, Pruning or Works, or court order requiring Works that would impact on the Classified Tree which cannot be alleviated through any other means subject to these Works being managed by a suitably qualified and experienced arborist. <p>A Permit must be granted to remove, Prune or for Works within the Tree Protection Zone of a Classified Tree if the removal, Works or Pruning is to be carried out to comply with any other legislation.</p>
(h)	any other matter relevant to the circumstances associated with the application.	<p>The following guidelines apply to circumstances where removal of a Classified Tree is proposed to facilitate construction works on land in a residential zone.</p> <p>The Officer must consider the current owners and occupiers right to the reasonable enjoyment of that property, and the necessity of the works proposed in relation to that enjoyment.</p> <p>Regarding new dwellings and proposed works such as additions and alterations to dwellings (including extensions to dwellings, garages and carports, outbuildings and swimming pools, tennis courts, decks, and patios), the Officer must seek an outcome which meets the objectives of the Local Law without negatively impacting upon the reasonable enjoyment of the current owners and occupiers of the property.</p> <p>Where a Classified Tree is proposed to be removed to:</p> <ol style="list-style-type: none"> 1) undertake building works; or 2) construct a new dwelling on a separate allotment; or 3) carry out improvements to a single dwelling on a separate allotment, <p>and the Classified Tree is otherwise found to be:</p> <ul style="list-style-type: none"> • in good condition, • suitable to the site, and • not causing damage to property or persons, <p>the assessment must be made considering Table 1:</p>

Subclause 36(1)	Criteria	Guidelines
		<p>Assessment method for Classified Tree removal.⁶</p> <p>Where an application for a Permit has been made for the construction or extension of a single dwelling and this part of the Guidelines applies, the applicant must submit with their application a full set of fully-dimensioned plans of the proposed works, drawn in relation to title boundaries and showing the location of the Classified Tree and the extent of its Tree Protection Zone. If the circumstances require, Officers may request further information from the applicant as set out in these Guidelines.</p> <p>Officers must commence their assessment by considering whether a reasonably-sized dwelling or dwelling extension would be able to be constructed on the property without necessitating the removal of the Classified Tree. In determining whether the proposed works cannot be redesigned or that appropriate arboricultural or engineering techniques cannot be employed to retain the Classified Tree, Officers must have regard to the following guidelines:</p> <ul style="list-style-type: none"> • Whether the proposed dwelling or dwelling extension can be reasonably redesigned to successfully retain the Classified Tree, by, for example, decreasing site coverage, the use of permeable pavement treatments, the use of pier and beam construction, or increasing setbacks. • Whether the proposed dwelling or dwelling extension is seeking a dispensation from compliance with the relevant building regulations. • The siting of the dwelling or dwelling extension on the property, relative to the location of the Classified Tree. • The impact of the site coverage and/or hard surface coverage on the health, condition and useful life expectancy of the Classified Tree. <p>Officers must consider whether to request the following information from the applicant under the provisions of the Local Law, if the circumstances require:</p> <ul style="list-style-type: none"> • A Tree Management Plan from a suitably qualified

⁶ See page 13

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Subclause 36(1)	Criteria	Guidelines
		<p>and experienced arborist detailing whether appropriate arboricultural techniques could be employed to retain the Classified Tree. This may include the requirement to undertake a non-destructive root excavation to determine the location, type and size of roots, to assist in determining the impact of the proposed building works on the Classified Tree.</p> <ul style="list-style-type: none"> • A report from a suitably qualified and experienced structural engineer detailing whether any construction techniques could be employed to retain the Classified Tree. <p>Note: This does not limit Officers' discretion under the Local Law to request any other information from the applicant if the particular circumstances require.</p> <p>If Officers decide to grant a Permit for the removal of a Classified Tree in accordance with these Guidelines, the Permit must be subject to the condition that the Permit has no force or effect until a permit for the development generally consistent with that depicted on the plans submitted with the application has been issued in accordance with the <i>Building Act 1993</i> (Vic).</p>

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Table 1: Assessment method for Classified Tree removal

Works proposed	Assessment	Outcome
New dwelling, or alterations and additions to existing dwellings including extensions to the dwelling.	The applicant can demonstrate to Council's satisfaction that the proposed works cannot be redesigned, nor appropriate arboricultural techniques employed to retain the Classified Tree.	Approval
	The applicant cannot satisfy the above requirement.	Refusal
Tennis courts, patios and decks, garages, carports, swimming pools and other outbuildings.	The proposed works cannot incorporate retention of the Classified Tree.	Refusal
Multi-unit Development	The proposed works cannot incorporate retention of the Classified Tree.	Refusal

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Guidelines applicable to conditions on a Permit requiring replacement tree planting

The Officer may, as a condition of a Permit to remove a Classified Tree, require that the Classified Tree is replaced in accordance with these Guidelines.

The standard approach is that a Classified Tree is to be:

- replaced with a tree of the same species, or a similar species of tree as directed by Council; and
- planted in the same location.

The replacement tree:

- is the largest commercially available specimen; and
- has a Tree Protection Zone applied that ensures there is enough soil volume available for the tree to mature.

The Tree Protection Zone is calculated by the Officer based on accepted calculations for individual tree species.

Conditions on the Permit to remove a Classified Tree may include a requirement that the replacement tree planting is to the satisfaction of Council and is to be planted within six (6) months of the Classified Tree removal..

If building works are occurring or proposed on the land, conditions may require that replacement tree planting occurs within three (3) months of the completion of the building works.

In determining to impose conditions requiring replacement tree planting differing from the standard approach, Officers must consider whether:

- there is sufficient space for replacement tree planting on the property; and
- there are other existing trees on the property.

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Guidelines applicable to conditions on a Permit requiring maintenance work to a Classified Tree

The Officer may, as a condition of a Permit, require that maintenance works to a Classified Tree is required in accordance with these Guidelines.

In doing so, Officers must consider whether the health, condition or appearance of the Classified Tree would be improved by such maintenance works and would advance the objectives of the Local Law.

Such maintenance works may include (but are not be limited to):

- 1) Pruning;
- 2) removal of dead branches;
- 3) removal of vines or creepers growing on the Classified Tree;
- 4) Pruning or removal of other vegetation detrimentally affecting the condition of the Classified Tree.

