



27 March 2018

6 Parliament Place
East Melbourne
VIC 3002

Cr Cuc Lam
Mayor
Maribyrnong City Council
PO Box 58
Footscray VIC 301

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T 03 9656 9818

CC: City Development Special Committee
Nigel Higgins, Director Planning Services

Re: City Development Special Committee – 27 March 2018, Significant Tree Register

Dear Cr Lam,

We write to commend the Maribyrnong City Council for responding to community concerns regarding significant trees, and preparing a draft policy for a Significant Tree Register. The work to date on the draft Significant Tree Register Policy and criteria form a solid basis for this important work.

The National Trust of Australia (Victoria) considers that this Policy and criteria could be further strengthened in line with best practice for establishing statutory protection for trees in the Victorian Planning Scheme. As such we would like to put forward the following suggested amendments for consideration by Committee:

That the City Development Special Committee:

1. Adopt the draft Significant Tree Register Policy and the criteria to be used for the establishment of a Significant Tree Register with the following changes:
 - a. Undertake a vegetation survey using expert advice and community input, in line with the VPP Practice Note for Vegetation Protection in Urban Areas
 - b. In addition to the development and implementation of a Significant Tree Register, pursue the protection of significant trees on public and private land under the *Local Government Act 1989*, creating a permit system through local law for pruning or removal of trees reaching an agreed threshold
 - c. Make minor updates to the Significant Tree Register criteria to better reflect the National Trust's Significant Tree Register criteria
 - d. Pursue the implementation of tree bonds for significant trees on development sites, and review fines for illegal removal of significant trees to deter such tree removal
2. Commence public consultation seeking nominations for trees to be considered for inclusion on the register
3. Following extensive consultation, receive a further report with an independent assessment of all nominations and a draft Significant Tree Register

We have outlined reasoning for these suggested amendments in the submission below.

Background

The National Trust of Australia (Victoria) is the state's largest community-based heritage advocacy organisation actively working towards conserving and protecting our heritage for future generations to enjoy. The National Trust's Victorian Register of Significant Trees (the Register) recognises individual trees, avenues and important stands as valuable community assets that must be preserved. The Register has been maintained since 1982, and has classified over 2,200 significant trees, avenues and stands. The inclusion of a tree in the Register does not impose any legal obligations on property owners or occupiers, but most owners take considerable pride in the fact that one or more of their trees has been classified, and they take the responsibility of management seriously.

Trees on the Register in Victoria are increasingly covered by local government planning schemes, overlays and tree controls, but many still have no statutory protection. It is of great concern to the National Trust that increasing numbers of important trees, some ancient and rare, are being lost through poor management practices, inappropriate planning and development, and incremental deletion.

The National Trust therefore commends the City of Maribyrnong for raising with the Council a proposal to inform appropriate planning mechanisms to protect trees across the municipality. It is known that the Inner-West experiences low canopy tree cover when compared to other inner-Melbourne municipalities, making protection Maribyrnong's urban forest particularly significant, particularly with the rise of development pressures in the area.

We support well considered policies that protect the longevity of Melbourne's urban forest, in particular the protection of significant trees on public and private land; the provision of additional canopy cover to mitigate the heat island effect and provide health benefits to the community; the creation of healthier ecosystems with a greater diversity of species; the wise use and reuse of water; the multi-tiered sign off process for tree removals; the recognition that trees contribute economically and socially as well as environmentally to cities and suburbs; and the promotion of community engagement and participation. This submission provides some comments for consideration as the Maribyrnong City Council considers how to proceed with implementing tree protection mechanisms.

Significant Tree Register

We strongly support the statutory protection of trees in the both public and private realms via a Significant Tree Register. This is particularly important given the urban development pressures on the Maribyrnong municipality. While we recognise that trees on public land will not be included in this Register, we expect that the regulation, planning, and management of trees in the public realm of Maribyrnong are assessed in line with council policies and any proposed Register. Any proposed removals or significant changes to trees on public land should be subject to community consultation, recognising the role of these trees in community and civic life. We also note that if the tree register is only for private land then there may be some benefit from looking at all trees for comparative assessment purposes.

Community consultation

We are pleased that a process of community nomination and engagement is being prioritised as a means of identifying trees to be assessed for the register. This is important in gaining public support for the register, and in raising awareness of the benefits of significant trees in the community more broadly. However relying only on a process of community nomination does not systematically identify all trees worthy of protection in the municipality. We therefore also encourage the Maribyrnong City Council to undertake an arborist review of the entire municipality to identify all trees of potential significance on public and private land. Such a study has recently been undertaken by the neighbouring City of Moonee Valley.

The VPP Practice Note *Vegetation Protection in Urban Areas* (Attachment 1) clearly outlines the strategy for undertaking vegetation protection, with a vegetation survey to be undertaken using “expert advice and community input”. This Practice Note states that significance may be determined based on: “objective assessment of scientific information and research, considered on merit rather than community opinion” and “subjective assessment of aesthetic aspects, requiring a variety of community opinion”. Furthermore this Practice Note outlines how to gather information for protecting vegetation advising to “undertake a vegetation survey of specific areas or sites. Vegetation surveys must be undertaken by suitably qualified arboriculture consultants, botanists, landscape architects or other experienced environmental scientists” and to “involve the public in the survey and assessment process, whether the assessment method has an objective (scientific) or subjective (aesthetic) basis”.

As such we strongly recommend that an independent survey of the municipality is undertaken alongside the process of calling for community nominations of trees. Consultation should also be undertaken with Traditional Owner groups and Aboriginal Victoria to identify trees with potential Aboriginal heritage significance.

We note that the City of Melbourne, through their Exceptional Tree Register, provide support to owners of properties where trees on the register are located. We recommend that the Maribyrnong City Council consider providing a similar service, to assist in promoting and protecting these trees into the future. The description of this support is outlined on page 11 of their register (Attachment 2). This would help to garner further community support by demonstrating the commitment of Council to assist affected property owners.

Development of Local Law

We also encourage Council to pursue the protection of significant trees on public and private land under the *Local Government Act 1989* through the adoption of a multi-tiered permit process for tree removals. Requiring a permit for tree removals on public and private land recognises the significant benefit which trees provide to the community and the environment, with tree removals not only impacting individual owners, but neighbours, local amenity, and environmental values. This should be undertaken in addition to the development and implementation of a Significant Tree Register.

We note that the City of Stonnington has implemented a successful permit system through the *City of Stonnington Local Law 2008* (see Attachment 3), which requires a permit for the pruning or removal of all trees which reach the following threshold:

- trunk circumference of 180 centimetres or greater measured at its base
- total circumference of all its trunks of 180 centimetres or greater measured at its base
- trunk circumference of 140 centimetres or greater measured at 1.5 metres above its base
- total circumference of all its trunks of 140 centimetres or greater measured at 1.5 metres above its base.
- listed in Council’s ‘Significant Tree Register’

We commend this as a model for consideration by the Maribyrnong City Council and other councils.

Criteria for Assessment

The criteria proposed in the Agenda to the council meeting on 27 March 2018 is generally consistent with the National Trust’s own criteria for identifying significance, based on horticultural value, rarity, location or context, age, size, aesthetic value, curious growth form, historical value, outstanding species, cultural association and environmental value. We provide the following suggestions for consideration by the council, based on our own criteria.

Under 'Horticultural value' we suggest the addition of specimens that are particularly resistant to disease or exposure.

Under 'Location or Context' we suggest including remnant native vegetation, and tree which form part of an historic garden, park or suburb.

Under 'Particularly Old' we recommend removing the statement 'not in rapid or advanced decline'. It is our view that a recognition of a tree via a Significant Tree Register provides an opportunity for the lifespan of trees to be extended through care and ongoing management. Many trees are particularly resilient and respond well to ongoing programs to improve their health. As such we would expect trees to be considered if particularly old and in a state of decline, recognising the possibility of extending its life through better management.

Under 'Historical Value' we recommend adding 'or institution' after event, recognising that historic tree plantings can have an association with an institution such as an RSL.

Under 'Religious, symbolic or cultural association' we recommend adding social to the title and description of this category. This recognises the social value of trees, particularly contemporary associations.

Furthermore the criteria table could usefully provide examples of for each category, as undertaken by the City of Melbourne in their criteria (see page 6-7 of Attachment 2).

Weeds

It is the position of the National Trust's Significant Tree Committee that a tree will be registered if it meets the significance criteria, even if it is potentially considered a weed species. We do consider whether that individual tree is generating unwanted recruits in its location. We submit that the retention of one tree does not materially contribute to the spread of weed propagules as long as other trees of the same species remain in the area.

Choice of overlay

Vegetation in urban areas can play an important role in maintaining biodiversity; in providing valuable habitat; in halting or stabilising environmental degradation; in cultural associations and; in defining the character of an area. Local Planning Schemes are important tools for identifying and protecting vegetation in urban areas. The Environment Significance Overlay (ESO) is usually the most effective planning tool to protect a tree. In some cases, use of a Heritage Overlay (HO) or Vegetation Protection Overlay (VPO) may also be appropriate. The ESO contains requirements for the construction of buildings and the carrying out of works as well as fence construction, subdivision and the removal, destruction or lopping of vegetation. We note that the ESO has been previously implemented for this purpose by Moonee Valley Planning Scheme Amendment C130 as well as Frankston Planning Scheme Amendment C63, Kingston Planning Scheme Amendment C93, Casey Planning Scheme Amendment C148 and Melbourne Planning Scheme Amendment C212.

We note that the mapped extent of an ESO overlay should be consistent with the Tree Protection Zone area, which can be specified by an Arborist assessment. We submit that this should be a requirement of the Arborist assessment process. We support the use of the *Australian Standard AS 4970 2009, Protection of trees on development sites*, as the basis for calculating the TPZ for each tree. We recommend the use of referrals or reports from Arborists and/or horticulturalists to assess any proposals that may impact on the health or values of significant trees.

The National Trust would be pleased to provide assistance to the Council in the lead up to making the planning scheme amendment for a Significant Tree Register. We have provided our assistance to other councils by providing experts from our Significant Tree Committee to participate in a section panel and we extend this support to the City of Maribyrnong.

Tree bonds and fines

The National Trust encourages the Council to consider making use of Tree Bonds on development sites and reviewing fines for illegal removal of trees. This is particularly important given that such fines are often accounted into development budgets, often leading to significant vegetation loss. We consider that the any illegal fine system should be high enough to significantly deter developers from tree removal. Having a robust and thorough policy on protecting trees through tree bonds and illegal removal fines are an essential and complementary tool to any Significant Tree Register, particularly in municipalities with strong development pressures. Tree bonds are a mechanism for protection trees, requiring a land developer to deposit a sum of money to the local authority during the development. These funds will not be returned until the identified trees are shown to have been maintained during the development and are in good, healthy condition. This is a mechanism that is often used for trees on public land, for instance tree bonds are being utilised by Heritage Victoria for trees retained on St Kilda Road as part of the Melbourne Metro Rail Project, and the Stonnington City Council have recently proposed implementing this mechanism (see Attachment 4).

Conclusion

We congratulate Council for progressing with statutory protection for significant trees in the Maribyrnong municipality. We respectfully commend consideration by the Committee of the following amendments to the first recommendation put to the City Development Special Committee tonight, further strengthening this important work:

1. Adopt the draft Significant Tree Register Policy and the criteria to be used for the establishment of a Significant Tree Register with the following changes:
 - a. Undertake a vegetation survey using expert advice and community input, in line with the VPP Practice Note for Vegetation Protection in Urban Areas
 - b. In addition to the development and implementation of a Significant Tree Register, pursue the protection of significant trees on public and private land under the Local Government Act 1989, creating a permit system through local law for pruning or removal of trees reaching an agreed threshold
 - c. Make minor updates to the Significant Tree Register criteria to better reflect the National Trust's Significant Tree Register criteria
 - d. Pursue the implementation of tree bonds for significant trees on development sites, and review fines for illegal removal of significant trees to deter such tree removal

The National Trust welcomes this opportunity to advocate for heritage values and the environmental and social benefits of protecting trees, groups of trees and vegetation in the City of Maribyrnong. We would be pleased to provide further feedback on the development of a Significant Tree Register throughout the process. We have attached relevant data from our Significant Tree Register (Attachment 5). We will also continue to share any new trees registered with the municipality.

Should you have any questions about the above or require any further information, please contact me directly on 9656 9823 or at jessica.hood@nattrust.com.au.

Yours faithfully,



Dr Jessica Hood
Community Advocate Environmental Heritage

Attachment 1: VPP Practice Note *Vegetation Protection in Urban Areas* August 1999

Attachment 2: City of Melbourne Exceptional Tree Register 2012

Attachment 3: Extract from *City of Stonnington Local Law 2008*

Attachment 4: How tree bonds can help preserve the urban forest media article, March 2018

Attachment 5: National Trust Classified Trees in the City of Maribyrnong