

Planning for Biodiversity Policy

Policy statement

The purpose of this policy is to provide guidance to council officers and developers to ensure all new conservation reserves are appropriately designed and handed over in a suitable condition. The policy establishes the Council expectations of the design, securing, management, monitoring and vesting of conservation assets.

Purpose

Council is committed to ensuring that our landscapes, waters and species are protected, improved and valued as a result of development.

Council is committed to ensuring that as a requirement of development:

- Biodiversity values are protected and enhanced to achieve a net gain in quality, extent and connectivity of conservation assets within the municipality.
- Conservation assets are well integrated within the built environment and the community is able to access and enjoy these spaces.
- That the creation, management and vesting of all new conservation reserves improves their condition and ongoing management.
- All new conservation reserves achieve the key strategic directions and environmental outcomes of the city.

Scope

This policy is applicable to:

- Any proposed precinct structure plan, development plan, planning permit application or equivalent, which has the potential to impact on native vegetation, scattered indigenous trees or waterways
- Council works which have the potential to impact on native vegetation, scattered indigenous trees or waterway (whether conducted by, or on behalf of, Council).
- Any native vegetation offset reserve or other biodiversity conservation reserve which is located within the municipality.

Alignment to Whittlesea 2040

The Planning for Biodiversity Policy primarily guides Council's work toward the following Goal as outlined in *Whittlesea 2040: A place for all: Sustainable Environment*

This policy enables the achievement of Goal 4 Sustainable Environment from Whittlesea 2040. The policy supports the delivery of the outcomes from the Sustainable Environment Strategy 2022-24:

- Our landscapes, waters, and species are protected, improved, and valued

Date of Adoption	Next Review Date	Directorate Responsible
2 August 2023	2 August 2027	Infrastructure and Environment

- Our land management and land use are sustainable
- Our natural environment and biodiversity are resilient to climate change

Additionally, this Policy is informed by:

- Approved Precinct Structure Plans, Structure Plans and Development Plans
- Clause 42.01 Schedule 5 Environmental Significance Overlay – River Red-Gum and Grassy Woodlands (Whittlesea Planning Scheme)
- Australian Standard AS4970: 2009 Protection of Trees on Development Sites
- Clause 12.01-1S - Protection of biodiversity
- City of Whittlesea - Guidelines for the Preparation of Conservation Management Plans

This policy will help guide Council’s work delivered through the review of conservation management plans and negotiation of conservation reserve handover.

Any reference to an Act, Regulation, Policy, Standard, Strategy, Plan, Guideline or the Whittlesea Planning Scheme, includes a reference to that document as amended, updated or replaced.

Overarching Governance Principles

The development of this Policy considered the *Local Government Act 2020’s* Overarching Governance Principles and the following were applied:

Lawful	<input type="checkbox"/>	Community engagement	<input checked="" type="checkbox"/>	Financially viable	<input checked="" type="checkbox"/>
Best community outcome	<input type="checkbox"/>	Innovation & improvement	<input checked="" type="checkbox"/>	Consistent with government plans	<input checked="" type="checkbox"/>
Sustainable	<input checked="" type="checkbox"/>	Collaboration with government bodies	<input type="checkbox"/>	Transparent	<input checked="" type="checkbox"/>

Innovation and improvement: The policy aim is to provide clarity on the planning of conservation reserve within the City of Whittlesea and as such in aiming for continuous improvement of existing planning processes.

Financially viable: The implementation of this policy will assist in containing the cost borne by Council for the management of conservation reserve assets.

Consistent with government plans: This policy includes linkage to relevant state and national policies as they relate to biodiversity protections within the planning process. The policy reflects requirements of state strategic planning including Precinct Structure Plans.

Transparent: This policy aims to formalise some existing processes within Council to enable applicants to better understand Council’s approach to applications to remove native vegetation, the establishment and handover of conservation reserves.

Date of Adoption	Next Review Date	Directorate Responsible
2 August 2023	2 August 2027	Infrastructure and Environment

Gender Equality, Climate Change, Human Rights and Child Safe Compliance Implementation of the Planning for Biodiversity Policy will improve climate change resilience within the City of Whittlesea through the creation and enhancement of conservation reserves. The adoption of a clear standard for accepting conservation reserves will result in the sustainable retention of conservation areas that provide ecosystem services such as carbon sequestration, groundwater infiltration and improvement of local biodiversity within the municipality. The retention of large trees within these reserves will contribute to minimising the urban heat effects experienced across the municipality. These outcomes will positively contribute to the objectives under the Climate Change Act.

An assessment of this policy under the Victorian Charter of Human Rights and Responsibilities has been undertaken and determined that the application of this policy will not limit the rights of any persons as set out within the Charter.

All City of Whittlesea policies comply with the *Victorian Charter of Human Rights and Responsibilities*, *Gender Equality Act*, *Climate Change Act* and the *Child Safe Standards*.

Definitions*Biodiversity*

The variety of all forms of life, including:

- Genetic diversity – the variety of genes contained in each individual lifeform
- Species diversity – the variety of species
- Ecosystem diversity – the variety of ecological communities and habitats

Biodiversity Conservation Strategy

The Biodiversity Conservation Strategy (June 2013) is the overarching strategy for the protection of biodiversity in Melbourne’s growth corridors.

Conservation Reserve

A parkland reserve managed by a public authority (including Council) for the purposes of the protection of biodiversity ecological values.

Ecological connectivity

The ability for an exchange of individuals between populations, which may help prevent the negative effects of inbreeding and reduced genetic diversity that can occur within isolated populations. Ecological connectivity can help in the re-establishment of species that may have become locally extinct and assist in species adapting to changing climatic conditions.

Ecosystem Services

The contribution that native vegetation plays in protecting important ecosystem service such as disease regulation, erosion control, flood management, clean air and pollination services.

Early Management Responsibility

The acceptance of Council to manage an Offset Reserve in accordance with an approved Offset Management Plan prior to the conclusion of the 10-year management period.

General Habitat Units

Date of Adoption	Next Review Date	Directorate Responsible
2 August 2023	2 August 2027	Infrastructure and Environment

A unit of measurement that calculates the impact of proposed clearance of native vegetation when that clearance does not have a significant impact on the habitat for a rare or threatened species.

Handover of Responsibility

The time when Council accepts maintenance responsibility at the conclusion of the 10-year management period for any offset reserve to be vested to Council or at a negotiated Early Management Responsibility date.

In-perpetuity agreement

On-title protection agreement that has no end; the native vegetation cannot be removed now or at any time in the future.

Native Vegetation

Plants indigenous to Victoria including, trees, shrubs, herbs and grasses.

Native Vegetation Credit Register

The Native Vegetation Credit Register is a register controlled by the Department of Energy, Environment and Climate Action (DEECA) that has the aim of improving consistency in the standards for native vegetation credits and transparency in how credits are traded and used. It assists with the trading of credits ensuring that credits are suitable to be used as an offset and that they have not been previously allocated. The Native Vegetation Credit Register sets minimum standards for security and management of sites used to generate native vegetation credits.

Native Vegetation Offsets

In Victoria when native vegetation and scattered trees are permitted to be cleared, native vegetation offsets to compensate the environment for the loss of biodiversity values is required. There are two types of offsets under the native vegetation guidelines in Victoria: General Habitat Units and Species Habitat Units

Native Vegetation Protection Standards

Where a proponent is seeking to retain or remove native vegetation the following Standards provide guidance on determining the level of protection for any retained or removed vegetation and determining if offsets are required. The Standards appear in descending order of priority.

a) Protected

- Vegetation is protected at two metres from the edge of habitat zones and twice the canopy width of each tree (patches and scattered), whichever is the greater.
- Vegetation will not be subject to any current exemptions under the Whittlesea Planning Scheme that will be enacted once the development is completed.
- Vegetation can generally be used as an offset site / offset reserve subject to the Department of Energy Environment and Climate Action requirements which include on-title protection.

b) Retained (scattered trees only)

Date of Adoption	Next Review Date	Directorate Responsible
2 August 2023	2 August 2027	Infrastructure and Environment

- Trees are protected in accordance with the Australian Standard AS4970-2009 Protection of Trees on Development Sites and City of Whittlesea Tree Protection Standard SDL.2.01.A.
- Vegetation is not subject to any exemptions under the Whittlesea Planning Scheme that will be enacted once the development is completed.
- Trees do not have to be offset but cannot be used to claim offset credits.

c) Deemed Lost

- Vegetation is retained but is subject to potential clearance which would not require a planning permit under Clauses 52.16 or 52.17 of the Whittlesea Planning Scheme, or
- The subject tree cannot be protected in accordance with Australian Standard AS4970-2009 Protection of Trees on Development Sites.
- All offsets must be obtained before any vegetation is removed, works commence and prior to the certification of the plan of subdivision. For example, any vegetation retained on a lot of less than 0.4ha is required to be completely offset.

d) Removed

- The vegetation is removed at the time of the development.
- All offsets must be obtained before any vegetation is removed, works commence and prior to the certification of the plan of subdivision.

Offset Reserve

A Conservation Reserve which has specific on-title improvement and management requirements to compensate the environment for the loss of native vegetation.

Victorian Native Vegetation Regulations

A set of regulations (Guidelines for the removal, destruction or lopping of native vegetation) which assist with determining the impact of applications under clauses 52.16 and 52.17 of the Whittlesea Planning Scheme on state significant biodiversity values.

Remnant Patch

A remnant patch of native vegetation is either:

- an area of vegetation where at least 25 per cent of the total perennial understorey plant cover is native
- any area with three or more native canopy trees where the canopy foliage cover is at least 20 per cent of the area.

Scattered Indigenous Trees

A scattered tree is a native canopy tree that does not form part of a remnant patch.

Section 173 Agreement

Date of Adoption	Next Review Date	Directorate Responsible
2 August 2023	2 August 2027	Infrastructure and Environment

An agreement made between Council and another party or parties under Section 173 of the *Planning and Environment Act 1987*.

Section 69 Agreement

An agreement to protect Native Vegetation on freehold land in perpetuity under section 69 of the *Conservation Forest and Lands Act 1987*.

Species Habitat Unit

A unit of measurement that calculates the impact of proposed clearance of native vegetation when that clearance will have a significant impact on the habitat of a rare or threatened species. The offset must compensate for the removal of that species' habitat.

Trust for Nature Covenant

A Trust for Nature Covenant is a permanent, legally binding agreement placed on a property's title to ensure native plants and wildlife on the property are protected forever. The covenant is created under the *Victorian Conservation Trusts Act 1972*.

Procedures and implementation

Applications to Remove, Destroy or Lop Native Vegetation

Applications to remove, destroy or lop native vegetation must provide the following information to ensure that the proposal can be assessed against the objectives of the policy.

- a) The context of the site and its surrounds with regards to the entire network of existing and future reserves (including conservation reserves and open spaces whether managed by State agencies, City of Whittlesea or other councils)
- b) The presence and location of indigenous and non-indigenous cultural heritage values on the site
- c) Biodiversity conservation attributes within the site (including but not limited to):
 - Areas of high-quality conservation significance
 - Presence of trees with a diameter at breast height over 40cm and/or less with hollows
 - Areas of high floristic richness
 - The impact of the development on habitat connectivity for flora and fauna species and vegetation communities
 - The size of the conservation area regarding ongoing viability of the populations of the flora and fauna species to be protected
 - Areas of the site that represent a moderate to high quality example of a rare, vulnerable or endangered Ecological Vegetation Class (EVC) or support habitat for a

Date of Adoption	Next Review Date	Directorate Responsible
2 August 2023	2 August 2027	Infrastructure and Environment

rare and threatened species listed under the Department of Energy, Environment and Climate Action advisory list

- Current or likely requirements to meet a relevant *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC) approval condition (e.g. Biodiversity Conservation Strategy)
 - The role that the biodiversity values and any canopy cover have in providing for local amenity, urban cooling and landscape character.
 - The location of any natural waterways, wetlands and artificially constructed drains and dams. The natural hydrological conditions of the site.
- d) An assessment of opportunities to avoid and minimise the loss of native vegetation within the site.
- e) Any bushfire, grassfire or public safety risks.
- f) The capability of the land to support the proposed activity including slope, land subsidence potential, presence of dispersive/sodic soils and protection of water quality, including the role of native vegetation in preventing soil erosion, degradation or landslip.
- g) The requirement and size of any proposed sewage and effluent easements.
- h) An assessment of the vegetation to be retained and removed against the Native Vegetation Protection Standards.

All vegetation being removed as part of an application under this policy or part of the Whittlesea Planning Scheme must be responsibly disposed of unless other direction is provided by council, such as retention of large logs for habitat creation.

Native Vegetation Offset Allocations

This section outlines Council's requirement for the acceptance of offset allocations where a proposal to clear native vegetation has been permitted.

Native Vegetation Guidelines

- a) Native Vegetation Offsets are to be determined in accordance with Victoria's Guidelines for the removal, destruction or lopping of native vegetation guidelines incorporated in the Victorian Planning Scheme, and any subsequent approved guidelines or programs.
- b) Offset sites for General Habitat Units and Species Habitat Units must be located within City of Whittlesea. Where it can be demonstrated that suitable offset sites cannot be found within the municipality, offset sites must be located as close to the municipality as possible.
- c) The location of the offset sites for all credits purchased via the Native Vegetation Credit Register must be provided to Council prior to the issuing of Statement of Compliance. Offsets must be purchased prior to removal of native vegetation.
- d) Offset sites may be located either on private land or suitable freehold public land.

Date of Adoption	Next Review Date	Directorate Responsible
2 August 2023	2 August 2027	Infrastructure and Environment

- e) Offsets sites must be secured on title via a Section 69 agreement or Trust for Nature Covenant. Section 173 agreements are not to be used for this purpose. They may be used as a temporary measure (subject to Council approval) during the process of securing offsets through other means.

Biodiversity Conservation Strategy

For areas identified within the Biodiversity Conservation Strategy all environmental mitigation levies, habitat compensation obligations, offsets and land security obligations must be met in accordance with the approved documents.

Conservation reserve design and management (offset and non-offset)

This section outlines how Council will consider the design of conservation reserves

- All conservation reserves will be negotiated on a case by case basis and Council has the right to refuse acceptance of any conservation reserve.
- Conservation reserves can be created for the protection of native vegetation, biodiversity, and landscape values such as significant trees, creeks, waterways and escarpments.
- Council may consider accepting ownership of conservation reserves where a benefit to the community and the environment is achieved
- Each conservation reserve must be accompanied by a fully costed ten-year conservation management plan to be undertaken by the developer. Responsibility can be transferred to Council by negotiation, with all funds required to be transferred to Council for management.
- If a conservation reserve will be an offset reserve the ten-year Offset Management Plan will be used instead of a conservation management plan.

Shape and size

- a) Council will consider acceptance of conservation reserve assets of all shapes and sizes where ongoing management and protection can be ensured. In general reserves that are larger, contribute to habitat connectivity, enhance existing reserves, have a low area to perimeter ratio, or protect areas of significance will be more favourably considered.
- b) Wherever possible, all conservation reserves should be squared off to ensure the lowest edge to conservation ratio possible.

Hydrology

- a) Natural hydrological conditions are to be maintained for all conservation reserves, as far as practical.

Date of Adoption	Next Review Date	Directorate Responsible
2 August 2023	2 August 2027	Infrastructure and Environment

- b) When natural hydrological conditions cannot be maintained Integrated Water Management and Water Sensitive Urban Design is to be used to reinstate natural hydrological conditions.

Access

- a) Suitable access is encouraged for all conservation reserves (formal and informal paths). These must be located outside of tree protection zones, and areas of significant habitat for native flora and fauna.
- b) Wherever possible access paths should also serve as fire breaks and management tracks

Integration with urban form and landscaping

- a) All conservation reserves within residential areas must be bordered with road frontage wherever possible. Backs of lots must not interface with any conservation reserve.
- b) All conservation reserves must include buffers within the streetscape and public land realm that include the reintroduction of indigenous vegetation and improvements to landscape values. Applicants should consult with Council's Landscape Planning Team and Sustainable Environment Department for guidance.
- c) Infrastructure services must not be placed within two metres of a conservation reserve boundary.
- d) Where a road needs to be in cut or fill adjacent to a conservation reserve, the level change should be located on the urban side of the road, rather than the conservation reserve side of the road.
- e) Where possible the planting of indigenous vegetation of local provenance should seek to extend and continue vegetative corridors and linkages, while ensuring that such plantings do not increase or introduce the risk of wildfire.
- f) Introduced species which are known to prove a weed risk to conservation reserves must not be used in landscape planting within 400 metres of conservation reserves.
- g) All waterway conservation reserves must be protected from infrastructure at the minimum thresholds whichever is the greatest:
 - 10 metres past the 1 in 100 average recurrence interval flood line, or
 - 35 metres past the top of the bank, and
 - encompassing any adjacent native vegetation and scattered trees
- h) Where two conservation reserves are separated by a road or similar barrier, the risk of the barrier to faunal habitat connectivity must be investigated and where needed, suitable structures be implemented that increase the connectivity (e.g. frog underpasses, fauna bridges).

Fencing and Cross overs

- a) Fencing must be made of fire-retardant materials. The use of recycled materials is desirable and encouraged.

Date of Adoption	Next Review Date	Directorate Responsible
2 August 2023	2 August 2027	Infrastructure and Environment

- b) All fencing for conservation reserves must allow for fauna movement unless specific features are required to control the movement of declared pest animals.
- c) Fencing must allow for access gates for management vehicles and pedestrians
- d) All management vehicle cross over points must be supported by heavy duty concrete cross overs and lockable access gates

Fire breaks

- a) All reserves should be interfaced with roads to provide adequate fire safety break. Residential lots backing onto reserves must not be permitted.
- b) A road reserve must be provided in all circumstances for access, maintenance and provision of a fire break.
- c) All fire mitigations measures (slashed fire breaks, earth bunds, setbacks) must be considered in the design of conservation reserves. Where a conflict between fire prevention and conservation aims is identified, fire mitigation measures are required to be located outside conservation reserves.

Signage

- a) All signage must be in accordance with current City of Whittlesea signage standards.

Native Vegetations Offsets Reserves (new reserves)

This section is applicable in circumstances where the native vegetation offsets are located in reserves, created through the subdivision processes (which are to be vested to Council).

- a) The applicant is responsible for funding all actions and achieving the required management objectives within the minimum statutory 10-year offset management time period.
- b) Where the offsets are located in future reserves which are to be vested to Council, a third party on-title agreement must be entered into prior to the vesting of the reserve with council. This is to ensure that the in-perpetuity requirements can be met.
- c) Land transferred for the purpose of reserves must be free and discharged of any encumbrances, mortgages, covenants.
- d) In some instances, Council may consider taking over the management and maintenance of offset sites prior to the 10-year timeframe where appropriate funding is provided by the applicant and subject to the following conditions:
 - i. Early Management Responsibility will be negotiated on a case by case basis and must include a legally binding agreement to the satisfaction of Council.
 - ii. Council will include the cost of project management for the remaining offset period in negotiations with the applicant.
 - iii. Council will not take over management and maintenance of offset sites within the 10-year management period where the appropriate funding is not available.

Date of Adoption	Next Review Date	Directorate Responsible
2 August 2023	2 August 2027	Infrastructure and Environment

- iv. Where possible Council will seek to align handover of conservation assets with landscape and open space assets especially in co-managed areas.
- e) Any funds provided by applicants for offsets will be held by Council in a site-specific fund for each offset site.
- f) Regardless of preceding management arrangements, shared trails which may intersect the offset site are to be made assets of City of Whittlesea upon the vesting of the reserve in Council's name and following any required defects liability period.
- g) Post the 10-year management offset timeframe and once the reserve is vested with Council, the responsibility for managing any in-perpetuity protection and management requirements rest with Council.

Native Vegetations Offsets on Existing Public Land

- a) Where Council places offsets on existing Council freehold land the offsets must contribute to a Net Gain in the ecological outcomes for the site and will only be used to conduct ongoing additional management of the offset site. Offset funds will not be used for any activity currently funded by Council or required by existing legal responsibilities under any legislation
- b) The value of that land, at current property valuation, will be included in any offset value to be traded on existing public land.
- c) Any funds provided by applicants for offsets will be held by Council in a site-specific fund for each offset site.
- d) All Council managed offset sites must be secured on title via a Section 69 agreement or Trust for Nature Covenant.

Native Vegetation Offset on Private Land

This section is applicable to offset sites located on land that will remain in private ownership.

Offset sites which are to be located on private land must be secured on title via a Section 69 agreement or a Trust for Nature Covenant. Section 173 agreements are not to be used for this purpose. Section 173 agreements may be used as a temporary measure (subject to Council approval) during the process of securing offsets through other means.

Protection of Conservation Assets

All publicly owned conservation reserves should be rezoned to an appropriate environmental or conservation zone as soon as reasonably practical after the land is vested to the public authority.

Date of Adoption	Next Review Date	Directorate Responsible
2 August 2023	2 August 2027	Infrastructure and Environment