



GLEN EIRA
CITY COUNCIL

BENTLEIGH
BENTLEIGH EAST
BRIGHTON EAST
CARNEGIE
CAULFIELD
ELSTERNWICK
GARDENVALE
GLEN HUNTLY
MCKINNON
MURRUMBEENA
ORMOND
ST KILDA EAST

GLEN EIRA CITY COUNCIL CLASSIFIED TREE POLICY



Adopted November
2023

Glen Eira Classified Tree Policy

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Part A - Preliminary

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

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

AS4970-2009 means Australian Standard AS4970-2009, 'Protection of Trees on a Development Site' (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 3 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 register¹. 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.

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.

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.

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

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 receiving 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) - (6) of the Local Law, including:

- where Pruning is limited to 10% of the tree canopy volume and branches less than 100 millimetres in circumference at the point of attachment; 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 owner's consent 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 (Victoria) 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.	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.

No.	Criteria	Description	Example in Glen Eira
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 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 dying and unlikely to respond well to recommended arboricultural techniques to improve its health;• structurally unsound and 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 the following:</p> <ul style="list-style-type: none">• The extent of the tree's Tree Protection Zone.• The tree's proximity 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 the following:</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

Criteria	Guidelines
	<p>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> <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 the quality of life of that person and there is no other way of managing the problem.</p>
<p>whether the 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 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.

Criteria	Guidelines
whether the tree is causing a public nuisance or creating an undue 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	<p>An Authorised Officer must consider:</p> <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.	<p>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.)</p>

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 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 conduct an assessment of the tree. If the independent consulting arborist identifies the tree as eligible for inclusion in the Register, the assessment will be included with the list of trees Council considers for inclusion of the tree in the Register.

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 four 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 an application is rejected, notification will be provided to the applicant detailing 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 the assessment identifies the Classified Tree as potentially ineligible for inclusion on the Register, the Authorised Officer will provide notice to the relevant landholders and place the tree on a list of trees that are ineligible for inclusion on the Register. This list will be presented to Council for consideration.

Council must notify the person who nominated the Classified Tree and the landholders of the decision to remove the Classified Tree from the Classified Tree Register.

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: 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 received or 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.