



Department of Environment, Land, Water and Planning

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delwp.vic.gov.au

Mr David Morrison
President
Combined Residents of Whitehorse Action Group (CROWAG) Incorporated
PO Box 406
BLACKBURN VIC 3130

Ref: MIN052181



Dear Mr Morrison

CITY OF WHITEHORSE – TREE PROTECTION MATTERS

Thank you for your letters of 8, 10 and 13 December 2018 to the Hon Richard Wynne MP, Minister for Planning, about VicSmart tree removal permits, penalties for illegal tree removal and the interim tree controls that apply in the City of Whitehorse under the Significant Landscape Overlay Schedule 9 (SLO9). As these matters are in my area of responsibility, I am responding on the Minister's behalf.

I note your concern about the effect of multiple VicSmart single tree removal applications. However, while VicSmart provides a streamlined process, a council must still assess each application on its merits against tailored decision guidelines and can refuse to grant a permit if appropriate. Critically, the council must consider the cumulative impact of the number of trees that have been removed or been approved for removal in the past three years. It must also consider other important matters such as requirements of overlays, the tree's role in conserving flora and fauna and its contribution to the significance of the area.

Thank you for the information about the legislative regime for illegal tree removal in New South Wales. In Victoria, illegal tree removal is usually addressed under the *Planning and Environment Act 1987* and the *Local Government Act 1989*. Under the *Planning and Environment Act 1987*, any person who fails to comply with a planning scheme is guilty of an offence. Depending on the nature of the offence, the responsible authority, which is usually the council, can take action in various ways. These include issuing a planning infringement notice imposing a financial penalty which can also require remedial action to be taken, a Victorian Civil and Administrative Tribunal enforcement order, or legal prosecution.

Under the *Local Government Act 1989*, councils can make local laws. Some Victorian councils have made laws to protect trees that can impose financial penalties and require remedial action for illegal tree removal. The council is responsible for administration and enforcement under both Acts.

In relation to your request to extend the SLO9 tree controls, the Minister has approved Amendment C214whse to the Whitehorse Planning Scheme, which extends the current overlay on an interim basis until 30 June 2019. This allows the council time to carry out the strategic planning work to support a request to prepare and exhibit permanent planning controls. The permanent planning controls would be subject to a full public consultation process.

For more information about how the council assesses VicSmart applications, penalises illegal tree removal or the status of strategic work to develop permanent tree controls, I suggest that you contact Whitehorse City Council on (03) 9262 6333.

If you would like more information about any other matter, please call Adam Henson, Acting Manager, State Planning Services, Department of Environment, Land, Water and Planning, on (03) 8392 5468 or email adam.henson@delwp.vic.gov.au.

Yours sincerely

S. Menzies

Stuart Menzies

Acting Executive Director, Statutory Planning Services

11 / 1 / 19

Cc: David Berry
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