

National Trust Advocacy Toolkit

Advocacy Guide No. 6:
Protecting Trees in Victoria





2025 Tree of the Year
contender.

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About the National Trust of Australia (Victoria)

The National Trust of Australia (Victoria) is the state's leading independent heritage advocacy organisation. We advocate for the recognition, protection, and celebration of our diverse natural, cultural, social, and Indigenous heritage in our cities and regions.

The National Trust's vision is for our diverse heritage to be protected and respected, contributing to strong, vibrant and prosperous communities.

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Cover: Como Gardens, by Elizabeth Clancy

OBTAINING INDEPENDENT LEGAL ADVICE

This publication is intended only to provide a summary and general overview of relevant matters. It is not intended to be comprehensive nor does it constitute legal advice. While care has been taken to ensure the content is current, we do not guarantee its currency. You should seek legal or other professional advice before acting or relying on any of the content.

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Botanica Festival at Rippon Lea Estate, by Neisha Breen.

Introduction

About this Advocacy Guide

This guide is designed to help you understand how trees are protected in Victoria and how you can advocate for their preservation. It provides an overview of the existing legal protections for trees and vegetation, and suggestions on how to advocate for their protection. It is by no means exhaustive, and should not replace professional advice from your local Council, qualified arborists and/or legal professionals.

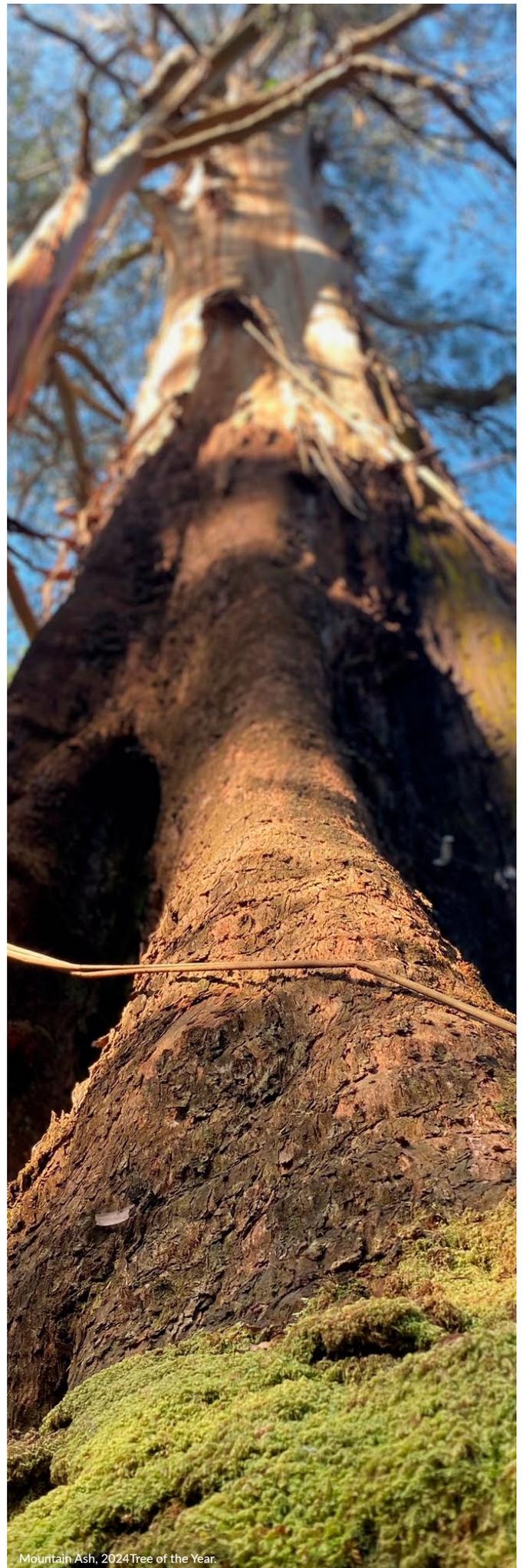
About the National Trust's Advocacy Toolkits

The toolkits are a series of free online resources and guides, developed by the National Trust of Australia (Victoria) to support community members to advocate for the protection of places of cultural heritage significance.

Cultural Heritage: Refers to the qualities of a society that are valued and passed on to future generations. Cultural heritage can be tangible and intangible, built and environmental, an object and a practise. Cultural heritage is not frozen in time: it is dynamic and adaptive; it is valued because it carries meaning, with qualities shared across communities and social barriers.

Trees are living heritage. They shape our landscapes, support biodiversity, and hold cultural, historical and aesthetic value. Whether towering gums or commemorative plantings, trees connect us to place and memory.

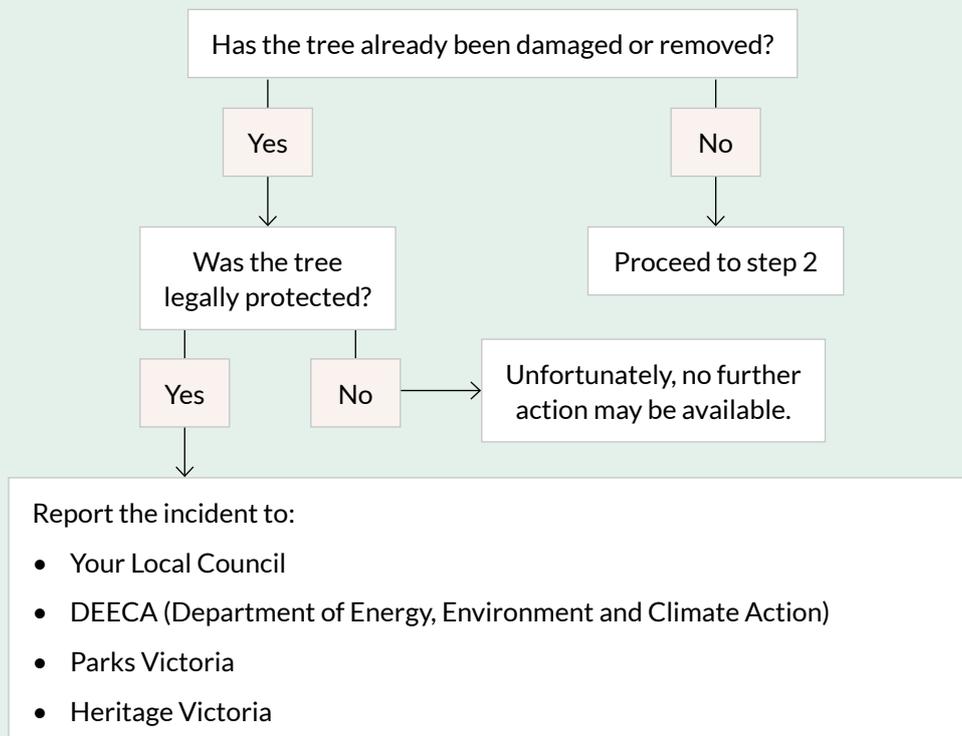
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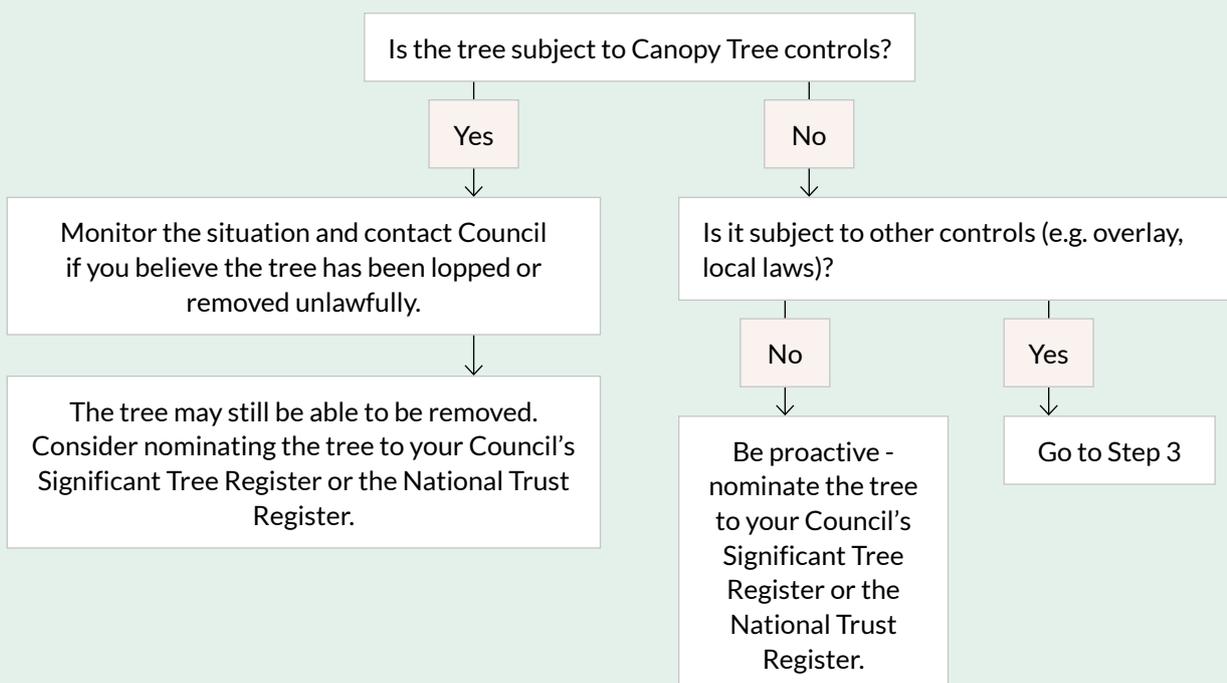
Mountain Ash, 2024 Tree of the Year.

How to Advocate for Protection of a Tree

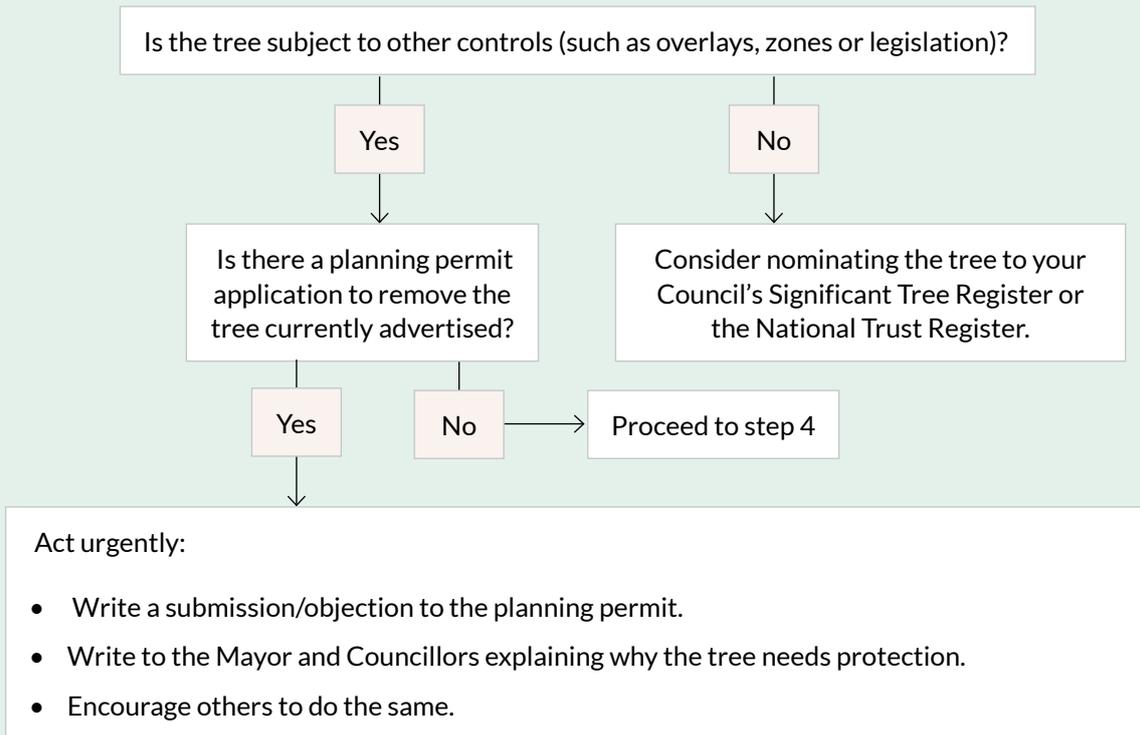
Step 1: Assess the situation



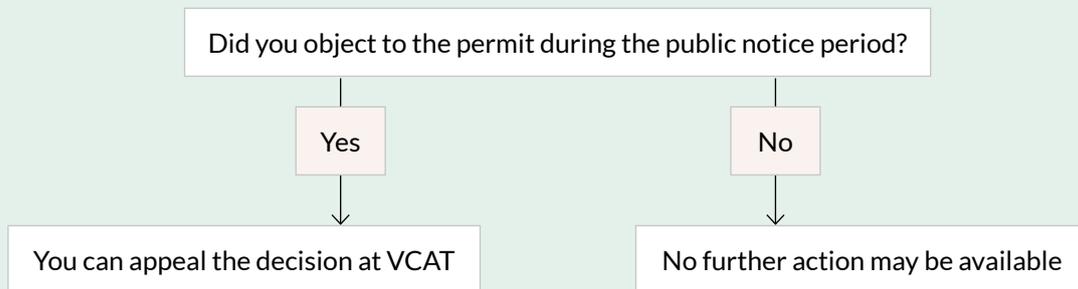
Step 2: Canopy Tree controls



Step 3: Other legal controls



Step 4: Responding to an approved Planning Permit



Note that some permits (Canopy Trees, some VicSmart applications) do not require advertising and submissions and review of decisions is not possible.



Aboriginal Heritage Walk, for the 2024 National Trust Heritage Festival.

Types of Tree Protections in Victoria

There are several planning provisions relevant to the protection of trees in Victoria. The two most important planning components for tree protection relate to planning scheme **zones** and **overlays**.

You can either search an address using [VicPlan](#) to check what zoning and overlays apply to that place or location, or ask your local Council. More information about specific zones and overlays is provided later in this guide.

In the first instance, the planning provision most likely to apply to trees in a residential situation is *Canopy Trees* (Clause 52.37).

Canopy Trees (Clause 52.37)

Clause 52.37 was introduced to all planning schemes in Victoria in 2025. It means a permit must be issued prior to the removal, destruction or lopping of certain trees (defined as 'canopy trees') in certain locations. This permit system seeks to balance the competing interests of maintaining adequate tree canopy cover while increasing housing density. Several factors determine whether a tree requires a permit prior to removal and what must be considered in granting or refusing a permit.

Where does the system apply?

Clause 52.37 applies to all parts of Victoria that fall within the following planning zones:

- General Residential Zone
- Mixed Use Zone
- Township Zone
- Residential Growth Zone
- Neighbourhood Residential Zone, and
- Housing Choice and Transport Zone

Permits are assessed by the Responsible Authority (usually the local Council).

What is a canopy tree?

A canopy tree is any tree that meets each of the following criteria:

- At least 5m in height.
- Has a trunk circumference of at least 50cm (measured at 1.4m from ground level).
- Has a canopy diameter of at least 4m

Do permits apply to all canopy trees?

No. Where a tree is located on a lot determines whether it requires a permit for removal. Where a dwelling already exists, only canopy trees within 6m of the front boundary or 4.5m of the rear boundary require a permit. If the lot is vacant, all canopy trees require a permit. There are also various exemptions. Detailed information on exemptions and other conditions can be found [here](#).

If a permit is required, is the tree automatically protected?

No. A tree defined as a canopy tree can still be removed. The tree may be considered unsafe or have the potential to damage infrastructure or unduly restrict a building proposal.

If a tree is removed, does it have to be replaced?

Generally speaking, yes. Minimum canopy requirements have also been introduced into planning schemes. If a tree is removed, sufficient trees must be retained or new ones planted that will meet minimum canopy requirements at maturity.

Do third parties (such as neighbours) have any say in the permit process?

No. There is no requirement to give notice of an application to remove a tree and third parties cannot have a ruling reviewed by VCAT. However, an applicant who has a permit refused may seek to have this decision reviewed by VCAT.

Do existing tree protection measures (such as overlays) still apply?

Yes. These changes do not override other planning provisions that may provide some form of tree protection, such as significant landscape or environmental significance overlays or local laws relevant to tree protection.

Other Tree Protection Planning Provisions

In addition to Clause 52.37, some (but not all) planning schemes include tree controls to protect significant trees and areas of important tree canopy. These usually relate to the planning scheme **zones** and **overlays**.

In a planning scheme, a **zone** broadly defines the permitted land uses (e.g., residential, commercial, industrial). While an **overlay** adds specific controls or restrictions to a property, addressing unique characteristics or concerns like heritage, environmental factors, or bushfire risk.

➤ You can search an address using [VicPlan](#) to check what zoning and overlays apply to that place or location, or ask your Local Council.



Planning Scheme Zones

Zones which can impact tree protection include:

- Green Wedge Zone
- Rural Conservation Zone
- Public Conservation
- Resource Zone

Planning Scheme Overlays

Overlays that most commonly protect trees include:

- Vegetation Protection Overlay (VPO)
- Significant Landscape Overlay (SLO)
- Environmental Significance Overlay (ESO)
- Heritage Overlay (HO) - Which can include Tree Protections, see below.

Associated with an overlay will be certain conditions on the development of that land. In the case of trees, that may mean that it is necessary to apply for a permit to remove, lop or prune existing trees or other vegetation.

Heritage Overlays

Heritage Overlays (HO) are used to identify and provide protection to areas of local cultural significance. A HO identifies places that can include built features and/or vegetation but often they only protect buildings and not the surrounding grounds.

Some trees are specifically noted as heritage features, perhaps if they have been included within a Register of Significant Trees, are part of an Avenue of Honour or Memorial Avenue, or if they have noted cultural value. If this is the case, it may be possible to advocate that the trees should be protected under a Heritage Overlay, or specifically noted within an existing Heritage Overlay for a historic building.

➤ By searching the individual Heritage Overlay number of place in the council planning scheme you can check whether a HO includes tree controls or not. To view a specific Planning Scheme and the controls that apply under its Heritage Overlay search the location [here](#).

Significant Tree Registers

Significant Tree Registers are official Federal, State or local lists that document trees considered to have notable value due to their size, age, species, historical or social significance, or contribution to the environment.

In Victoria, there is no consistency or compulsory standard for different Significant Tree Registers and no specific law for tree protection at the state level.

National Trust Significant Tree Register

The National Trust of Australia (Victoria) established a Significant Tree Register in 1982 and has since classified more than 15,500 trees in over 1300 places across the state. In the absence of clear and uniform statutory protection for trees (unlike that provided for heritage buildings) this register is an invaluable resource for recognising the value of significant trees, which form part of our living heritage.

As a not-for-profit, non-government organisation we do not have any statutory power to protect these classified trees, consequently we have been advocating for local councils to provide the necessary statutory protections. We have successfully advocated for the establishment of significant tree registers with many local councils. When a tree is added to the National Trust Significant Tree Register the relevant local authority is advised and urged to consider the tree for any local register that may apply.

Council Significant Tree Registers

In some municipalities, these significant trees are actively identified, documented and afforded stronger protections requiring permits for works and removals through planning scheme overlays or Local Laws.

At the time of publication of this guide (2025) the following Council's maintained their own Tree Registers, which are updated at varying intervals.

- City of Ballarat
- Banyule City Council
- Bass Coast Shire Council
- Bayside City Council
- Boroondara City Council
- Brimbank City Council
- Casey City Council

- Frankston City Council
- Glen Eira City Council
- Hepburn Shire Council
- Kingston City Council
- Maribyrnong City Council
- Melbourne City Council
- Mildura Rural City Council
- Moonee Valley City Council
- Swan Hill Rural City Council
- Whitehorse City Council
- Whittlesea City Council
- Yarra City Council

The following LGAs either have a register currently in process of being made, or they have a register without statutory protection

- Ararat Rural City Council
- Baw Baw Shire Council
- Benalla Rural City Council
- City of Greater Bendigo
- City of Greater Geelong
- Indigo Shire Council
- Latrobe City Council
- City of Melton
- Merri-bek City Council
- Mount Alexander Shire Council
- South Gippsland Shire Council
- Rural City of Wangaratta
- Wellington Shire
- Wyndham City Council
- Yarra Ranges Shire Council

It is prudent to be proactive and nominate a tree to the local council's Significant Tree Register before any planning threats occur. Councils usually only update registers every 2-5 years, and the process can be slow. If your council doesn't have a Significant Tree Register, write to your council and councillors encouraging them to establish one. Although your council may not have a register yet, they may identify significant trees by size only and offer other local statutory protection.

Native Vegetation Protection



Endeavour Fern Gully

Generally native (indigenous to Victoria) vegetation is protected under municipal planning schemes and native vegetation removal regulations. Some may also be specifically covered within a mapped Vegetation Protection Overlay (VPO). On private land, a permit from the local council is usually required to lop, destroy or remove native vegetation. It should be noted that native vegetation which is the result of planting which is not indigenous to the area may not be covered under these protections.

➤ For more information contact your local council directly or read more [here](#).

Threatened Species

If trees or vegetation are considered threatened at a State or National level, then there is greater statutory protection afforded to that species. It may be necessary to obtain proof of the existence of the threatened species on site, such as reports by ecologists or recognised Landcare groups.

Relevant legislation for the protection of threatened species at the Federal level is the Environment Protection and Biodiversity Conservation Act 1999. At the state level the relevant legislation is the Flora and Fauna Guarantee Act 1988.

The Flora and Fauna Guarantee Act includes a list of individual threatened species of flora and fauna, ecological communities and some processes which cause these threats.

➤ For more information about the Flora and Fauna Guarantee Act please see [here](#).

To check if the tree you are concerned about is on the Victorian threatened species list please visit [here](#).

If you suspect that someone is illicitly damaging or removing a threatened tree on public land then you can report it to the Office of the Conservation Regulator [here](#).

Aboriginal Cultural Heritage

In Victoria, trees of Aboriginal Cultural Heritage significance are protected under the Aboriginal Heritage Act 2006. This legislation recognises the cultural and spiritual significance of certain trees to Indigenous communities and requires consultation with **Traditional Owners** before any actions are undertaken that may adversely impact these trees and ensures that cultural values are considered in land use planning.

Trees that may be of Aboriginal heritage/cultural significance (but not limited to) include:

- Scar/scarred trees
- Birthing trees
- Ring trees
- Carved trees

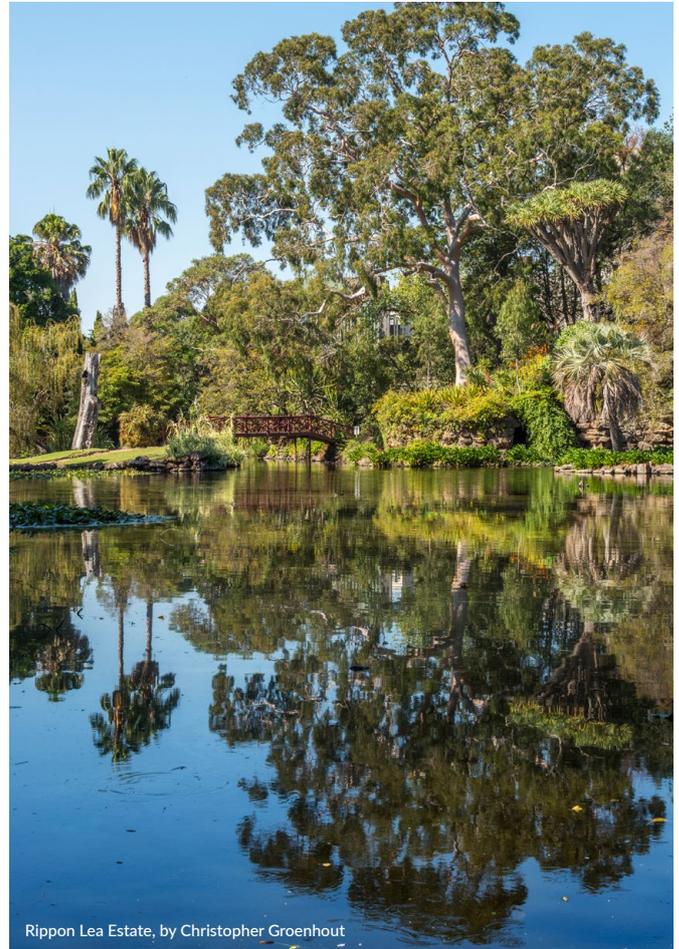
➤ If you think you may have identified a tree of Aboriginal cultural significance, please contact the relevant Registered Aboriginal Party, you can search the address [here](#).

Environment Protection and Biodiversity Act 1999

The Environment Protection and Biodiversity (EPBC) Act is the primary Federal legislation for the protection of the environment including flora, fauna, ecological communities, Ramsar wetlands and places of national heritage and international importance.

Similarly to the Flora and Fauna Guarantee Act, the EPBC Act also has a list of **nationally threatened species** with the aim to offer a higher level of protection for these species and places. A permit is required to remove a tree listed under the EPBC Act.

If a large development project in Victoria might impact a listed protected tree species then the matter must be referred to the **Federal Department of Climate Change, Energy, the Environment and Water (DCCEEW)**. They will assess if the project can proceed or whether it becomes a **'controlled action'** which the Federal Minister for the Environment and Water needs to approve.



Future of Legal Tree Protection in Victoria

As long term advocates for and custodians of some of Victoria's most Significant Trees, we recognise the lack of consistent and easily enforceable protection for trees. We persistently advocate for them to ensure liveable environments for us all, and a continuing legacy for future generations.

We would like to encourage people and organisations to support the National Trust of Australia (Victoria) in their work strategically advocating for this protection, and in administering our Significant Tree Register, by considering becoming a member of the National Trust or through a donation or bequest.

➤ Please visit: www.nationaltrust.org.au/vic