



GLEN EIRA
CITY COUNCIL

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GLEN EIRA CITY COUNCIL CLASSIFIED TREE POLICY



Classified Tree Policy

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Contents

Part A – Preliminary3

Part B - Process for nominating a tree for inclusion in the Classified Tree Register5

Part C - Process for delisting a Classified Tree from the Classified Tree Register6

Part D - Process for applying for a Permit.....7

Part E – Human Rights and reference material7

Appendix 1: Categories of Significance.....9

Appendix 2: Negative criteria11

Appendix 3 - Nominating a tree for inclusion in the Classified Tree Register14

Appendix 4 - Application to delist a Classified Tree from the Classified Tree Register16

Appendix 5 - Obtaining additional information18

Appendix 6 – Guideline for making an Interim Protection Order19

Title

Classified Tree Policy

Introduction

Trees can be very long-lived and often contribute to the sense of character and identity of an area. They can also reduce the impact of an increasingly urbanised environment, by storing and filtering stormwater, reducing the heat island effect resulting in lower temperatures, filtering of airborne pollutants thereby creating cleaner air, providing habitat for local fauna and contributing to the psychological well-being of the community.

The increasing density of urban development in Glen Eira has reduced the number of trees, on private land, which have the characteristics listed in the Categories of Significance in Appendix 1. The health and sustainability of the remaining trees, that meet the Categories of Significance, is becoming increasingly important.

Protecting Vegetation

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

Public and Private Land

In relation to public and private land, the *Glen Eira Planning Scheme*, Vegetation Protection Overlay, Heritage Overlay and Significant Landscape Overlay facilitate vegetation protection.

Public Land

Glen Eira's *Street Tree Strategy* and *Street Tree Removal Policy* 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.

Private land

On private land the *Classified Tree Local Law* facilitates protection of Classified Trees.

Policy statement

Council is committed to providing an attractive and sustainable environment for the municipal community and visitors to the municipality, as well as future generations.

Some trees, through age, size, and 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.

Council is committed to protecting trees on the Classified Tree Register because these trees are regarded as integral to municipal identity and underlying land values. Recent research has confirmed that the tree canopy is gradually being eroded. Trees that are potentially eligible for inclusion on the Classified Tree Register 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 trees that meet the Categories of Significance in Appendix 1 is needed to maintain the high levels of amenity and the character of Glen Eira's suburbs.

Purpose

The purpose of this Policy is to effectively administer the process for inclusion or delisting of trees from the Classified Tree Register.

Scope

This Policy is limited in its application to trees that are:

- nominated for inclusion in the Classified Tree Register; and
- listed on the Classified Tree Register.

Policy intent

To apply a consistent approach to the selection, recording and management of Classified Trees in the municipality.

Definitions and abbreviations

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 the Glen Eira City Council Classified Tree Local Law; and
- b) words defined below have that meaning in this Policy.

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).

Part B - Process for nominating a tree for inclusion in the Classified Tree Register

Who can nominate?

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

Nomination fee

There is no nomination fee.

Nomination form

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

Assessing eligibility for inclusion in the Classified Tree Register

Nominations are assessed under Part 4 of the Local Law and the process in Appendix 3. 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.¹ 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.

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.

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.

¹ The National Trust of Australia maintains a Register of Significant Trees (see <https://trusttrees.org.au/>)

Part C - Process for delisting a Classified Tree from the Classified Tree Register

Who can apply?

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

Application fee

There is no application fee.

Application form

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

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. 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.

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.

Part D - Process for applying for a Permit

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 Classified Tree or to carry out Works within the Tree Protection Zone of a 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.

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.

Permit fee

There is no Permit fee.

Permit application form

An application for a Permit must be made in writing.

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 Assessment Guidelines.

Pruning trees on private land

Pruning of a 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.

Internal Review

If an applicant for a Permit is dissatisfied with the outcome of the application, the applicant may apply in writing for an internal review. The internal review will be conducted by an Authorised Officer who did not make the original decision.

Part E – Human Rights and reference material

Human rights charter compatibility

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

Associated internal documents

Street Tree Strategy

Planning Scheme
Community Local Law
Classified Tree Local Law
Street Tree Removal Policy

External references/resources

Planning and Environment Act 1987
Standards Australia, Pruning of Amenity Trees (AS 4373-2007)
Standards Australia, Protection of Trees on Development Sites (AS 4970-2009)

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.

No	Criteria	Description	Example in Glen Eira
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 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.

Criteria	Guidelines
the condition of the tree, (such as, for example, its health, appearance and structural integrity)	<p>A tree is ineligible for inclusion in the Register if it is:</p> <ul style="list-style-type: none"> • dead or it is dying and is unlikely to respond well to recommended arboricultural techniques to improve its health; • structurally unsound and it cannot be made safe through recommended arboricultural techniques to improve its structural integrity.
the appropriateness of the tree for its location on the Property having regard to the existing buildings on the Property	<p>An Authorised Officer must consider:</p> <ul style="list-style-type: none"> • 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.
the appropriateness of the tree for its location on the property having regard to reasons of health or safety	<p>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.</p> <p>An Authorised Officer must consider:</p> <ul style="list-style-type: none"> • 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. <p>A tree is ineligible for inclusion in the Register if a medical certificate is provided from a doctor or specialist in the relevant field to certify that a specific tree is causing a specific allergenic problem for a resident that significantly diminishes</p>

Criteria	Guidelines
	the quality of life of that person and there is no other way of managing the problem.
whether the tree has caused property damage, and the extent of the damage and cost of repair of the damage caused	<p>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.</p> <p>An Authorised Officer must consider:</p> <ul style="list-style-type: none"> • 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. <p>An Authorised Officer must consider whether to obtain the following information, 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 tree.
whether the tree is causing a public nuisance or creating any other nuisance to relevant landholders	<p>An Authorised Officer must consider:</p> <ul style="list-style-type: none"> • 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.
whether the tree is an environmental weed	An Authorised Officer must consider:

Criteria	Guidelines
	<ul style="list-style-type: none"> • The Advisory list of environmental weeds in Victoria² (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. (<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 tree is materially contributing to the spread of weed propagules.
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.)

² 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.

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

3.1 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.

3.2 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.

3.3 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 potentially eligible for inclusion in 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 tree on a list for recommendation to Council of trees that are eligible for inclusion in the Register (**the list of eligible nominations**).

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 tree on the list of eligible nominations. If placed on the list of eligible nominations, Council notifies the person who nominated the tree and the landholders of the inclusion of the tree on the list of eligible nominations.

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 the Co-Ordinator to conduct a further preliminary assessment.

The preliminary assessment by the Co-Ordinator will be undertaken in the same manner as the preliminary assessment by the Authorised Officer as set out above.

If an objection is received within 28 calendar days of receipt of the Co-Ordinator's notice, the matter is referred to the Manager to conduct a further preliminary assessment.

At this stage, an independent consulting arborist will be engaged at Council's cost to conduct a preliminary assessment.

If the Manager, after considering the independent consulting arborist's report, considers that the tree is potentially eligible for inclusion in the Register, the Manager will provide a notice to the relevant landholders.

Any relevant landholder may provide Council with a written submission in response to the Manager's notice.

If a written response is received from any relevant landholder within 28 calendar days of receipt of the Manager's notice, the Manager will consider the written response and may request additional information as outlined in Appendix 5.

The Manager will, after considering any written responses from relevant landholders, determine whether to place the tree on the list of eligible nominations.

Council must notify the person who nominated the tree and the landholders of the decision in relation to the inclusion of the tree on the list of eligible nominations.

3.4 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.

3.5 Notification of decision

Council may—

- (a) include a tree nominated in the Register; or
- (b) not include a tree nominated in the Register.

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.

3.6 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

4.1 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.

4.2 Grounds to reject an application

Council may reject an application if within the previous two years Council determined that the Classified Tree meets the 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.

4.3 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 the Manager to conduct a further preliminary assessment.

If the Manager considers that the Classified Tree is ineligible for inclusion on the Register, the Manager will provide a notice to the relevant landholders.

Any relevant landholder may provide Council with a written submission in response to the Manager's notice.

If a written response is received from any relevant landholder within 28 calendar days of receipt of the Manager's notice, the Manager will consider the written response and may request additional information as outlined in Appendix 5.

The Manager will, after considering any written responses from relevant landholders, 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.

4.4 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.

4.5 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
 - (b) despite subclause (3)—
 - (i.) if the landholder provides the additional information to Council out of time, may accept that late information; and
 - (ii.) may conduct a review with that late information.

Appendix 6 – Guideline for making an Interim Protection Order

Purpose

- (1) This Guideline is intended to provide guidance as to the matters that should be considered by an Authorised Officer in exercising discretion in making an interim protection order under subclause 24(1) of the Local Law.
- (2) The Guideline is intended to assist:
 - (a) Council staff advising an Authorised Officer on a request for an interim protection order to be made.
 - (b) The Authorised Officer in considering whether to make an interim protection order.

Scope

- (3) This Guideline relates to subclause 24(1) of the Local Law:

Council may make an interim protection order in relation to a tree on Private Land if, in the opinion of Council, it is necessary or desirable to do so for the purposes of this Local Law.

- (4) The objectives of the Local Law being defined by clause 2:

The objectives of this Local Law are:

- (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.*

Objective

- (5) The following guidelines apply to the consideration of whether to make an interim protection order under subclause 24(1) of the Local Law.
- (6) If the Authorised Officer forms the opinion that a tree may have a prima facie case for inclusion on the Register and is under immediate or imminent threat of removal, Damage, being killed or destroyed the Authorised Officer may make an interim protection order.
- (7) The Authorised Officer will not consider that a tree is under immediate or imminent threat purely based on the intention of the owner to sell, lease or dispose of a property comprising all or part of the Tree Protection Zone of a tree or that title to that property has transferred or changed hands.

Prima facie case for inclusion on the Register

- (8) In considering whether a tree may have a prima facie case for inclusion on the Register, the Authorised Officer may take into account whether:
 - (a) a completed nomination of the tree for inclusion in the Register that complies with the requirements of clauses 11 and 12 of the Local Law has been received; and/or
 - (b) the tree has been identified as potentially eligible for inclusion in the Register by an Authorised Officer.

Immediate or imminent threat

- (9) In considering whether a tree may be under immediate or imminent threat the Authorised Officer may take into account whether:

- (a) a demolition permit has been issued under the **Building Act 1993**; and/or
- (b) a planning permit has been issued by the responsible authority for the redevelopment of that land; and/or
- (c) there is evidence of plant and equipment being mobilised for the purposes of the redevelopment of that land; and/or
- (d) there is evidence of an imminent proposal to remove, Damage, kill or destroy the tree; and/or
- (e) there are known proposals to remove, Damage, kill or destroy the tree.

