

7.1.5 INCREASING CANOPY COVER TO 30% - OPERATIONAL CHANGES TO TREE REMOVAL APPLICATIONS

Responsible Manager:	Sean McNamee, Manager Strategic Planning
Responsible Director:	Peter Panagakos, Director City Development

RECOMMENDATION

That Council notes:

1. The operational changes proposed to the statutory planning process and current projects as set out in this report to assist in achieving the goal of 30% canopy tree cover by 2040.
2. Officers will continue engagement and advocacy on the canopy tree protection Amendment request and the Cooling and Greening pilot program and await an announcement from the State Government. Further noting that there is no stated date, timeframe or indication as to when these controls may be introduced.
3. The Mayor, CEO and senior officers met with the Minister for Planning on January 25 this year to discuss Councils concern with the lack of progress on our amendment request and the Cooling and Greening pilot.
4. That no further advice has been received from the Minister or her representatives since that time.
5. That it is not recommended that a local law for canopy tree removal is pursued at this time for reasons detailed in this report.
6. The development of Landscape guidelines and policy updates are underway and are expected to be completed and implemented in 2024.
7. Officers will develop information and advocacy programs promoting the benefits of canopy trees.
8. That the default operational exemption from planning permit fees for tree removal applications in the Vegetation Protection Overlay Area will be discontinued from July 1, 2024.
9. That the ability to waive or reduce the planning permit fee tree removal on a case-by-case basis remains in accordance with the provisions of Sections 20 and 21 of the Planning and Environment (Fees) Regulations 2016.
10. Council will retain its free of charge tree advisory service, which provides advice to residents as to whether they require a planning permit to remove a tree or whether a tree is exempt from requiring a planning permit.
11. Officers will commence spot checks of planning permits issued with landscape plans over the last 5 years (within existing resources) to check if development has been completed and if landscaping has been provided in accordance with the approved Landscape Plan. The focus will be on the planting, maintenance and retention of required canopy trees.
12. Officers will investigate the potential for the introduction of a landscape bond as a condition on planning permits on development sites.

INTRODUCTION

The purpose of this report is to advise Council on operational changes to proposed statutory planning processes and several other actions, including a meeting with the Minister for Planning, to assist in increasing canopy tree cover in accordance with Councils objective of achieving 30% canopy cover across Monash by 2040.

COUNCIL PLAN STRATEGIC OBJECTIVES

Sustainable City

Ensure an economically, socially, and environmentally sustainable municipality.
Proactively address climate change and implement initiatives to achieve Zero Net Carbon in Council operations and take action to reduce Monash community emissions.
Investigate and progress planning rules for tree and vegetation controls.

Enhanced Places

Improving open spaces, bushland and street trees, including prioritising biodiversity and community engagement.

Good Governance

Ensure a financially, socially and environmentally sustainable organisation.

BACKGROUND

The garden city character of Monash is highly valued by the community. This character has been a long-standing element of life in Monash and a key objective of the Monash Planning scheme.

As the population has increased and redevelopment in all forms has occurred, there has been a consistent and ongoing loss of canopy trees and garden areas in Monash.

In response to these issues Council adopted the *Monash Urban Landscape and Canopy Vegetation Strategy* (the Strategy) which has a goal of 30% canopy cover in Monash by 2040. Attachment 1 includes a table showing canopy tree cover by metropolitan municipality as of 2018.

In addition, canopy tree cover can assist in reducing the impact of urban heat island and its associated social, health and economic effects.

The 2018 Urban Heat Island assessment prepared by the Victorian State government noted that Monash, at +8.34, was ranked 15th out of the 31 metropolitan municipalities for the negative temperature impact of urban heat island. See Attachment 1.

This is similar to the more highly urbanised municipalities of Yarra and Darebin.

It compares unfavourably to our neighbouring municipalities of Boroondara, Knox, Stonnington, Whitehorse. All of whom have a rating of less than +8.

Whilst planning controls are a useful and effective tool in protecting and maintaining canopy cover over time, as with many planning controls they are not always supported by all sections of the community.

The current Vegetation Protection Overlay (VPO) has been in place for almost 24 years, having been introduced in November 2000. There are in the order of 26,000 households (of the approximately 76,000 across the Municipality) in the current VPO area.

When first introduced in November 2000 the VPO originally applied to trees 7.5 metres and taller. This was increased to 10 metres or taller in 2005 in order to reduce the number of permits required to be obtained.

In 2011 Council undertook a survey of the 25,000 households in the VPO. Surveys were sent to all owners and residents within the VPO area with 43,153 surveys mailed out. The survey canvassed three options:

1. Remove the VPO
2. Modify the VPO to enable the removal of trees over 10 metres high provided that a replacement tree of an appropriate species is planted.
3. Retain the VPO in its current form and make no change to Councils current approach.

Option 2 indicated that a permit would still be required for tree removal but would be granted if a suitable replacement tree was planted. This is equivalent to a decision guideline for permit assessment.

Of the 43,153 people surveyed 13,568 individual responses were received, with 13,420 of these responses stating that they live in the VPO area. Approximately 32% of people included in the total mail out responded.

The results of the survey are in the table below.

2011 VPO Survey			
Survey questions	Response count	% of responses	% of those surveyed
Remove the VPO	6931	48.4%	16%
Modify the VPO to enable the removal of trees over 10 metres high provided that a replacement tree of an appropriate species is planted.	4855	33.9%	11%
Retain the VPO in its current form and make no change to Councils current approach	2153	15.0%	5%
No response	29,585	N/A	68%

**Note: The column “% of responses” does not total to 100% as a small number of responses received did not respond directly to any of the 3 options so were excluded from the table.*

Of the responses received the responses were reasonably balanced between remove the VPO altogether and either a modification (which was then done) or no change at all.

DISCUSSION

As Councillors are acutely aware, at present, Council has little to no effective control over the loss of canopy trees or garden vegetation across Monash.

The existing Vegetation Protection Overlay is limited in its geographical coverage of Monash and where it does apply, since 2005, only applies to trees over 10 metres in height.

The planning and building regime in Victoria also provides little direction for the retention or planting of gardens and is best described as a patchwork of provisions that are administered by Council (for planning permits) and the private building surveyors for single dwelling knock down rebuilds.

Current industrialised building practices rely on a completely cleared and, if possible levelled site, for ease and speed of construction.

In addition, there are a range of other factors that result in tree removal and lack of replacement planting. As such the singular approach of requiring permit for removal – is unlikely to have the necessary impact of improving canopy tree cover, without complementary actions in support.

Officers have reviewed these factors and identified actions to assist in increasing canopy tree cover. This report sets out the results of this review.

Actions

The actions are broadly categorised as:

1. Policy and regulation

Introducing policy and regulations that control the removal of vegetation, require appropriate replanting of vegetation, require the provision of space for vegetation and limit paved or hard surfaces in front setbacks.

2. Community values, education and encouragement

Changing perceptions on the value of gardens and trees, broadening the sectors of the community that value canopy trees, gardens and greener places.

3. Monitoring and compliance

Establish mechanisms to monitor the extent of canopy coverage and encourage greater compliance with regulations, permits and replanting requirements.

Policy and regulation

Municipal wide tree removal control - Monash Planning Scheme - Significant Landscape Overlay

Council has a current request submitted with the Minister for Planning on 15 October 2019 for the introduction of municipality wide tree controls.

This control is the same as applies in the Cities of Maroondah and Whitehorse.

On 25 January 2024 the Mayor, CEO and senior officers met with the Minister for Planning and senior DTP staff to discuss Councils concerns about lack of progress on tree protection and greening and cooling. This meeting was as a follow up to the Protecting Trees in Monash - Notice of Motion adopted by Council at the September 2023 meeting.

At this meeting the Minister advised that DTP officers would look into our request and the status of the Greening and Cooling Program.

To date no follow up information has been provided by DTP. It remains unclear as to whether the Minister will approve AmC165. Current advice from the Dept is that they prefer to proceed with the Cooling and Greening Pilot.

Action

Continue advocacy on the Amendment request. There is no known or stated timeframe on when this may be decided by the Minister.

State Government - Canopy tree protection and cooling and greening pilot program

The Cooling and Greening project is an action of the State Governments *Plan Melbourne*. Officers have been working with the Department of Planning on this project since its inception.

The funding for this project concluded in June 2022 and the project was handed over to other officers in the Department of Planning.

The draft controls developed by the project are closely based on the draft controls Council submitted to the Minister for tree controls in Monash.

To the knowledge of officers, the project is now complete but is still awaiting under consideration by the Minister for Planning, despite having a Plan Melbourne completion date of 2022.

These proposed controls should be included in an overall Cooling and Greening Advocacy Strategy.

Action.

Continue engagement and advocacy on the project and await announcement from the State Government. There is no stated date, timeframe or indication as to when these controls may be introduced.

Local Law for Tree Removal

An option for the introduction of a Local Law for Tree Protection in lieu of a planning overlay was investigated. Current examples of a local laws can be found in the municipalities of Bayside, Boroondara and Frankston.

There are a range of issues associated with implementing a Local Law. Whilst it is more straightforward to introduce than a planning scheme control, it is not as effective nor as comprehensive as planning control.

Should a permit be refused, the review process of a local law is initially conducted “in house,” however any further appeal requires the applicant to take legal action through the court system. This would require Council to establish a new compliance and review scheme to administer the local law. By comparison a planning permit refusal is appealed to VCAT and operates within existing resourcing and administrative systems. Whilst it may achieve greater tree retention across the Municipality than is currently the case, there are questions regarding the ability to require replacement vegetation where an approval is given, and the appeal process against a decision is considered expensive and burdensome.

Other issues include that a local law requirement does not appear in the property information certificate when property is sold, and it is not able to include ongoing conditions such as replanting and maintenance of the vegetation.

Action.

It is not recommended that a local law for canopy tree removal is pursued at this time. It may remain the only option for Council to consider if the State Government does not approve Councils amendment or introduce their long-promised controls.

Landscape guidelines, canopy cover and policy updates.

Current planting guidelines and policy cover neighbourhood characters, street trees and vegetation types. Officers are in the process of updating and consolidating these guidelines into a more comprehensive and focused suite of guidelines to assist increasing canopy tree cover to meet the greening and cooling challenges facing Monash.

These updates will emphasise the selection of tree species that are suitable for suburban environments. In a practical sense this will move away from the historical planting guidance of encouraging native species including eucalypts, many of which, although providing a tall canopy and landscape character are unsuitable for suburban and urban areas. Often provide only minor shading and cooling benefits. The revised guidelines will emphasise trees suitable for urban areas, with larger and denser canopy spread, increasing the greening and cooling potential of canopy trees.

Specific landscape character sheets will also be developed, including recommended canopy tree species.

Action

This work is underway and is expected to be completed and implemented in 2024.

Community values, education, and encouragement

An important factor contributing to the loss of canopy vegetation is the lack of “value” attached to canopy trees or replacement landscaping. This leads to the loss of canopy in situations where it could otherwise be retained.

For instance, not charging the permit fee set for tree removal sends a signal to the community that trees are an obstacle, and their removal is a matter of course and simply a minor administrative

function which has no inherent broader community, social or environmental value. (Note: the absence of the fee does not impact on the quality of the officer assessment.)

In addition to Council seeking improved canopy tree controls, officers are making two operational administrative changes to realign tree removal applicants with broader community values on canopy trees and to assist in changing perceptions on the value of gardens and trees.

Cease the default planning permit application fee waiver for tree removal

Council has a long-standing default fee exemption for tree removal applications in the Vegetation Protection Overlay area. The challenge with the default fee waiver is that it sends a signal to the community that trees are not valued as the permit to remove the tree is free.

This default fee waiver works against Council policy and the adopted goal of 30% canopy cover by 2040. It also provides for no cost recover for the service provided. Given the that control only applies to trees over 10 metres in height, the tree removal costs themselves are likely to range between \$500 to \$3000.

Whilst the removal of the fee waiver, in the order of \$214, is unlikely to result in any change to the number of permits granted for tree removal, it is likely to result in a slight reduction in tree removal applications as some applicants may likely give more consideration to the removal given that a fee applies for the application.

Officers retain the ability to waive or reduce fees on a case-by-case basis in accordance with the provisions of Sections 20 and 21 of the Planning and Environment (Fees) Regulations 2016.

This change brings tree removal applications into alignment with all others and aligns with the fee for service principle.

This change will commence from July 1, 2024.

Action

Cease default fee exemption for tree removal in all planning applications from July 1, 2024.

Community values

Historically canopy trees have been valued simply for the green, intangible amenity that they create. However, there are significant other benefits to the community and the environment arising from the presence of canopy trees and a greener urban environment. These include improved economic outcomes, property values, a reduction in crime and improved health outcomes.

Considering these broader benefits, it is appropriate to develop a community education programs to raise awareness of the benefits and assist in recognising the value of trees and green spaces in urban areas and the retention and planting of trees.

Action

Develop information and advocacy programs promoting the benefits of canopy trees.

Monitoring and compliance

The majority of residential development results in loss of garden areas and canopy trees.

The development approvals include a requirement for landscaping and tree planting.

Whilst compliance is checked at the time of subdivision, the level of ongoing compliance varies over time and as properties change hands. This can result in a loss of replacement plantings, which further compounds the earlier loss which occurred through the development process.

In addition, where breaches occur these often require significant officer time and resources in obtaining compliance with the approved development.

To increase the success of permit conditions the following actions are to be undertaken.

Review the potential benefits of permit conditions requiring the payment of a landscape bond

Investigate the benefits and challenges of including a condition on planning permits to require the lodgement of a bond to protect the existing trees retained on the land during development and the provision and successful establishment of the landscaping in compliance with the landscape plan for development approvals. (This review will be informed by the review of permit compliance outlined elsewhere in this report.)

Action

Subject to a positive cost/benefit analysis, include a condition requiring the provision of a bond for landscaping on development sites.

Review compliance with permits issued over the last 5 years.

Officer will commence an audit review of all planning permits issued with landscape plans (e.g., multi dwelling developments), over the last 5 years with a focus on canopy trees, to check if development has been completed and if landscaping has been provided in accordance with the approved Landscape Plan.

This will allow an assessment of the appropriateness of earlier landscape plans and ensure that planning permit conditions have been complied with.

Action

A comprehensive and ongoing review would require additional resources. These are able to be considered as part of Council's annual budget process. It is planned to commence spot checks in 2024 (when time permits and within existing resources amongst the other responsibilities that officers have) of developments approved in the last 5 years to check if landscaping has been provided and maintained in accordance with the planning permit issued. The focus will be on the planting, maintenance and retention of canopy trees. Whilst there will not be a significant number of properties covered, it can be an ongoing program and will enable officers to determine the level of compliance as it relates to landscaping, and whether a more focussed effort and additional resourcing may be required.

FINANCIAL IMPLICATIONS

The cessation of the default planning permit fee waiver will result in a minor increase in statutory planning permit fees.

POLICY IMPLICATIONS

These proposed changes do not have any policy implications as they relate to operational matters and the implementation of existing Council planning policy.

CONSULTATION

Community consultation was not required.

SOCIAL IMPLICATIONS

Decreasing tree canopy cover and the associated increase in urban heat island effects is widely recognised as possessing significant social and human health threats, particularly to the vulnerable or disadvantaged sections of our communities.

The inverse of this situation is also shown to demonstrate that areas containing canopy vegetation produce better social, health and economic outcomes for the community.

HUMAN RIGHTS CONSIDERATIONS

There are no human rights implications to this report.

GENDER IMPACT ASSESSMENT

A GIA was not completed because this agenda item is not a 'policy,' 'program' or 'service.'

CONCLUSION

The goal of increasing canopy and vegetation cover in Monash is consistent with State policy and the desires of the broader Monash community.

The impacts of climate change and urban heat island effect continue to be felt and as more of Monash is redeveloped there is increasing pressure on the retention of greener to contribute to the garden character.

The operational changes to the statutory planning processes and other actions set out in this report, whilst minor in nature, collectively align with adopted Council policy and measured community values and priorities. Collectively, these changes will help to reinforce the value of canopy trees in Monash and meet the 30% canopy cover target.

ATTACHMENT LIST

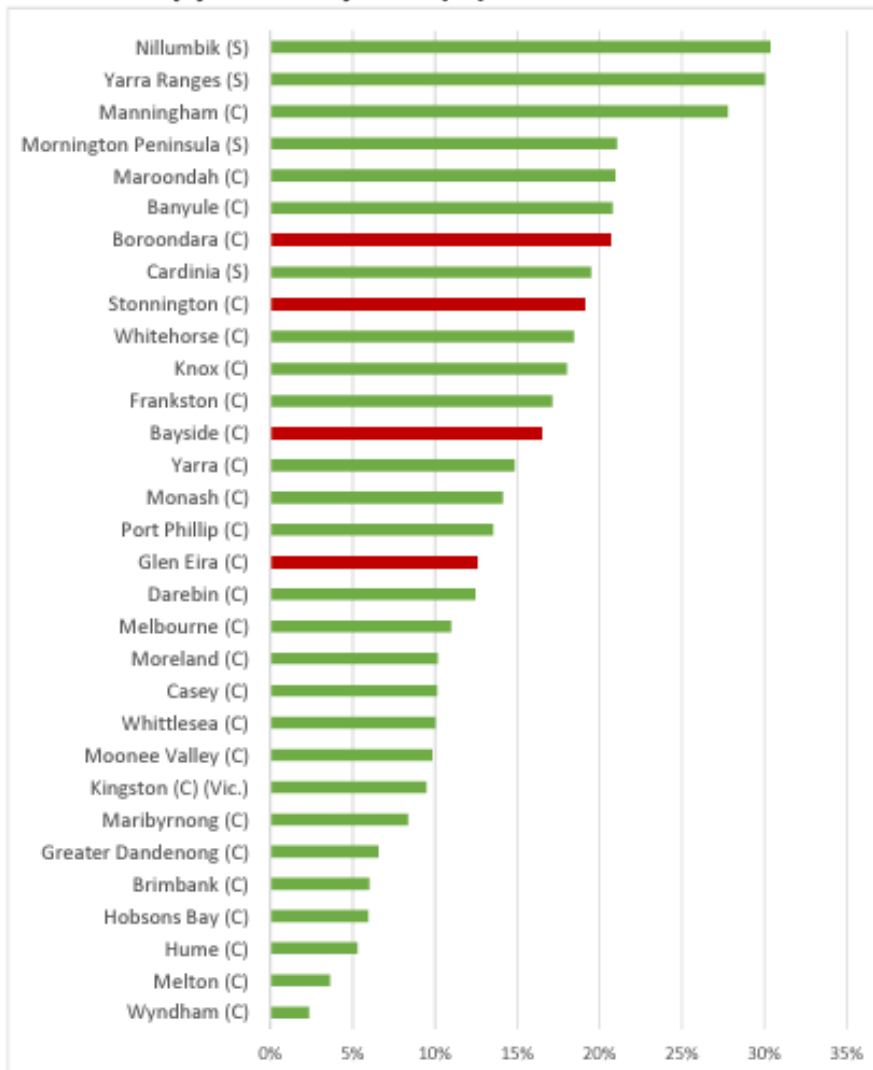
1. Increasing Canopy Tree Cover to 30% Operational Changes - Attachment 1 [7.1.5.1 - 2 pages]

Attachment 1


Increasing Canopy Tree Cover to 30% Operational Changes

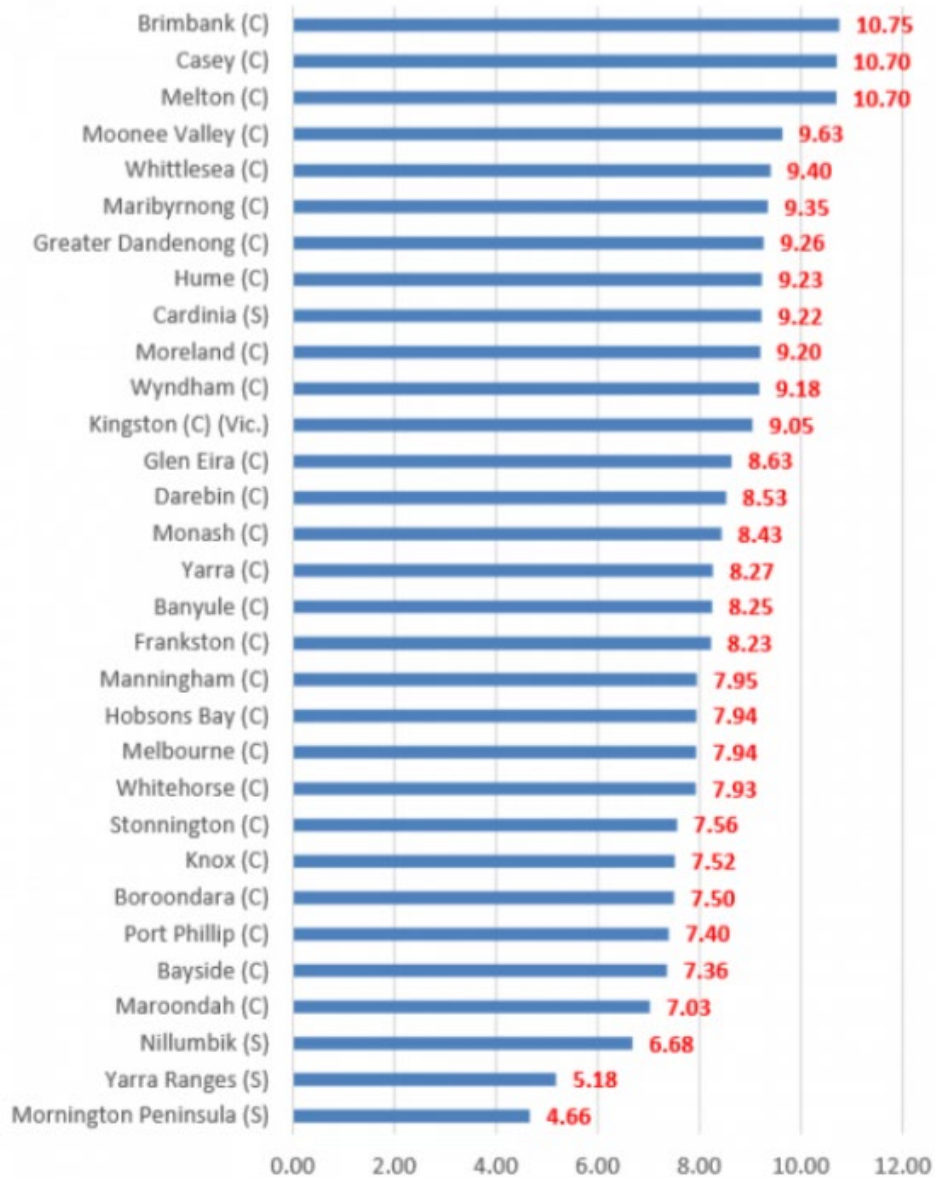
Melbourne Urban Vegetation Cover: 2018 Inner South East Region

Tree Canopy Cover by LGA (%)



2018 Urban Heat Island

The average UHI reading of small statistical areas (Mesh Blocks ) within the study area varied from 10.20 °C to -7.16 °C.



2018 UHI reading (°C) by Local Government Area