

Significant Tree Policy

1. Policy aim and objectives

The purpose of the Significant Tree Policy (STP) is to:

- Define what a significant tree is for trees on private land in order to establish a Significant Tree Protection Register.
- To provide policy directions for Council in accordance with Clause 9 of the Brimbank General Local Law 2018.
- To outline the responsibilities for landowners with a significant tree on their property.
- To demonstrate Council's vision for the establishment of an Urban Forest through the Urban Forest Strategy 2016 (UFS) and draft Brimbank Tree Policy 2021 (BTP).

2. Definition of terms being used

- a) *Local Government Act 1989* and *Local Government Act 2020* (the Act)
- b) Brimbank General Local Law 2018 (Local Law)
- c) Urban Forest - All trees, shrubs, grasses and groundcovers that exist in the urban environment are considered as part of the Urban Forest which provide environmental benefits that supports liveability and the well-being of people and fauna.

3. Policy statement and principles

Council is committed to increasing tree canopy cover across the municipality from the current 8.5% to 30% as defined by Council's UFS.

In order to achieve this, an increase in tree planting is required on public land (streets and parks) and private land. Council is successfully delivering an increase in trees on public land, however, as private land constitutes around 70% of all land across this municipality, an increase in trees on private land is required.

In addition to increasing trees on both public and private land, the protection of significant trees is an action that will assist in achieving Council's aim for a 30% tree canopy cover. Significant trees provide considerable environmental benefits while mitigating the impacts of heatwaves. Large trees provide cooling in streets, parks and homes where it's needed the most during heatwaves.

Council currently has around 1,000 public trees identified as significant and these are managed to maximise their longevity. The protection of significant trees on private land is considered equally important.

This document aims to establish clear guidelines for the establishment of a STP to protect significant trees on private land in accordance with Clause 9 of the Local Law.

The STP supports Council's draft BTP which has been developed to support the creation a cool, green, healthy and resilient municipality through an extensive urban forest.

4. Specific requirements

Background

The development of a draft BTP, as an update to Council's current Street Tree Policy 2010, is recommended in Council's UFS and has been developed to provide clear directions for planting, management and maintenance of trees on public and private land across Brimbank.

In support of this, the STP seeks to protect significant trees on private land as an imperative to achieving sufficient canopy cover and to mitigate the impact of heatwaves. Brimbank was one of the first councils in Melbourne to introduce a legal requirement for trees in the front and back yards of new infill housing developments.

When Council updated its Local Law in 2018, a new clause was added in relation to Significant Trees.

General Local Law 2018 Clause 9

In Council's General Local Law 2018, Clause 9 provides the regulatory basis for the protection of significant trees on private land as follows:

9. Significant Trees

- 9.1. Under section 112 of the Act, Brimbank City Council's Significant Tree Policy (Policy), as amended and published from time to time, is wholly incorporated into this Local Law and should be interpreted and understood as such.*
- 9.2. An authorised officer who reasonably believes that a person has contravened the Policy may issue a notice under Part 11 of this Local Law.*
- 9.3. A person must not, without a permit or specific written instruction from an electricity service provider, remove, damage, destroy or lop a significant tree or engage another person to remove, damage, destroy or lop a significant tree.*
- 9.4. A person removing, damaging, destroying or lopping a significant tree on the basis of specific written instruction from an electricity service provider must retain a copy of the written instruction for 12 months from the date works on the significant tree are carried out.*

A STP, and associated Significant Tree Protection Register, is required in order to administer Clause 9 of the Local Law.

Significant Tree Protection Register

The Local Law, and associated STP, makes it an offence for anyone who damages or removes a significant tree on private land without a permit or specific written instruction from an electricity service provider.

In order to determine what trees are significant on private land and to establish a Significant Tree Protection Register (Register), the following criteria is recommended to determine a significant tree:

- A trunk diameter, measured at breast height, of 50 centimetres or more
- A height of 15 metres or more

- Canopy cover of 100 square metres or more

Any tree on private land which meets the above criteria will be placed on the Register. Additionally, irrespective of the above criteria, a tree may be included on the Register if it meets any of the relevant requirements set out by the National Trust in relation to aspects such as aesthetical, historical, cultural and spiritual significance. A tree that, for example, was planted in memory of a person or event might therefore be included on the Register on request.

A landowner will be able to request a review of whether their tree should be included on the Register or not. This request will only be considered based on following attributes:

- A tree is dead
- A tree is diseased
- A tree is dying
- A tree is dangerous

If a tree does not comply with any of the above, it will be included on the Register.

Tree Work Permit for a Significant Trees

Once the STP is adopted, landowners will be advised that their tree meets one of the above requirements and is now considered a significant tree and is protected. Landowners will also be advised that a Tree Work Permit is required for any works to a significant tree.

The application for a Tree Work Permit requires the following:

1. Download Tree Work Permit Application Form (Form) from Council's website, complete the Form and submit to Council with permit fee.
2. The Form is processed by Council's Local Law officers who will refer this to a Council arborist to inspect the tree and make a recommendation in regards to the permit application.
3. Maintenance works in general will be approved, with works required to be completed by a qualified arborist.
4. A request to remove the tree will only be granted if the tree is dead, diseased, dying or dangerous. Healthy trees will not be approved for removal. These criteria also apply to the removal of Council's trees in streets and parks.
5. Any request to remove a tree due to new buildings work will consider the retention of the tree as a priority, including alternative design solutions to retain the tree. If the tree cannot be saved then a replacement location of a new tree will be required.
6. Council arborist will provide advice to the Local Law officer who will issue a Tree Work Permit to landowner based on advice received.

If works are approved, an approved arborist will be required to carry out the works.

If a tree is removed illegally without a permit Council can fine the landowner a maximum of 20 penalty units, as per the Local Law, which currently equates to a fine of \$2,000.

5. Local Government Act 2020 Compliance Statement

Section 9(1) of the *Local Government Act 2020* (Act) requires Council to give effect to the overarching governance principles, in the performance of its role. Section 9(2) of the Act specifies the governance principles as follows:

- a) Council decisions are to be made and actions taken in accordance with the relevant law **(Compliance with the law)**;
- b) Priority is to be given to achieving the best outcomes for the municipal community, including future generations **(Achieve best outcomes for the community)**;
- c) The economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted **(Promote the sustainability of the municipality)**;
- d) The municipal community is to be engaged in strategic planning and strategic decision making **(Engage the community in strategic planning and decision making)**;
- e) Innovation and continuous improvement is to be pursued **(Strive for innovation and continuous improvement)**;
- f) Collaboration with other Councils and Governments and statutory bodies is to be sought **(Collaborate with all other levels of government and government agencies)**;
- g) The ongoing financial viability of the Council is to be ensured **(Secure the ongoing financial viability of Council)**;
- h) Regional, state and national plans and policies are to be taken into account in strategic planning and decision making **(Strategic planning and decision making must take into account plans and policies in operation at all levels)**;
- i) The transparency of Council decisions, actions and information is to be ensured **(Council decisions, actions and information must be transparent)**.

In developing the Significant Tree Policy, Council has considered and given effect to the overarching governance principles, as summarised below:

Governance Principle	Considerations
(a) Compliance with the law	Not applicable for this Policy.
(b) Achieve best outcomes for the community	This Policy seeks to ensure that this municipality reaches its target of 30% canopy cover for liveability for the future generations.
(c) Promote the sustainability of the municipality	This Policy is aligned with Council's Climate Emergency Plan to ensure that future heatwaves can be mitigated through an extensive urban forest and canopy cover of 30%.
(d) Engage the community in strategic planning and decision making	Not applicable for the Policy.
(e) Strive for innovation and continuous improvement	Not applicable for the Policy.
(f) Collaborate with all other levels of government and government agencies	This Policy supports Council's involvement in Greening The West which is a regional partnership seeking an increase in urban greening across western municipalities.
(g) Secure the ongoing financial viability of Council	Not applicable for the Policy.
(h) Strategic planning and decision making must take into account plans and policies in operation at all levels	Not applicable for the Policy.
(i) Council decisions, actions and information must be transparent	Not applicable for the Policy.

History of amendment

Rev	Review date	Reason for amendment	Next review date
DRAFT	31/03/2021	Issued for consideration for endorsement for community consultation	N/A
	Select date		Select date
Approved by Council:		<Select one>	Date approved by Council: <Select date>