Review of Policy No.7.6.3 Trees of Significance

Table 1: Review of LPP 7.6.3		
Clause/Topic	**Comment**	**Proposed / Considered Modification**
References to Town Planning Scheme No.1 (TPS1)	The current Policy refers to the former planning scheme in the following manner: • Objective 1 • Definitions • Clause 2 – Legal Requirements	All reference to TPS1 to be removed and replaced with clause contained in Local Planning Scheme (LPS2).
Definitions Trees of Significance means any tree(s) listed on the City of Vincent's Trees of Significance Inventory and is linked directly to Clause 21 of the City's Town Planning Scheme No. 1. **Destruction and/or Interference** for the purposes of this policy means the following: a. the severing of branches, limbs, stems, trunk or roots of a tree; b. the ringbarking, topping or lopping of a tree; c. the killing or poisoning of a tree; any other act that causes substantial damage to a tree; and d. includes any maintenance pruning. **Emergency works** means any works required to be undertaken for the protection of life or property on trees of	Administration proposes adding new definitions and amending existing definitions for **Destruction and/or Interference** to allow exemptions from development approval. The Arborist Report definition is consistent with approach taken elsewhere, including the City of Stirling's draft policy.	**Modify existing definition:** The definition of **destruction or interference** as follows: • the severing of branches, limbs, stems, trunk or roots of a tree; • the ringbarking, topping or lopping of a tree; • the killing or poisoning of a tree; • any other act that causes substantial damage to a tree; and • ~~includes any maintenance pruning~~ • is not exempt from development approval stipulated in Clause 2 Exemptions to Development Approval. **Include new definitions:** **Arborist Report** A report produced by a person who has obtained a minimum of Australian Qualification Framework Level 5 Certification in Arboriculture (AQF5 Arborist) or equivalent qualification. The arborist report has information that concerns the health, value and general state of the tree, the structural root zone and tree protection zone, and a

Table 1: Review of LPP 7.6.3		
Clause/Topic	**Comment**	**Proposed / Considered Modification**
significance which are in imminent danger. **Qualified Arborist** means a person with a qualification of Certificate 4 in Arboriculture or equivalent	The proposed Maintenance Pruning definition has been based of WALGAs' model planning policy template and has been modified to remove specific reference to canopy widths or branch diameters that would be otherwise more restrictive and onerous for landowners. To remove ambiguity in the nomination process and to align with the state planning framework, Administration proposes to use the R Codes definition of a Significant Existing Tree. Criteria will also include reference to native tree species which do not meet the R Code criteria such as the banksia.	Tree Management Plan that outlines the methodology to preserve the tree **Maintenance Pruning** Is the pruning that: • involves removing dead or diseased wood only; or • Is the first pruning of the tree in the calendar year and affects less than 10% of the canopy, not altering the overall shape of the canopy; or • is of a fruit tree and done for fruit production; or • does not include removing limbs with a diameter of 100mm or more; or • is otherwise minor maintenance or thinning of the crown that does not adversely affect the health or general appearance of the tree, or is to balance the tree **Significant Tree** • *An existing tree that meets the following criteria:* • *Healthy specimens with ongoing viability; and* • *Species is not included on a National, State or local area weed register; and* • *Height of at least 4m. Xanthorrhoea species from a height of at least 1.2m and banksia species from a height of at least 3m will be considered; and/or* • *Trunk diameter of at least 160mm, measured 1m from the ground; and/or* • *Average canopy diameter of at least 4m; and/or* • *Any other species likely to be a remnant or regrowth local native tree with a height or canopy width deemed significant by the city; and/or* • *Any mature specimens that provide habitat or food for local fauna. For example, Banksia and Hakea are known food sources for the Carnaby's Black Cockatoo; and/or*

Table 1: Review of LPP 7.6.3		
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	Administration has prepared these two definitions to provide clarity on who would be considered an owner. This is because in many instances tree canopy and branches may significantly overhang in neighbouring properties and cause confusion about who is responsible. The proposed Structural Root zone definition is consistent with approach taken elsewhere, including the City of Stirling's draft policy. The proposed Tree Protection zone definition is consistent with approach taken elsewhere, including the City of Stirling's draft policy. Inserting a link between the Policy and clause 61 of the Scheme. Since the last Policy review, the qualifications and levels of Arborists have now changed. The definition of	• *Established trees that are significant from an aboriginal heritage perspective. This can include Nuytsia Floribunda (Western Australian Christmas tree).* **Primary Owner of a Tree of Significance** is the owner of the land that contains the structural root of the zone of the tree. ***Secondary Owner of a Tree of Significance*** is the owner/s of a property for which portions of the tree is located. This can include the trunk, canopy or root zone. **Structural Root Zone** means an area specified in Australian Standard 4970-2009 Protection of Trees on Development Sites (and it's successive Australian Standards updates), around the base of a tree required for the tree's stability in the ground. **Tree Protection Zone** is an area specified in Australian Standard 4970-2009 Protection of Trees on Development Sites (and it's successive Australian Standards updates). This is the area above and below ground for the protection of a tree's roots and crown from development, to provide for the viability of a tree that is to be retained. **Trees of Significance** means any tree(s) listed in the City's Trees of Significance Inventory. **Qualified Arborist** means a person who has obtained a minimum of Australian Qualification Framework Level 5 Certification in Arboriculture (AQF5 Arborist) or equivalent qualification.

Table 1: Review of LPP 7.6.3		
Clause/Topic	**Comment**	**Proposed / Considered Modification**
	an Arborist has been updated to reflect this change.	
Assessment Criteria for Nominations **Clause 6.3 Nomination Requirements** a. general information about the tree/s, including the address, location of tree/s on site, botanical name, common name and age of tree/s; b. any known information pertaining to the historical or cultural significance of the tree/s (i.e. commemoration of a particular occasion including plantings by notable people or having association with an important historical event); c. any information relating to aesthetic or horticultural significance; and a photograph of the tree/s. **Clause 6.4** All trees nominated for listing must be assessed by a qualified arborist having regard to the tree's health and vitality. Costs associated with an arborist assessment are to be borne by the nominee.	Administration believes requiring an arborist report on nominations is overly burdensome and costly for applicants, potentially hindering nominations. There are cost implications for the City associated with the production of arborist reports. This arrangement would remove a potential barrier to receiving nominations. The assessment against the preliminary criteria would be informed by advice from the City's Parks team and/or a member of the City's DRP who is qualified as an arborist.	**Delete:** Clauses 6.4 and 6.5 **Include:** **Nomination Requirements** • retain clause 6.3 (a) (d) **Preliminary Criteria** a. to be considered for nomination, the tree must meet the definition of a significant tree b. before the City commissions an arborist report. City officers will assess the tree to ensure it: i. Is of good health and form with no obvious signs of decline. **Essential Criteria** Once City officers are satisfied the preliminary criteria are met an Arborist report may be commissioned to ensure the following essential criteria are met a. Have a natural life expectancy of greater than 15 years based on the current age and species of tree; b. Have a 'Tolerable' Quantified Tree Risk Assessment rating at the time of assessment; c. Be of sound form and structure without major faults; and

Review of Policy No.7.6.3 Trees of Significance

Table 1: Review of LPP 7.6.3		
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Clause 6.5 A tree may be considered to be significant and worthy of inclusion onto the City of Vincent's Trees of Significance Inventory if one or more of the criteria are found to be present: a. outstanding aesthetic quality; b. outstandingly large height, trunk circumference or canopy spread; c. commemoration or association with particular historical or cultural events; d. association with a well known public figure or ethnic group; e. specimen of great age; f. outstanding example of a particular species g. rare or unusual species; h. horticultural, genetic or propagative value; i. likely to be a remnant or regrowth local native tree Minimal criteria is included for City assessment.		d. Not be hosting significant pests or disease, to an untreatable level or a level likely to cause decline. **Arborist Reports** Administration proposes that the City can undertake an assessment of the nominated tree. When a tree is nominated for the Significant Tree Inventory the City may obtain an Arborist Report to determine the suitability of the tree and what work to the tree is required to preserve it. A copy will be provided to the landowner. An Arborist Report for a Significant Tree may be updated at the City's cost every 5 years, with a copy of the report provided to the land owner of the relevant tree. The City may arrange an inspection of a Significant Tree upon receiving a written request by a land owner, no more than once each year and will arrange for an Arborist Report if deemed necessary by the City. A City obtained Arborist Report can identify: a. Whether the tree is worthy of retention; b. Any matters contributing a threat to the tree; c. Specify a timeframe in which any amelioration work will need to be undertaken to ensure its preservation; d. Any ongoing works that may be necessary over a 5 year maintenance program; and Any works to the tree that could be undertaken, whilst ensuring the trees viability.

Review of Policy No.7.6.3 Trees of Significance

Table 1: Review of LPP 7.6.3		
Clause/Topic	**Comment**	**Proposed / Considered Modification**
Requirement for Development Approval **Clause 3.2** All applications in relation to a tree(s) listed on the Significant Tree Inventory will require the following details to be submitted with their application • Metropolitan Region Scheme (MRS) Form 1 completed and signed by all owners of the land; • a site plan (to scale) showing the position of the canopy spread of the tree(s); • an elevation plan (to scale) showing the position and canopy spread of trees(s); • specific details of any limbs/branches that are proposed to be removed/pruned; and • any other buildings on site that may affect the tree(s)	Requirements like providing a site plan and elevations are considered too burdensome for property owners and may hinder nominations. Administration is still working through a number of considerations related to the proposed provisions: **Signing of a development application** The current practice is the owner of a listed tree is the property owner of the land for which most of the tree is located on. This property owner is the only one who can nominate or undertake maintenance on a listed tree. Administration proposes to simplify the maintenance requirements, which would reduce instances where development approval is required. Where development approval is required, the requirements for the owner to sign a development application if the neighbour seeks to undertake works to this tree may be problematic if they were to refuse to do so.	**Requirement for Development Approval** **Clause 3.2** All applications in relation to a tree(s) listed on the Significant Tree Inventory will require the following details to be submitted with their application • Development Application Form signed by the primary or secondary owner on the land for which the works are to occur; • a site plan (to scale) showing the position of the canopy spread of the tree(s); • an elevation plan (to scale) showing the position and canopy spread of trees(s); • specific details of any limbs/branches that are proposed to be removed/pruned; and • any other buildings on site that may affect the tree(s) **Include:** **Development Application Requirements** Administration proposes the following: • Policy to stipulate who is required to sign the development application form. • Summary/description of works to the tree being undertaken by a certified arborist. • Acknowledgement/consent/consultation/notification to/from other owners of the listed tree that work is to occur.

Review of Policy No.7.6.3 Trees of Significance

Table 1: Review of LPP 7.6.3		
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	The City has received advice that if branches of a listed tree encroach into other properties, owners of those properties can apply for development approval. This would mean that instances where the tree itself is not located on someone's property but has branches that overhang, they could lodge a development application form without the consent of the landowner of where the tree is situated. Undertaking of works to the tree without the knowledge of the owner may result in some disputes and or concerns and would need to be considered as part of any consultation or notification piece should a development application be lodged. **Additional Requirements where works are proposed in the vicinity of a Significant Tree.** Currently there are no additional requirements for works proposed near a significant tree. This lack of requirements can result in damage to the tree.	• Policy to stipulate requirements where development is proposed in close proximity to a Significant Tree. This could include a Tree Management Plan prepared by a Qualified Arborist or alternative advice provided from the City's DRP. Development works are to be undertaken as outlined in the Australian Standard 4970-2009: Protection of Trees on Development Sites.

Review of Policy No.7.6.3 Trees of Significance

Table 1: Review of LPP 7.6.3		
Clause/Topic	**Comment**	**Proposed / Considered Modification**
	It is important that any works to a tree of significance are undertaken in a way that does not damage the tree. It is equally important that there is the ability for neighbours to be able to undertake works to retain the tree but improve their amenity and/or not restrict their development potential. This would assist in promoting significant tree nominations and positive neighbour relations. The current policy requires any works to be supported by an Arborist Report which would be costly and potentially onerous for a neighbour to obtain. To address this issue: 1. Administration can seek advice from the Arborist on the City's DRP; and/or 2. Administration can commission an Arborist Report to be undertaken. Works to the tree in either scenario would still need to be undertaken by a qualified arborist in accordance with the relevant Australian Standard. These options would ensure an adequate level of assessment of the tree's current health, structural	

Table 1: Review of LPP 7.6.3		
Clause/Topic	**Comment**	**Proposed / Considered Modification**
	stability, and recommendations on how to protect the tree during and after construction. Necessary precautions or changes to the development design to minimise impacts on the tree would also be outlined.	
Consultation with adjoining properties No current provision exists.	The existing policy does not require consultation for nominated trees, despite branches of significant trees often encroaching into neighbouring properties. Should a nominated tree be included on the Inventory, the proposed Policy will require consultation and notification to all affected landowners of a significant tree. This will include the provisions of information related maintenance and other works, so they are informed.	Include: Part 3 – Clause 2 Assessment and Notification of Nomination. 2.1 Should a tree be nominated for inclusion: • In the case of a nomination by the primary owner, all secondary owners of the tree will be notified of the reasons for its proposed entry. • In the case of a nomination by a secondary owner, the primary owner will be consulted upon in accordance with the Community and Stakeholder Engagement Policy. All other secondary owners of the tree will be notified of the reasons for its proposed entry. • In the case of a nomination by a third party, the primary owner will be consulted upon in accordance with the Community and Stakeholder Engagement Policy. All secondary owners of the tree will be notified of the reasons for its proposed entry. 2.2 The nomination will be assessed in accordance with Part 3 Clause 1. 2.3 Should the City support the nomination by the primary owner, Council, the nominator and all other secondary owners of the tree within 10 business days of the City's final decision.

Review of Policy No.7.6.3 Trees of Significance

Table 1: Review of LPP 7.6.3		
Clause/Topic	**Comment**	**Proposed / Considered Modification**
		2.4 Should the primary owner of a tree object to a nomination by a secondary owner or a third-party, this will be determined by Council. Administration will prepare a recommendation for Council in considering the provisions of this Policy.

Trigger for requiring a development application.
 	
A DA is required for works to remove, destroy and/or interfere with any tree listed on the Inventory.
 	
LPP 7.6.3 defines **destruction or interference** as the:
 	
• the severing of branches, limbs, stems, trunk or roots of a tree;
• the ringbarking, topping or lopping of a tree;
• the killing or poisoning of a tree;
• any other act that causes substantial damage to a tree; and
• includes any maintenance pruning.
	Acknowledging the difficulty in undertaking maintenance/pruning trees of significance, Administration proposes to provide exemptions from requiring development approval.	**Include:**
		
		Clause 2 Exemptions to Development Approval
		
		The following works are exempt from development approval.
		
		• Works that are urgently necessary for any of the following;
		  ○ public safety
		  ○ the safety or security of plant or equipment;
		  ○ the maintenance of essential services; or
		  ○ the protection of the environment.
		• Works to a Significant Tree is required as part of an approved Bushfire Management Plan;
		• Works to a Significant Tree is **maintenance pruning**;
		• The Department of Primary Industries and Regional Development or relevant authority has issued a direction to carry out works to a Significant Tree. A copy of this direction is to be provided to the local government prior to works occurring.
		Trees located on Council owned land.

Clause 7 Financial Assistance for Significant Tree Owners	Given land is often cleared of all vegetation to eliminate site constraints, the City must ensure that	**Delete:** Clause 7.1 – Clause 7.5

Review of Policy No.7.6.3 Trees of Significance

Table 1: Review of LPP 7.6.3		
Clause/Topic	**Comment**	**Proposed / Considered Modification**

7.1 Owners of trees listed on the Trees of Significance Inventory may be eligible for financial assistance for work associated with the listed tree through the City's Trees of Significance Incentive Fund.
 	
7.2 Funds can be used for remedial pruning, crown thinning, pest control or the like; or the provision of advice from a qualified arborist.
 	
7.3 Funds will generally be provided on a dollar-for-dollar basis to a maximum of $2,000 in any 5 year period although this may be increased at the City's discretion if significant funds are required to maintain a tree.
 	
7.4 Where the City pays more than $1,000 for any tree, the owner must enter an agreement to repay the City if the tree is removed within a 5 year period and in the City's opinion the tree could have been retained.
 	
7.5 Payment will be in the form of reimbursement to the previously agreed amount upon presentation of proof of payment and certification by the arborist of approved works. The City may inspect and photograph trees before and after the approved works
	the incentive to retain trees outweighs the benefit of removing them.
	
	The current policy provides grant funding for residents who wish to undertake maintenance for to their listed trees or to procure an arborist report.
	
	Administration proposes that the City continue to provide financial assistance for the maintenance of listed trees as well as the preparation of any arborist advice. This fund will be guided by annual **Tree of Significance Fund Guidelines.**
	
	Administration will continue the waiving of all or partial DA fees involving works to a tree on the inventory. This would assist to reduce costs from owners and remove barriers to nominations.
	
	In addition, Administration proposes to offer development incentives where a listed tree is retained as part of a development application. These details would need to be further developed.
	
	Administration is preparing updates to the GreenTrack incentives program to
		Replace with:
		
		Clause 1: Financial Assistance
		
		• Owners of a Significant Tree are eligible to receive financial assistance from the City. This assistance can be used to undertake works associated with the maintenance of a tree listed on the Inventory as well as the preparation of an arborist report. Refer to applicable **Tree of Significance Fund Guidelines** for further information.
		• The City may waive any fees associated with lodging a development application for maintenance works to a listed tree.
		
		Include:
		
		Clause 5: **Departures to Development Standards**
		
		• To facilitate a site responsive design to preserve a Significant Tree, the City can consider a departure to the relevant policy standards (except related to site area) of the Scheme, Local Planning Policy, Residential Design Codes, Local Development Plan or Structure Plan where desirable to facilitate the preservation of the Significant Tree. These may be considered on a -case-by-case basis having regard to the:
		  ○ context of the site
		  ○ relevant design principles/element objectives of the R Codes and the local planning framework

Table 1: Review of LPP 7.6.3		
Clause/Topic	**Comment**	**Proposed / Considered Modification**
	include trees which meet the criteria of a 'significant tree'. This program includes: • Priority assessment of a development application. • Reduction in development application fees. • Access to free advice from a member of the City's Design Review Panel.	○ The location and extent of the proposed development and its impact of the Significant Tree; ○ Advice received by a qualified arborist
Delegation to List or remove a tree from the Tree of Significance Inventory **Clause 6.1** Anybody may nominate a tree in the public domain for consideration by the Director of Technical Services and/or the Director of Planning Services for inclusion onto the Trees of Significance Inventory.	The current practice is that Council makes the final determination on the listing of, or removal of, a tree on the Inventory. To further simply the nomination and final listing of trees to the Inventory, Administration will make the final determination. All proposals to remove a tree from the Inventory will require Council determination.	**Delete Clause 6.1** Replace with **clause 3 Removal of Trees from the Inventory** 3.1 Requests for removal of trees from the Inventory can be made by the primary owner or other secondary owners of a Tree of Significance. The request is to be submitted in writing to the City. 3.2 In accordance with the Community and Stakeholder Engagement Policy, consultation will be undertaken for a minimum of 14 days with all the owners of the Tree of Significance and all adjoining properties. 3.3 Restrictions to potential development of land is not sufficient reason to remove a Significant Tree from the Inventory. 3.4 Requests must demonstrate that the Significant Tree no longer meets or cannot be restored to ensure **its** health

Table 1: Review of LPP 7.6.3		
Clause/Topic	**Comment**	**Proposed / Considered Modification**
		and ongoing viability to meet the Essential Criteria and the relevant criteria of Part 2 - Clause 3.3 and Clause 3.4. Costs associated with obtaining evidence that the Significant Tree no longer meets the criteria are the responsibility of the applicant. 3.5 The City may commission an independent arborist report if required. 3.6 Requests to remove Significant Trees from the Inventory will be determined by Council. Administration will prepare a recommendation for Council in considering the provisions of this Policy.