52.37 CANOPY TREES

15/09/2025
VC289

Purpose

To protect and enhance canopy tree cover to support greener and cooler residential areas.

To maximise the retention of existing canopy tree cover where no development is proposed.

To ensure that development is designed to maximise the retention and long-term health of existing and new canopy trees and contributes to increasing canopy tree cover.

To balance the retention of existing canopy trees and residential development to meet the housing needs of Victoria's growing population.

To encourage canopy tree cover that is site and climate responsive and supports the local environment.

52.37-1 Meaning of terms

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VC315

In clause 52.37:

- ***average canopy diameter*** means the average of the measurements of the distance between the widest points of a tree's drip line (the outer edge of foliage) in two perpendicular directions;
- ***canopy cover*** means the area of a tree's canopy;
- ***existing canopy tree*** means a tree that has:
  - a height of at least 5 metres above ground level; and
  - an average canopy diameter of at least 4 metres;
- ***boundary canopy tree*** means an existing canopy tree if any part of its trunk is within:
  - 6 metres of the narrowest street frontage of a lot; or
  - 4.5 metres of the rear boundary of a lot;
- ***new canopy tree*** means a tree proposed to be planted that is of a species and type that at maturity is expected to have:
  - a height of at least 6 metres above ground level; and
  - a canopy diameter of at least 4 metres.

52.37-2 Permit requirement

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A permit is required to remove, destroy or lop an existing canopy tree in the Mixed Use Zone, Township Zone, Residential Growth Zone, General Residential Zone, Neighbourhood Residential Zone, and Housing Choice and Transport Zone.

This does not apply:

- If the table of exemptions in clause 52.37-8 specifically states that a permit is not required.
- To the removal, destruction or lopping of an exisitng canopy tree (other than a boundary canopy tree) identified for assessment in an application to which clause 54, 55, 57 or 58 applies and the tree is not removed, destroyed or lopped until the permit is issued.
- To the removal, destruction or lopping of an existing canopy tree (other than a boundary canopy tree) if the site is developed with an existing dwelling.

VicSmart application

Subject to clause 71.06, an application under this clause is a class of VicSmart application and must be assessed against this clause (excluding clause 52.37-4 and 52.37-5).

52.37-3 Canopy cover requirement

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The total canopy cover of trees on the site should be equivalent to at least the percentage of the site area specified in Column 2 to Table 1 corresponding to the applicable site area specified in Column 1.

The canopy cover requirement can only be met by retaining an existing canopy tree, planting a new canopy tree or a combination of both, within the site.

Table 1 - Canopy cover

Column 1 Site area	Column 2 Canopy tree requirement
1000 square metres or less	10 per cent of site area
More than 1000 square metres to 1500 square metres	15 per cent of site area
More than 1500 square metres	20 per cent of site area If the existing total canopy cover is more than 20 per cent of the site area, the tree canopy requirement is 20 per cent of the site area plus 50 per cent of the area of existing canopy cover that exceeds 20 per cent.

Example: If the site area is 2000 square metres and the existing total canopy cover within the site is 30 per cent of th site area, the required total canopy cover is 25 per cent (20% + [(0.5 x (30% -20%)] = 25%).

The total canopy cover required by Table 1 includes:

- The total canopy cover of an existing canopy tree, whether or not the canopy cover is wholly contained within the boundaries of the site.
- The canopy cover within the boundaries of the site of a new canopy tree and any part of the canopy cover overhanging land in a public road or public open space.
- The canopy cover of an existing canopy tree and a new canopy tree that extends below, or overhangs, an existing or proposed building located on the site.
- Any overlapping canopy cover of an existing canopy tree or a new canopy tree provided that the overlapping canopy cover is only counted once.

At least one existing canopy tree or new canopy tree is to be located within the front setback. This does not apply if it is proposed to retain one existing canopy tree that meets the minimum total canopy cover requirement and that tree is not located in the front setback.

Each new canopy tree should be planted in either deep soil or a planter that meets the following requirements:

- Deep soil must be at least the area and plan dimension specified in Columns 2 and 5, respectively, of Table 2 corresponding to the tree's expected canopy diameter at maturity specified in Column 1.
- A planter must be at least the soil volume, soil depth, and plan dimension, specified in Columns 3, 4 and 5 of Table 2 corresponding to the tree's expected canopy diameter at maturity specified in Column 1.
- If two or more new canopy trees are to be planted in the same area of deep soil, the required area of deep soil can be reduced by the percentage specified in Column 2 of Table 3 corresponding to the number of trees specified in Column 1.

Table 2 Deep soil and planter requirements

Column 1 Expected canopy diameter at maturity	Column 2 Minimum deep soil area	Column 3 Minimum tree in planter soil volume	Column 4 Minimum tree in planter soil depth	Column 5 Minimum deep soil or tree in planter plan dimension
4 metres and less than 5 metres	12 square metres	8 cubic metres	0.8 metres	2.5 metres
5 metres and less than 6 metres	16 square metres	12 cubic metres	0.8 metres	3 metres
6 metres and less than 7 metres	25 square metres	17 cubic metres	0.8 metres	3.5 metres

Column 1 Expected canopy diameter at maturity	Column 2 Minimum deep soil area	Column 3 Minimum tree in planter soil volume	Column 4 Minimum tree in planter soil depth	Column 5 Minimum deep soil or tree in planter plan dimension
7 metres and less than 8 metres	36 square metres	23 cubic metres	0.8 metres	4 metres
8 metres and less than 9 metres	49 square metres	30 cubic metres	1.0 metres	4.5 metres
9 metres and less than 10 metres	64 square metres	38 cubic metres	1.0 metres	5 metres
10 metres and less than 11 metres	81 square metres	47 cubic metres	1.0 metres	5.5 metres
11 metres and less than 12 metres	100 square metres	57 cubic metres	1.0 metres	6 metres
12 metres and less than 13 metres	121 square metres	68 cubic metres	1.5 metres	6.5 metres
13 metres and less than 14 metres	136 square metres	80 cubic metres	1.5 metres	7 metres
14 metres and greater	144 square metres	92 cubic metres	1.5 metres	7.5 metres

Table 3 Reduced deep soil area

Column 1 Number of new canopy trees to be planted in same area of deep soil	Column 2 Percentage reduction of area of deep soil
2	5 per cent
3	10 per cent
4	15 per cent
5	20 per cent
6 or more	25 per cent

The following can encroach into the total area of deep soil:

- Impervious surfaces by no more than 10 per cent.
- Unroofed decking by no more than 50 per cent, provided the gap between the decking boards is at least:
  - 4 millimetres for decking boards not more than 90 millimetres wide.
  - 5 millimetres for decking boards more than 90 millimetres wide.
  - 8 millimetres if the deck is less than 400 millimetres above ground level.
- An eave not exceeding a width of 600 millimetres.

52.37-4 Decision exemptions

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Despite any other provision of this planning scheme, in determining applications to which this clause applies, the responsible authority is exempt from and is not required to consider the decision guidelines in Clause 65.

An application to which this clause applies is exempt from the requirements of:

- Section 60(1)(b), (c), (e) and (f) and (1A) of the Act.
- Section 84B(2)(b) to (ja) of the Act.

52.37-5 Exemption from notice and review

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An application is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act.

52.37-6 Application requirements

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An application must be accompanied by the following information, as appropriate:

- A site plan, photographs or other techniques that accurately describe:
  - The location of all canopy trees and other vegetation on the site.
  - The canopy trees proposed to be removed, destroyed or lopped, including species, height and canopy diameter.
  - The location and details of existing and new canopy trees, including species, type, expected height and expected canopy diameter at maturity, soil conditions and proposed irrigation.
- An explanation of why the canopy tree is proposed to be removed, destroyed or lopped and, if applicable, an explanation of why the proposal does not meet the canopy tree requirement.
- Details of the proposed buildings or works, including plans of the development, if the canopy tree is proposed to be removed, destroyed or lopped to enable construction of a building or the construction or carrying out of works.
- An assessment of the canopy tree prepared by a suitably qualified person, if the canopy tree is proposed to be removed or lopped due to its health or stability.

If in the opinion of the responsible authority an application is not relevant to deciding the application, the responsible authority may waive or reduce the requirement.

52.37-7 Decision guidelines

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Before deciding on an application the responsible authority must consider, as appropriate:

General

- The purpose of the clause 52.37.
- The extent to which the existing and new canopy trees contribute to a greener environment and reduce urban heat.
- The existing, proposed or likely future development of the site and adjacent land.
- The species, type and growth characteristics of existing and new canopy trees.
- Whether existing or new canopy tree will adversely impact or be impacted by pedestrian and vehicle access to the site, easements, overhead power cables, buried infrastructure such as sewer pipes, building foundations and other structures.
- Any physical constraints, such as topography, soil and drainage conditions which may prevent the planting or growth of the required number of trees.
- The impact of existing or new canopy trees on solar access to windows on the site and any existing solar energy system.
- If the site is in a designated bushfire prone area as determined under section 192A of the *Building Act 1993* , the need to create a defendable space to reduce the risk of bushfire to life and property.

Removal of canopy trees

- The health and stability of the canopy tree proposed to be removed.

- Whether the canopy tree is causing, or at risk of causing, damage to an existing building, works or infrastructure.
- The number, size and location of the canopy trees to be retained on the site.
- If the removal of the canopy tree is associated with the development of the site, whether the proposed development has been sited or designed to minimise the impact on canopy trees.
- The cumulative impact of reducing existing canopy trees, if canopy trees on the site have been removed, destroyed or lopped within the past 12 months.

New canopy trees

- The suitability of the proposed deep soil areas or planter soil volume or depth. A deep soil area may be shared with other canopy trees and other vegetation where it does not affect the viability of the canopy tree growth.
- Whether the species of the canopy tree is suited to the soil conditions of the site.
- Whether landscaping or design measures are required to provide structural protection of buildings.
- The suitability of providing deep soil area within an easement on the subject land.

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Table of exemptions

The requirement to obtain a permit does not apply to:	
Dead canopy tree	A canopy tree that is dead.
Emergency works	A canopy tree that is to be removed, destroyed or lopped: ▪ in an emergency by, or on behalf of, a public authority or municipal council to create an emergency access or to enable emergency works; or ▪ where it presents an immediate risk of personal injury or damage to property. Only that part of the canopy tree that presents the immediate risk may be removed, destroyed or lopped under this exemption.
Extractive industry	A canopy tree that is to be removed, destroyed or lopped to the minimum extent necessary to enable the carrying out of extractive industry in accordance with a work plan approved under the *Mineral Resources (Sustainable Development) Act 1990* and authorised by a work authority granted under that Act.
Fire protection	A canopy tree that is to be removed, destroyed or lopped to the minimum extent necessary to carry out the following fire protection activities: ▪ fire fighting; ▪ planned burning; ▪ making or maintenance of a fuel break or fire fighting access track (or any combination thereof) that does not exceed a combined width of 6 metres; ▪ the making of a strategic fuel break up to 40 metres wide by, or on behalf of, a public authority in accordance with a strategic fuel break plan approved by the Secretary to the Department of Energy, Environment and Climate Action (as constituted under Part 2 of the Conservation, Forests and Lands Act 1987); ▪ in accordance with a fire prevention notice issued under either: – section 87 of the Fire Rescue Victoria Act 1958; – section 65 of the Forests Act 1958; or

The requirement to obtain a permit does not apply to:	
	– section 41 of the Country Fire Authority Act 1958; or ▪ keeping a canopy tree clear of, or minimising risk of bushfire ignition from, an electric line in accordance with a code of practice prepared under Part 8 of the Electricity Safety Act 1998; ▪ minimising the risk to life and property from bushfire on a roadside of a public road managed by the relevant responsible road authority, and carried out by, or on behalf of that authority, in accordance with the written agreement of the Secretary to the Department of Energy, Environment and Climate Action (as constituted under Part 2 of the Conservation, Forests and Lands Act 1987). In this exemption, roadside, public road and responsible road authority have the same meanings as in section 3 of the Road Management Act 2004. *Note: Additional permit exemptions for bushfire protection are provided at Clause 52.12.*
Geothermal energy exploration and extraction	A canopy tree that is to be removed, destroyed or lopped to the minimum extent necessary in accordance with an operation plan approved under the *Geothermal Energy Resources Act 2005* .
Greenhouse gas sequestration and exploration	A canopy tree that is to be removed, destroyed or lopped to the minimum extent necessary in accordance with an operation plan approved under the *Greenhouse Gas Geological Sequestration Act 2008* .
Land management and directions notice	A canopy tree that is to be removed, destroyed or lopped to the minimum extent necessary to comply with a land management notice or directions notice served under the *Catchment and Land Protection Act 1994* .
Land use conditions	A canopy tree that is to be removed, destroyed or lopped to the minimum extent necessary to comply with a land use condition served under the *Catchment and Land Protection Act 1994* .
Lopping and pruning for maintenance	Lopping or pruning a canopy tree, for maintenance only, provided no more than 1/3 of the foliage of the tree is lopped or pruned. This exemption does not apply to: ▪ the pruning or lopping of the trunk of a canopy tree; ▪ pruning or lopping that would reduce the height of the tree to less than 5 metres or the canopy diameter of the tree to less than 4 metres.
Mineral exploration and extraction	A canopy tree that is to be removed, destroyed or lopped to the minimum extent necessary by the holder of an exploration, mining, prospecting, or retention licence issued under the Mineral Resources (Sustainable Development) Act 1990: ▪ that is low impact exploration within the meaning of Schedule 4A of the Mineral Resources (Sustainable Development) Act 1990; or ▪ in accordance with a work plan approved under Part 3 of the Mineral Resources (Sustainable Development) Act 1990.

The requirement to obtain a permit does not apply to:	
	Note: *Schedule 4A of the Mineral Resources (Sustainable Development) Act 1990 specifies limits on the extent of a native tree that may be removed as part of low impact exploration.*
Noxious and environmental weeds	A canopy tree that is identified as: ▪ a noxious weed in a declaration under section 58 or section 58A of the *Catchment and Land Protection Act 1994* . This exemption does not apply to Australian Dodder (Cuscuta australis); or ▪ an environmental weed as determined by the responsible authority.
Precinct Structure Plans	A canopy tree that is to be removed, destroyed or lopped where an approved precinct structure plan is incorporated into the scheme and applies to the land.
Public land manager	A canopy tree that is to be removed, destroyed or lopped by or on behalf of a public land manager.
Railways	A canopy tree that is to be removed, destroyed or lopped to the minimum extent necessary to maintain the safe and efficient function of an existing railway, or railway access road.
Traditional owners	A canopy tree that is to be removed, destroyed or lopped by a person acting under, and in accordance with: ▪ a natural resources agreement under Part 6 of the Traditional Owner Settlement Act 2010; or ▪ an authorisation order made under sections 82 or 84 of the *Traditional Owner Settlement Act 2010* as those sections were in force immediately before the commencement of section 24 of the *Traditional Owners Settlement Amendment Act in 2016 (1 May 2017)* .
Transport system	A canopy tree that is to be removed, destroyed or lopped to the minimum extent necessary by or on behalf of the Head, Transport for Victoria, a public authority or a municipal council to construct or maintain the transport system.

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Transitional provisions

The requirements of clause 52.37 do not apply to:

- The removal, destruction or lopping of a canopy tree associated with the construction of a building or the construction or carrying out of works in accordance with a building permit that was issued either:
  - before the approval date of Amendment VC289; or
  - within 12 months after the approval date of Amendment VC289 and either:
    - a relevant building surveyor (within the meaning of the *Building Act 1993*) was appointed to issue the building permit before the approval date of Amendment VC289; or
    - a relevant building surveyor (within the meaning of the *Building Act 1993*) is satisfied, and certifies in writing, that substantial progress was made on the design proposal before the approval date of Amendment VC289.
- The removal, destruction or lopping of a canopy tree associated with the construction of a building or the construction or carrying out works in accordance with a permit granted before the approval date of Amendment VC289.

- The removal, destruction or lopping of a canopy tree associated with the construction of a building or the construction or carrying out works in accordance with a permit if the application for that permit was made before the approval date of Amendment VC289.
- The removal, destruction or lopping of a canopy tree in accordance with a permit granted under another provision of this planning scheme before the approval date of Amendment VC289.
- The removal, destruction or lopping of a canopy tree on land in a Development Plan Overlay if a development plan was prepared to the satisfaction of the responsible authority under clause 43.04 before the approval date of Amendment VC289 and a permit is not required to remove, destroy or lop the tree under another provision of this planning scheme.
- The removal, destruction or lopping of a canopy tree on land included in an Incorporated Plan Overlay before the approval date of Amendment VC289 and a permit is not required to remove, destroy or lop the tree under another provision of this planning scheme.

Clause 52.37 of this planning scheme, as in force immediately before the commencement of Amendment VC315, continues to apply to:

- An application for a planning permit lodged before that date.
- An application for an amendment of a permit under section 72 of the Act, if the original permit application was lodged before that date.