

**1.2 PROPOSED NEW PLANNING PROVISIONS FOR TREE AND VEGETATION REMOVAL  
MONASH URBAN LANDSCAPE AND CANOPY VEGETATION STRATEGY  
IMPLEMENTATION**  
(SMC: File F17-4987)

Responsible Director: Peter Panagakos

**RECOMMENDATION**

*That Council:*

- 1. Notes the proposed changes to the planning provisions for tree and vegetation removal and buildings and works in Monash.*
- 2. Notes that these proposed changes include:*
  - a) removing the existing Vegetation Protection Overlay, with the exception of the property at 24 Samada Street Notting Hill,*
  - b) introducing a Significant Landscape Overlay across Monash to require a planning permit for canopy tree removal,*
  - c) defining the height of a canopy tree at 6 metres,*
  - d) exempting the removal of canopy trees within 3 metres of an existing dwelling from the proposed planning permit requirements, and*
  - e) including decision guidelines that take into account the appropriateness of the tree to its suburban location.*
- 3. Directs the Director of City Development to finalise the amendment documentation in accordance with this report.*
- 4. Request the Minister for Planning to introduce an interim Significant Landscape Overlay across the municipality to require a permit for canopy tree removal whilst the formal amendment process for permanent planning controls is undertaken.*
- 5. Request the Minister for Planning to authorise Council, pursuant to Section 8A of the Planning and Environment Act 1987, to prepare an amendment to the Monash Planning Scheme generally as outlined in this report.*
- 6. Upon receiving authorisation from the Minister for Planning, directs the Director City Development to prepare and exhibit the Amendment in accordance with Section 19 of the Planning and Environment Act 1987*
- 7. Notes that a further report will be presented to Council after the exhibition of the proposed Amendment.*

**INTRODUCTION**

The purpose of this report is to consider a process for the introduction of a series of new planning provisions to assist in the implementation of the Monash Urban Landscape and

Canopy Vegetation Strategy (the Strategy) and protect and enhance the garden character of Monash.

### **BACKGROUND**

The garden city character and urban landscape of Monash is a key element of the community's sense of place and the ability to maintain an attractive, liveable and resilient city in the context of increased population growth and a changing climate.

The protection and enhancement of garden city character is consistently rated a high issue of concern by the community of Monash, particularly in areas undergoing redevelopment. This is confirmed through the Monash 2021 and Beyond Survey undertaken in early 2017, wherein:

- 93.4% of respondents said that trees and gardens were important or very important to their area; and
- 91.4% of respondents agreed or strongly agreed that Council should do more to ensure that gardens and trees are a strong part of their neighbourhood both now and into the future.

The Monash Planning Scheme has contained a Vegetation Protection Overlay (VPO) over northern areas of the municipality since November 2000. During that time there have been a number of changes proposed or made to the VPO.

In recognition of the importance of the garden character and landscapes of Monash, Council adopted the Urban Landscape and Canopy Vegetation Strategy at its meeting of 30 October 2018.

The Strategy covers both public and private land, and aims to clearly identify the tree canopy and landscape types and quality across the municipality. It also sets out a range of proposed directions for landscape and canopy vegetation into the future.

Whilst the Strategy proposes a comprehensive range of implementation recommendations to give effect to the Strategy, this report deals with proposed changes to the Monash Planning Scheme to regulate the removal of canopy vegetation.

Specifically this report proposes changes to the Monash Planning Scheme that include:

- New planning overlays and permit requirements to replace the current Vegetation Protection Overlay; and
- New planning overlays to areas that do not currently have tree removal controls in place.

### **ISSUES AND DISCUSSION**

As has been noted previously there is very high agreement in the community about the concept of garden city character and the need to protect and enhance that character.

One of the biggest issues that is continually raised by the community is that despite the broad community value placed on garden character, in most instances in Monash no

permit is required for the removal of canopy trees. This is due to the limited geographic extent of the Vegetation Protection Overlay and the very high permit threshold for tree removal being set at 10 metres in height.

A number of comments received during the consultation on the Strategy identified issues related to the implementation of the Strategy. The following table summarises some of the comments and suggestions from the community and outlines how these can be addressed.

What people said...	What can be considered...
Insufficient space for trees	Site coverage is a consideration and/or permit trigger
Development impacting on trees	Potential changes to planning overlay trigger planning consideration of buildings and works
Flexibility for residents	Proposed to exempt trees within 3 metres of an existing dwelling Decision guidelines to include proximity to dwellings and appropriateness of tree in a backyard.
Species / planting appropriateness	Precinct based approach supported by tree species guidelines Consideration of species of tree and appropriateness to an urban area.
Timeliness in decision-making	Removal of 1 tree is a Vic Smart 10 day application process

#### Proposed implementation of revised planning controls for tree removal

As noted earlier in this report, adoption of the Strategy sets out a clear policy direction for the landscape of Monash and a range of potential actions to give effect to that policy. The adoption of the Strategy did not introduce changes to the planning scheme or additional obligations on residents.

To give effect to the regulatory component of the Strategy and protect and enhance the tree canopy and garden character of Monash the following changes are proposed.

*Proposed action - Replace the existing Vegetation Protection Overlay (VPO) with a new Significant Landscape Overlay (SLO).*

As noted previously in the Strategy, unfortunately the current VPO has been unsuccessful in maintaining canopy vegetation cover in the areas within the VPO. The Strategy noted that canopy reduction on private land, across Monash is no different in areas within the VPO or outside the VPO.

In addition to regulating the removal of vegetation, the Significant Landscape Overlay also provides the opportunity to consider the impact of buildings and works, such as excessively concreted areas, on the garden character and landscape of Monash.

It is proposed to remove the existing VPO and replace it with a new suite of Significant Landscape Overlays.

*Proposed action – Redefine the threshold for canopy.*

The current threshold for a canopy tree in Monash is set at 10 metres. The effect of this is that substantial trees that contribute to garden character can be removed without a suitable replacement, if they are less than 10 metres in height.

The current 10 metre height is much higher than the thresholds used in adjoining municipalities which generally are in the range of 5 to 6 metres.

It is proposed to define the threshold for a canopy tree at 6 metres in height. This is considered an appropriate height that is generally approaching that of a 2 storey dwelling and a tree large enough to have a noticeable presence and contribute to tree canopy in the suburban landscape.

*Proposed action - Extend the Significant Landscape Overlay across Monash.*

The garden character of Monash is a key defining element of the suburban areas of the municipality. This character is identified in the Monash Housing Strategy and given greater effect through Amendment C125. However, this character is gradually being eroded through inappropriate development, of both multi-unit and single dwellings, and particularly the loss of gardens and trees.

It is proposed to reinforce the garden character of Monash by applying Significant Landscape Overlays across Monash to maintain and enhance garden character.

*Proposed action – Align SLO requirements with the residential standards of C125*

The zones introduced through Amendment C125 included revisions to site coverage and setbacks for dwellings that were more reflective of the suburban environment of Monash.

Any request to vary to the site coverage and setback requirements is currently applied through two different processes depending on the type of development proposed:

- Single dwellings are assessed through the Report and Consent process of the building system.
- Multi-unit development is assessed through the planning permit process.

However, whilst both processes are applying the same site coverage and setback standards, the Report and Consent process is very limited in the matters that can be considered. The limitations of the Report and Consent process can result in outcomes

that would not be approved in a multi-unit development through the planning permit process.

It is proposed to align the buildings and works standards of the zones with the permit thresholds of SLO.

By way of example, this change would mean that where the site coverage is set at 50% in the Neighbourhood Residential Zone – Schedule 4, the SLO would also specify a site coverage threshold 50%. The effect of this is that rather than obtain a siting dispensation to exceed 50% through the building permit process, a planning permit would be required. This would allow consideration of the full range of neighbourhood character issues as part of the consideration of the larger building site coverage.

It would also ensure consistency in approach between the standards applied to multi-unit development and single dwellings.

*Proposed action – Provide a permit exemption for trees within 3 metres of a dwelling*

The current VPO does not provide for an exemption for trees close to existing dwellings. This has been a source of concern for some residents with trees in close proximity to their dwelling. In order to achieve a balance between residential use of the land and tree retention it is proposed to exempt tree removal within 3 metres of a dwelling from the planning permit requirements.

*Proposed action – Provide a permit exemption for dead and dying trees*

Whilst the SLO has a default exemption to allow the removal of dangerous vegetation without a permit, there is no standard exemption for dead or dying vegetation. This is in part as dead vegetation can have a habitat and environmental value to the area that is covered by the SLO. As the objective of applying the SLO in Monash is for garden character and suburban landscapes it is appropriate to exempt dead and dying vegetation from the proposed planning permit requirements.

However, it should be noted that this proposed exemption would only be applicable to trees that were dead or dying from natural or environmental causes. Poisoning or utilising other methods to destroy trees would result in action taken under the planning enforcement provisions.

**Note:** *It should also be noted that the Victoria Planning Provisions contain a standard exemption for tree removal where it presents an immediate risk of personal injury or damage to property.*

*Proposed action – Limit hard surface areas in front setbacks*

One of the defining characteristics of the suburban areas of Monash has traditionally been the 7.6 metre front setback with a driveway and garden area.

This is generally maintained in multi-unit development through the planning permit process. However, the construction of single dwellings is only subject to a building permit process and allows up to 80% of the site to be covered in hard surfaces.

There has been an increase in the construction of single dwellings which, whilst providing the 7.6 metre front setback, pave or concrete the majority of that setback, involving the removal of existing vegetation and trees with limited opportunity for replacement. This leads to built form outcomes that are inconsistent with the objective of garden character and differs from the standards applied to multi-unit development. These large hard surface areas also contribute to the urban heat load and significantly increase stormwater runoff.

It is proposed to include a permit threshold in the SLO that allows for a double driveway and footpath in the front setback without a permit, but that paving/concreting beyond that conventional residential standard would be subject to a planning permit.

*Proposed action - Require a permit for vegetation removal and buildings and work in the sensitive Creek Abuttal areas*

The most sensitive areas of Monash are those that directly abut the creeks and waterways. Through Amendment C125 these areas were rezoned to the Neighbourhood Residential zone and include reduced site coverage and increased rear setbacks to the creek areas. Whilst these changes go some way to reducing the impact of buildings on the creek environs they do not fully take into account the garden landscape character and built form impacts of new development and the loss of vegetation. This is particularly the case for single dwelling “knock down – rebuilds” where the standard practice has become one of clearing all vegetation from blocks for ease of construction.

It is proposed to include a requirement for a planning permit for buildings and works (including vegetation removal) for those areas that directly abut the creek lines of Monash.

*Proposed action - Include decision guidelines that factor in the appropriateness of tree species to a suburban block.*

As an established area, there is a large variety of trees planted throughout the residential areas of Monash. These plantings are reflective of the “fashion” of the times, and in some cases a limited understanding of species selection and ultimate form and height the tree may achieve. This has resulted in some properties with large trees that, whilst magnificent examples of their variety, may not be the most appropriate tree for a suburban residential location for a number of reasons.

As the purpose of the SLOs and the Strategy is about growing and maintaining the garden character and improving the level of tree canopy cover, not sterilising residential allotments or freezing the landscape in time, decision guidelines will be included that allow for an assessment of the suitability of the tree to its suburban residential location and the property it is located on.

A summary of the proposed exemptions and permit triggers is provided in the Table at Attachment 1.

#### Proposed Temporary Interim Significant Landscape Overlay

As noted earlier in this report “garden character’ is a foundation stone of the urban environment of Monash. This is reflected currently in the policy framework of the Monash Planning Scheme and historically has been reasonably well addressed through that policy framework. However, as development intensity has increased across Melbourne and Monash there has been a consistent trend towards wholesale clearance of sites prior to redevelopment, particularly in the absence of any permit requirement for tree removal.

Given the current limited extent of the current Vegetation Protection Overlay, the high level of tree removal across Monash and the 12 to 18 month time frame for the consideration of the permanent tree removal controls it is appropriate to adopt a precautionary approach tree removal during this time and request the Minister for Planning to introduce interim tree removal controls whilst the formal amendment runs its course.

This approach is consistent with the process the Minister for Planning authorised for the City of Whitehorse as part of their tree protection strategy.

The interim tree removal control would be a simplified provision that sets a permit trigger for tree removal at 6 metres and .5m circumference. It would also include the exemption for trees within 3 metres of an existing dwelling. It is not proposed to include any of the more detailed building and works controls of the formal amendment in this interim control.

It should be noted that a permit requirement is not a prohibition on tree removal and that historically the majority of tree removals in the Vegetation Protection Overlay have been approved, with replacement planting.

#### Strategic Assessment Guidelines

All planning scheme amendments are required to be assessed against the Strategic Assessment Guidelines required by the Minister’s Direction No. 11, and these form the basis of the Explanatory Report for the proposed Amendment. The key strategic considerations that must be addressed, where relevant, are:

1. Why is the amendment required?
2. Does the amendment implement the objectives of planning and address any environmental, social and economic effects?
3. Does the amendment address relevant bushfire risk?
4. Does the amendment comply with all the relevant Minister’s Directions?
5. How does the amendment support or implement the Planning Policy Framework (PPF)?
6. How does the amendment support or implement the Local Planning Policy Framework (LPPS) and, specifically the Municipal Strategic Statement (MSS)?

7. How does the amendment support or implement the Municipal Planning Strategy (MPS)?
8. Does the amendment make proper use of the Victoria Planning Provisions?
9. How does the amendment address the views of relevant agencies?
10. Does the amendment address the requirements of the transport Integration Act 2010?
11. What impact will the new planning provisions have on the administrative costs of the responsible authority?

It is considered that the proposed amendment adequately addresses the applicable Strategic Assessment Guidelines.

Of note is the requirement that the amendment implement the objectives of planning in Victoria as outlined in the *Planning and Environment Act 1987*, as follows:

- a) *To provide for the fair, orderly, economic and sustainable use, and development of land,*
- b) *To provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;*
- c) *To secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;*
- d) *To conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;*
- e) *To protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community;*
- f) *To facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d), and (e);*
- fa) *To facilitate the provision of affordable housing in Victoria;*
- g) *To balance the present and future interests of all Victorians.*

These objectives are detailed and complex and require the balancing of a range of sometimes competing objectives. The proposed amendment represents an appropriate balance in achieving the objectives for planning in Victoria.

### **COMMUNITY CONSULTATION**

Upon receiving authorisation, the amendment would be exhibited in accordance with Section 19 of the *Planning and Environment Act 1987*. There are a number of steps in an amendment process that provide opportunities for community input and consideration of community views.

The exhibition of the amendment would be the first opportunity for the community to have their say on the proposed planning provisions. (Although it is noted that the proposal to improve the protection of garden character was recommended in the Monash Urban Landscape and Canopy Vegetation Strategy.)

Community consultation on the proposed changes would include:

- Notice in the Victorian Government Gazette
- Notice in the Monash Leader newspaper
- Articles in the Monash Bulletin
- Tailored letters to owners and occupiers
- Information on Council's website
- A dedicated interactive website for the amendment material (this would be in a similar format to the website used for C125 – Residential zones.)
- Community drop in sessions
- Information in the Council libraries
- Media releases and social media posts, as appropriate

The consultation period would be for a minimum of 6 weeks, and provide an opportunity for interested persons to obtain more information about the proposed changes and make a submission to Council about the amendment.

The consultation process will include a series of Frequently Asked Questions. This will cover the amendment and permit process and provide information on common issues with trees in suburban areas.

Following the conclusion of the exhibition period, submissions would be considered in a further report to Council.

If there are objecting submissions, Council may either change the amendment in line with the submission, abandon the amendment, or request an independent planning panel to hear submissions and prepare a report for Council to consider.

Should the amendment proceed to a panel hearing all parties who made a submission to Council would have an opportunity to present their views to the Panel.

The panel would then prepare a report for further consideration by Council prior to Council finalising its position on the proposed changes.

### ***POLICY IMPLICATIONS***

The changes to the planning scheme for vegetation removal proposed by the amendment are consistent with a range of strategic policy directions of Monash and the State Governments Plan Melbourne.

#### *Plan Melbourne – 2017-2050*

Outcome 6: Melbourne is a sustainable and resilient city

Direction 6.4 Make Melbourne cooler and greener

Policy 6.4.1

Support a cooler Melbourne by greening urban areas, buildings, transport corridors and open spaces to create an urban forest.

*State Policy Framework - Neighbourhood character*

### Objective

To recognise, support and protect neighbourhood character, cultural identity, and sense of place.

### Strategies

Ensure development responds to cultural identity and contributes to existing or preferred neighbourhood character.

Ensure development responds to its context and reinforces a sense of place and the valued features and characteristics of the local environment and place by emphasising the:

- Pattern of local urban structure and subdivision.
- Underlying natural landscape character and significant vegetation.
- Heritage values and built form that reflect community identity.

At a local level the policy direction and support includes:

### *Council Plan*

The Council Plan 2017-21 contains the following key objectives:

- *A Liveable & Sustainable City*  
We value our natural environment and want to preserve and enhance the leafy and green character of our city. Monash's desirability as a place to live, learn, work and play needs to be protected.
- *Inviting Open & Urban Spaces*  
we will continue to improve our public infrastructure, meeting places and open spaces, providing inclusive, safe and inviting places for community use.

### *Monash Urban Landscape and Canopy Vegetation Strategy*

Adopted in October 2018 the Strategy sets a goal of 30% canopy cover by 2040.

The Strategy also encourages landscaping and species selection that reinforces the neighbourhood and garden character of the suburban environments of Monash.

### *Living Melbourne – our metropolitan urban forest strategy*

At its meeting of 30 April 2019 Council endorsed the *Living Melbourne- urban forest strategy*. This strategy aims to increase tree cover throughout metro Melbourne through a range of actions including education and on the ground tree planting. This Strategy also aims for a canopy cover of 30%.

The revised planning controls will help give effect to this extensive policy framework that encourages tree retention and planting in suburban areas.

**FINANCIAL IMPLICATIONS**

There are costs associated with the preparation and exhibition of the amendment. These costs can be met through existing budget allocations.

If ultimately approved, the changes to the planning provisions will:

- Change the existing approval processes for single dwellings that do not comply with the current Monash Planning Scheme requirements from a Building Dispensation Report and Consent – to a Planning Permit process. This change can be accommodated with existing budget and resourcing levels.
- Increase tree removal permit applications given the increased geographic extent of the overlay and a reduction in tree threshold height to 6 metres. This will be slightly mitigated by the permit exemption for trees within 3 metres of an existing dwelling.

In addition the direct administrative costs associated with the amendment, there are likely to be avoided costs or cost savings across other Council service areas over time as tree canopy improves, which will assist with mitigating the impacts of climate change, heat wave events, storm events and the increase in general wellbeing from living and working in a greener environment.

**CONCLUSION**

The loss of garden character and the overall “greenness” of Monash consistently rates as a high level of concern for the community.

There is also now significant research and policy direction promoting retention and planting of vegetation in urban areas. This includes Plan Melbourne and the recent requirement for a “garden area” in residential development incorporated into residential zones in Victoria. It is also reflected in the recently endorsed Resilient Melbourne project – *Living Melbourne: Our metropolitan urban forest strategy* which has been endorsed by Council.

Whilst education and planting in Council reserves and streets can go some way to addressing the loss of canopy vegetation, other actions are required.

The current absence of any effective permit requirement to oversee the removal of canopy trees means that tree canopy and garden character will continue to decline overtime as trees are removed in an unregulated manner and appropriate replacement trees are not planted in their place.

The proposed introduction of the requirement for a planning permit to remove a tree greater than 6 metres in height is an important step in seeking to reduce the loss of canopy trees and gardens throughout Monash.

The requirement for a buildings and works permit (including for a dwelling) in the Creek Abuttal areas recognises the overall landscape impact of large dwellings in these sensitive areas and will allow consideration of the impact of the dwelling on the creek environment.

Where a permit is obtained for the removal of a tree, the proposed planning provision provides guidelines for appropriate replanting, taking into account the residential suburban setting and the landscape type of the area.

The application of temporary interim controls will provide some certainty to the community during the formal consideration of the permanent planning controls.

The current planning framework for tree removal and garden character in Monash is not effective and there has been a continual decline in canopy cover and change in garden character. Change to the planning controls is required if Council and the community wish to maintain garden character as a key attribute of Monash.

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**Attachments:**

Attachment 1. Table and Map of proposed Significant Landscape Overlay provisions.