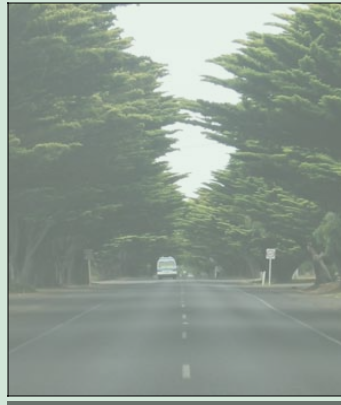




NATIONAL TRUST OF AUSTRALIA (VICTORIA)

PROTECTION OF SIGNIFICANT TREES



Avenue of *Cupressus Macrocarpa*
'Aurea'. Thompson Avenue. Cowes

In recent years the people of Victoria have devoted increasing attention to both the environment and their history. This has led to a growing awareness of the vital role trees play in our heritage. Many historic buildings, streetscapes and landscapes owe much of their character and charm because of trees. These trees may be remnants of the original forests, plantings by the early settlers, commemorative plantings dedicated to important people, or marking significant events in Victoria's history. Many of the early plantings have reached a considerable size and outstanding form, and some are now rare in cultivation.

The National Trust is a non-government, community-based conservation body, dedicated to heritage preservation. Since its establishment in 1956 the National Trust of Australia (Victoria) has grown to be one of the largest lobby groups in the State, and has achieved widespread acceptance of the need to preserve built structures, important places, landscapes and trees. These can be 'classified' and added to the National Trust Register; which means that the Trust believes they are essential to Australia's heritage, and accordingly should be preserved for future generations.

Many members of the public share the National Trust's belief that trees form an important part of our heritage, and where appropriate should be provided with statutory protection at the same level as other heritage places and structures within the community. In 1980, in response to increased public concern, the National Trust in Victoria commissioned the Royal Botanic Gardens Melbourne to develop a program to identify Victoria's most significant trees, record their details, and offer advice on tree conservation. The aims were to protect the trees, ensure proper management, and where possible extend the useful life expectancy of the trees. Public information is also needed about the special contribution trees – native or exotic, wild or cultivated – make to the cultural heritage of Victoria.

Each year, the National Trust receives many nominations for trees to be included on the National Trust's Register of Significant Trees of Victoria. The general public have been the principal source of nominations of trees for the Register. A proportion makes it onto the Register, but many trees do not meet the criteria or threshold for registration. The Significant Tree Committee assesses each nomination against the criteria and compares it to other registered trees of the same species and criteria around Victoria. A resolution is reached on

whether to Classify the tree at State or Regional level of significance, or to reject it. In either case the Trust advises the local municipality to consider protecting the tree under the Planning Scheme. The Committee is vigilant in ensuring that it adheres strictly to a proper process, and is careful not to be drawn into the politics of development projects or neighborly disputes in which a tree may be used as the deciding factor.

The Significant Tree Committee, which consists of representatives with a diverse range of skills and expertise, assesses nominated trees under one or more of the following categories:

Categories of Criteria for Registering Significant Trees:

1. Horticultural and/or Genetic Value
2. Unique Location or Context
3. Rare or Localized Distribution
4. Particularly Old Specimen
5. Outstanding Size (Girth, Height and Spread)
6. Aesthetic Value
7. Curious Growth Habit
8. Historical Significance
9. Connection to Aboriginal Culture
10. Outstanding Example of Species



'The Separation Tree', *Eucalyptus Camaldulensis*, Royal Botanic Gardens, Melbourne

Any interested individual or group can make nominations using a nomination form available from the National Trust or downloaded from the website. Data such as botanical and historical information, dimensions, assessment of a tree's age and condition and context within the landscape must be provided and verified. The Committee considers each specimen on its merits and votes formally on whether the specimen meets the criteria for inclusion on the Register.

Once trees have been classified, the National Trust assists in the management and protection by providing a referral service between owners and relevant experts. Advice is provided to owners and others whose actions might impact upon the health and vigour of the tree. Classification by the National Trust does not require the approval of the owner, however, in most instances owners have shown considerable pride in the fact that they own a classified tree, and have taken responsibility for its proper management. In some instances owners do not want publicity about their tree. The public must respect their privacy and must not attempt to visit trees which are listed as Privately Owned or under Restricted Access.

There are many trees that have not been listed on the Register because they are not of Regional or State significance, but which nevertheless play a major part in the importance of a town or area. Such locally notable trees may be identified in conservation studies, or from lists compiled by historical societies, or field naturalists clubs. They may already be listed as important by various state or local government departments. Every effort should be made by the community and local government to recognise and protect locally important trees.

The Register of Significant Trees is not a static list of specimens, but is ever changing as some trees die or require removal, and new trees are registered. As with so many of the Trust's activities, the Register is concerned with protecting and ensuring the future of Victoria's great heritage.

PROTECTING SIGNIFICANT TREES

The National Trust is not a statutory body and has no legal powers. Its influence lies in its ability to offer expert advice and opinions to liaise with a variety of government bodies, local councils, community groups and the general public. The inclusion of trees on the Trust's Register therefore imposes no legal restrictions or obligations on the owners or responsible authorities, nor provides trees with statutory protection. The Trust can only ensure the conservation of these trees by encouraging careful planning and management around them. At present, the most effective way of protecting trees is to make people aware of the great value of trees so that the community itself can take responsibility for the trees long-term conservation and management. Therefore we encourage you to pursue these other avenues to ensure that trees are not only recognised for their significance but also protected by law.

There are several ways to legally protect significant trees and vegetation. These include, but are not limited to the:

- Planning and Environment Act (through planning overlays)
- Heritage Act (for trees of State significance)
- Flora and Fauna Guarantee Act (for indigenous trees & vegetation of State significance)

Protection for the great majority of significant trees is best achieved though Planning Scheme Overlays administered by local government. Such provisions may be included by way of a Planning Scheme Amendment.

Tree Protection by Local Government

The National Trust believes that protection for trees included on the Register of Significant Trees is best afforded by the application of a Heritage Overlay in the local government planning scheme. While there are a number of planning tools available to local government to protect significant trees, a Heritage Overlay with tree controls can regulate the pruning, destruction and removal of significant trees and limit potentially threatening development and works on land in proximity to the tree. Where a Heritage Overlay applies, a planning permit is required from the local council. ALL trees listed on the National Trust's Register of Significant Trees of Victoria can be protected by a Heritage Overlay in a local government planning scheme. The Trust recommends the erection of a Significant Tree plaque beside the tree to identify trees on the Register. These plaques can be ordered from the National Trust.

It is important that where a Council includes a significant tree in a Heritage Overlay that the land beneath and surrounding the designated tree, often 5m from the canopy edge, is included. The area of land should cover the active root zone of the tree (which will normally extend beyond the drip-line or canopy edge of the tree) so that development which can impact on the tree may be regulated. By including land it is thus possible to regulate such matters as the construction of buildings and fences, paving, the carrying out of works and other forms of development which may impact upon the health, appearance or conservation of the tree.

An alternative method of protecting trees is for Council to establish and approve a Local Law under the Local Government Act. This Local Law normally regulates the removal or damage to trees over a certain size, or trees on a Tree Register within the municipality. Controls should also apply to land, referred to as the Tree Protection Zone (TPZ) and works (trenching, excavation and fill) that may adversely impact on the tree. While broad tree controls are supported by the National Trust, a major disadvantage is that penalties for damage or removal are low. Also unlike a Heritage Overlay, the existence of a Local Law is not shown on the title, and owners, especially new owners may be unfamiliar with the existence of tree controls. This can be overcome by Council entering into a Section 173 Agreement under the Planning and Environment Act, which is legally binding and listed on the property title. With Planning Overlays, the relevant Overlay will be listed on the Planning certificate when the property is sold.

The Planning Practice Note *Applying the Heritage Overlay* (February 1999) provides further advice on the application of Heritage Overlays by local government. A Planning Practice Note on *Vegetation Protection in Urban Areas* (August 1999) will also be of assistance on how to protect significant vegetation and trees through the planning scheme. These documents are available from the Planning Bookshop, Nauru House Plaza, 80 Collins Street, Melbourne, 3000. They are also available on the Department's webpage at; <http://www.dse.vic.gov.au/dse/index.htm> Choose "Planning"; and then "Planning Practice Notes".

Aboriginal Cultural Heritage Trees

Aboriginal cultural heritage places, sites and objects in Victoria (including culturally significant trees) are protected by Commonwealth (*Aboriginal and Torres Strait Islander Heritage Protection Act 1984*) and State (*Archaeological and Aboriginal Relics Preservation Act 1972*) legislation. This protection applies equally on Crown and freehold land, and does not depend upon any listing or registration process. Aboriginal Affairs Victoria (AAV) administers the above legislation, and can advise on its implications for owners and managers.

Some identified culturally significant trees and sites may appear in the Heritage Overlay of a local government planning scheme, for example the Corroboree Tree at St Kilda Junction. However, many trees are not covered by planning schemes, and others may be identified only by a marker or not at all.

By Law, Aboriginal heritage places, sites and objects cannot be damaged, disturbed or destroyed without the prior written consent of the relevant local Aboriginal community organisation, as specified under Part IIA of the Commonwealth *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*.

The Regional Cultural Heritage Program (RCHP) has been established to advise on Aboriginal heritage issues, and to assist individuals and agencies wishing to consult with Aboriginal community representatives at the local level. Maps and contact details relating to local Aboriginal communities and the RCHP are available from the following website: www.dvc.vic.au/ and open Aboriginal Affairs. This website also contains general information on Aboriginal cultural heritage in Victoria, including information on culturally significant trees. Further information can be obtained from; Aboriginal Affairs Victoria, GPO 2392V, Melbourne 3001; phone (03) 9208 3244, or Email: aav.webpage@dvc.vic.gov.au

Victorian Heritage Register and Tree Protection

The *Heritage Act 1995*, provides for the protection of cultural heritage places, which includes trees and designed landscapes, and are listed on the Victorian Heritage Register (VHR). These trees are of State significance, while those in the planning scheme are considered to be of local (or greater) significance

Heritage Victoria approves developments and works affecting trees listed on the VHR, although in some instances a planning permit may also be required from the local Council. For trees on the VHR, general conservation works, pruning to Australian Standards, safety and emergency works are all permit exempt. Advice and access to financial assistance may be available for trees on the VHR.

There are some trees that cannot be assessed under the Heritage Council's criteria, and include Aboriginal trees which are protected by other State and Commonwealth legislation, and indigenous trees of natural heritage significance, which can be protected by the planning scheme or the Flora and Fauna Guarantee Act.

National Trust

Owners of Registered trees are asked to notify the National Trust of any planning applications or other works that may affect a Registered tree. The Significant Tree Committee members have wide experience in the management and protection of trees, and advice is made freely available.

This information is presented as a guide only and should not be used for any official purpose. The document paraphrases the Planning Practice Notes, the Victoria Planning Provisions and is subject to change. For further information contact the Conservation Division of the National Trust (phone: (03) 9656 9800 or visit website: www.nattrust.com.au) or Heritage Victoria, Nauru House, Level 22, 80 Collins Street, Melbourne 3000, (phone: (03) 9655 6519 or visit website: www.heritage.vic.gov.au Contact the Planning Section of your local council for advice on whether or not trees are protected through Planning Overlays, or how trees can be protected.

The National Trust is an independent, non-government body dedicated to the preservation of the unique heritage of Victoria. The majority of the Trust's revenue is derived from

membership subscriptions, and much of the work is carried out by volunteers. It was originally formed by a group of concerned citizens, and is still functioning today only through the financial support of its members, and the work of a large team of highly dedicated volunteers. Please consider joining the Trust. As a member of the National Trust you will assist in gaining the protection and conservation of Victoria's built and natural heritage for future generations. You will also receive many practical benefits, including free entry to National Trust properties throughout Australia and many other countries; regular editions of *Trust News*; and discounts on various products, services, events and activities.

© National Trust of Australia (Victoria) February 2005

Contact Information:
National Trust of Australia (Victoria)
Tasma Terrace, 4 Parliament Place
East Melbourne, Victoria. 3002
Ph: 03 9656 9800 Fax: 03 9654 8143
✉ conservation@natrust.com.au
💻 www.natrust.com.au

