



SIGNIFICANT TREE PROTECTION

UNDERSTANDING SIGNIFICANCE & THE LAW



NATIONAL TRUST

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In recent years the people of Australia 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 bush, 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.

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.

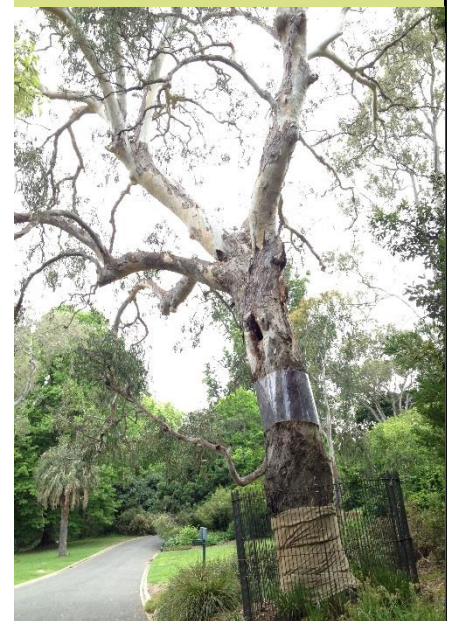
Over 2,000 significant tree records, have been compiled over 30 years by the National Trusts across Australia. These records represent over 25,000 trees around the country. Once confined to paper files and clunky databases, these records have now been updated by volunteers and loaded into the new National Trusts of Australia Register of Significant Trees website at www.trusttrees.org.au

*From Broome to Ballarat, Perth to the Parliamentary Triangle,
Cairns to Coober Pedy, the Register includes trees from all over Australia.
They grow between skyscrapers, in suburban backyards and parks,
in the main streets of regional centres, around rural towns and hamlets,
in the bush and outback.*

WHO WE ARE

The National Trusts of Australia are community-based, non-government organisations, committed to promoting and conserving Australia's indigenous, natural and historic heritage through its advocacy work and its custodianship of heritage places and objects. The National Trusts of Australia have collaborated to create a national register of significant trees, which is consistent with our mission to protect and celebrate Australia's heritage.

FIGURE 1. 'THE SEPARATION TREE',
ROYAL BOTANIC GARDENS
MELBOURNE.



UNDERSTANDING SIGNIFICANCE

Some states have been recording significant trees for over 30 years, and some states are just now beginning to identify their significant trees, but most trees on the Register were nominated by thoughtful local citizens. Anyone can make a nomination using the online nomination form at www.trusttrees.org.au/nominate.

Trees can be significant for a number of reasons, including scientific, social, historic or aesthetic significance, however the tree only needs to meet the benchmark for one of the following criteria to be included.

Horticultural

- Horticultural or genetic value
- Important source of seed or propagating stock
- Particularly resistant to disease or exposure
- Species or variety that is rare or of a very localised distribution
- Particularly old or venerable
- Remnant native vegetation
- Outstanding for its height, trunk circumference or canopy spread
- An outstanding example of the species

Social

- Unique location or context
- Contribution to landscape
- Associated with Aboriginal activities
- Important landmark
- Spiritual and religious associations
- Contemporary association with the community

Historic

- Forms part of an historic park, garden or town
- Commemorates an occasion e.g. memorial or ceremonial plantings such as Avenue of Honour
- Associated with an important event
- Associated with an important person, group or institution

Aesthetic

- A really great looking tree
- Exhibits curious growth form or unusual physical features whether naturally occurring, resulting from natural events or human intervention
- Is a better than an average example of its species, or in its particular location

In practice, many significant trees will qualify as significant under several of the above criteria. The Register is based on a hierarchy of significance, so classified trees are listed as being of National, State, Regional or Local significance. Classification by the National Trust does not require the approval of the owner, however, most owners take pride in the fact that they own a classified tree, and take responsibility for its proper management.

HOW DOES THE SIGNIFICANT TREE REGISTER PROTECT TREES?

The National Trust is not a statutory body and has no legal powers. Its influence lies in its ability to offer independent expert advice to a variety of government bodies, local councils, community groups and the general public. 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. Awareness brings community concern when these trees are threatened by poor management or removal.

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. Therefore we encourage you to nominate a tree to the National Trust and then use our endorsement to pursue 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:

- Local urban planning controls implemented by your local Council or Shire
- State heritage law (for trees with heritage values)
- State environmental law (for trees with natural values)

Protection for the great majority of significant trees is best achieved by local government planning controls.

TREE PROTECTION BY LOCAL GOVERNMENT

The National Trust believes that protection for trees included on the Register of Significant Trees is best afforded by local government planning controls.

Obviously, tree protection controls should restrict the lopping or removal of the tree itself. The controls should also apply to nearby works, in the land beneath and surrounding the designated tree – this is commonly called the Tree Protection Zone (TPZ). The TPZ includes the active root zone of the tree (which will normally extend beyond the drip-line or canopy edge of the tree). By including this land, it is 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.

In some cases, it may be better if the planning controls can be applied to specific trees which are marked on local planning maps, rather than a blanket controls over all trees of a certain size. Often landowners are not aware of blanket controls, and penalties for damage or removal fail to be a deterrent for wilful damage.

QLD

Local government heritage registers identify places of local significance in Queensland's shires, towns and cities.

NSW

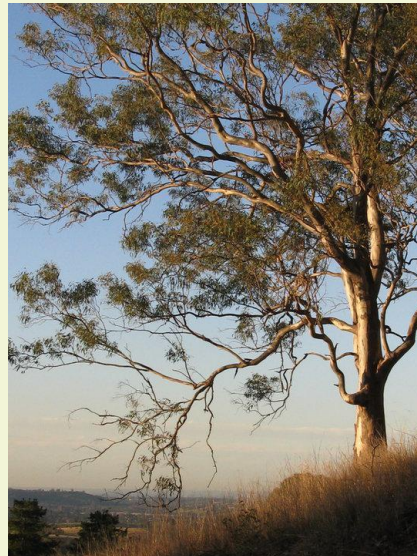
The **Local Environmental Plan (LEP)** for your municipality lists the heritage places or objects that are important for the community. Under the Environmental Planning and Assessment Act 1979, all local councils are required to identify items of local heritage significance in a heritage schedule to the LEP.

VIC

Planning Scheme Overlays identify places of significance within a local municipality, managed by the Local Government Authority through the local Planning Scheme under the provisions of the *Planning and Environment Act 1987*. Overlays that protect significant trees against removal as well as adverse works, include the Heritage Overlay and the Environmental Significance Overlay.

TAS

Planning Scheme Heritage Schedules identify places of significance within a local municipality, managed by the Local Government Authority through the local Planning Scheme under the provisions of the *Land Use Planning and Approvals Act 1993*.



SA

Individual local Council development plans may declare individual trees and stands of trees to be significant. This relies on councils identifying and lodging DPAs with the Minister for Planning, and only the Cities of Adelaide, Burnside, Prospect and Unley have taken this option so far.

WA

Local governments are required to maintain a **Municipal Heritage Inventory (MHI)** that identifies places of heritage significance within the LGA. Places added to the MHI are normally assigned a level or category of significance with those places at a higher level being subject to planning controls regarding development including demolition.

ACT

Significant trees in the ACT urban environment are identified and protected through the Tree Protection Act 2005. The Act creates an ACT Tree Register, a Tree Advisory Panel and measures to control damage to 'protected' trees.

NT

Neither the Northern Territory parliament nor any local government authorities have controls to protect trees on private land - except for any which may be listed as part of a heritage place under the Heritage Conservation Act. Councils do have bylaws protecting trees on public land.

ABORIGINAL CULTURAL HERITAGE TREES

Aboriginal cultural heritage places, sites and objects (including culturally significant trees) are protected by Commonwealth (*Aboriginal and Torres Strait Islander Heritage Protection Act 1984*) and State legislation. This protection applies equally on Crown and freehold land, and does not depend upon any listing or registration process. Your state government heritage agency can advise on its implications for owners and managers.

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*.



STATE HERITAGE REGISTERS

In most states and territories, there is heritage legislation to protect heritage places and objects of state significance. Historically significant trees are sometimes included on these registers, either as individual places or part of a larger heritage complex that includes buildings, gardens or other features. The table below gives a basic overview of the relevant legislation for each state and territory.

For more detailed information, visit: http://treenetmedia.com/up/pdf/2012/Urban%20Trees_Lensink.pdf

QLD

The Queensland Heritage Register is a statutory list of places that are protected by the Queensland Heritage Act 1992. This is a list of places, trees, natural formations, and buildings of cultural heritage significance. The Register protects significant cultural heritage places.

The Register is managed by the Department of Environment and Heritage Protection.

NSW

Listing on the State Heritage Register means that the heritage item is legally protected as a heritage item under the NSW Heritage Act and requires approval from the Heritage Council of NSW for major changes.

The Register is managed by the Heritage Division of the Office for Environment and Heritage.

VIC

Listing on the Victorian Heritage Register means that the heritage item is legally protected under the Victorian Heritage Act 1995.

Changes to a place that is on the Victorian Heritage Register usually require a permit from Heritage Victoria, which over-ride local Council heritage permits.

The Register is managed by Heritage Victoria, a division of the Department of Environment, Land, Water and Planning.

TAS

Administration of the Historic Cultural Heritage Act 1995 and the Tasmanian Heritage Register is by the state Heritage Council.

Any development on heritage listed places requires the approval of the Heritage Council before works can commence.

The Register is managed by Heritage Tasmania, within the Department of Primary Industry, Parks, Water and Environment.



SA

DEWNR and the South Australian Heritage Council are responsible for protecting listed heritage trees. South Australia's Development Act also has provisions that control damage to trees from development activities. The Act only applies to trees located in the Adelaide metro area and the Adelaide Hills.

WA

The Heritage Council of Western Australia provides legal protection to places under the Heritage of Western Australia Act 1990. Any changes or works that may affect the significance of registered places are referred to the Heritage Council for advice.

The Register is managed by the State Heritage Office.

ACT

Significant trees in the ACT urban environment are identified and protected through the Tree Protection Act 2005. The Act creates an ACT Tree Register, a Tree Advisory Panel and measures to control damage to 'protected' trees.

NT

Neither the Northern Territory parliament nor any local government authorities have controls to protect trees on private land - except for any which may be listed as part of a heritage place under the Heritage Conservation Act. Councils do have bylaws protecting trees on public land.

This information is presented as a guide only and we suggest you seek advice regarding the specific controls that apply to individual properties.
For further information contact the Planning or Environment Department of your local Council.

***Take pleasure and delight in your role as custodian of a special tree,
knowing your stewardship positions the next generation
of custodians to follow in your footsteps.***

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We thank Treenet for their contribution to this document.

Enquiries: trust.trees@nattrust.com.au
This document is available for download from www.trusttrees.org.au

