

PROFESSIONAL INDEMNITY INSURANCE IN AUSTRALIA'S LANDSCAPE DESIGN INDUSTRY

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As a landscape designer, your ability to transform an outdoor space is not just about creativity and aesthetic appeal; it involves a complex blend of technical skill, environmental understanding, and client communication. While you focus on creating beautiful and functional outdoor areas, it's important to consider the business side of your profession, particularly the risks involved. This is where Professional Indemnity (PI) insurance comes into play.

Professional Indemnity insurance is designed to protect professionals who provide advice or services to their clients. In the realm of landscape design, this means safeguarding your business against legal costs and claims for damages from clients or third parties who believe they have suffered a loss due to your professional negligence or because you failed to meet the standards expected of you.

WHY IS PI INSURANCE IMPORTANT FOR LANDSCAPE DESIGNERS?

1. **Protection against claims of negligence:** Even the most skilled landscape designers can face allegations of mistakes or oversight. Whether it's a design flaw that leads to water damage in a client's property or an incorrect species selection that causes environmental harm, PI insurance helps cover the legal costs and potential compensation required to resolve such claims.

2. **Client confidence:** By securing PI insurance, you signal to your clients that you are a responsible professional who takes accountability seriously. This assurance can enhance your reputation and make clients more comfortable entrusting you with significant projects.
3. **Contractual requirements:** Many clients, particularly in commercial projects, require landscape designers to have PI insurance before entering into contracts. This insurance not only meets those contractual obligations but also protects you during and after the completion of a project.
4. **Peace of mind:** Knowing that you have PI insurance can give you peace of mind, allowing you to focus on the creative and practical aspects of landscape design without worrying excessively about potential legal repercussions from unhappy clients.

Above: Make sure all likely seasonal conditions are considered in plant selections

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KEY COVERAGE AREAS OF A PI INSURANCE POLICY

Professional risk coverage: This includes protection against professional negligence, errors, omissions, breach of contract, and defamation.

Legal & compensation protection: Covers legal defence costs and financial liabilities for damages or settlements if found liable.

Intellectual property & confidentiality: Addresses unintentional intellectual property infringements and breaches of confidentiality.

Additional risks: Encompasses coverage for loss of documents, environmental liability, and retroactive claims from past professional activities.



Above: Avoid unsuitable or invasive species in plant selections

CASE STUDIES

The following case studies illustrate the critical role of Professional Indemnity insurance in protecting landscape designers in Australia.

Case study 1: Design flaw

A landscape designer in Melbourne created a garden plan for a residential property. Post-completion, the garden experienced severe flooding due to inadequate drainage design. The homeowner sued the designer for damages. PI insurance covered the legal defence costs and the compensation for redesigning the drainage system, preventing substantial financial loss for the designer.

Case study 2: Environmental non-compliance

In Brisbane, a landscape architect designed a public park. However, the chosen plants were found to be invasive species, leading to an ecological imbalance in the area. The local council brought a case against the designer for not adhering to environmental regulations. The designer's PI insurance covered the legal costs and the expenses incurred in replacing the plants, safeguarding the designer's financial stability.

Case study 3: Structural misjudgement

A landscape designer in Sydney was involved in the creation of a small bridge in a commercial complex's garden. Post-construction, the bridge collapsed due to an error in assessing its load capacity. The incident led to property damage and minor injuries. The affected parties filed a lawsuit against the designer. The PI insurance handled the legal fees and the compensation claims, protecting the designer from a potential career-ending financial crisis.

Investing in Professional Indemnity insurance is not just a safety net—it's a critical component of a sustainable and professional landscape design practice. In Australia, where the landscape can vary dramatically and environmental considerations are key, having PI insurance ensures that you can continue to create inspiring spaces with confidence, knowing that the business aspect of your practice is secure.

Consider consulting with an insurance broker who understands the specific needs of the landscape design industry. They can help you navigate the various options and find the right coverage that matches the scale and scope of your projects.

THE THING ABOUT TREES

ARTICLE: ANGELA MORONEY, CONSULTING ARBORIST & LANDSCAPE ARCHITECT

Trees are an essential part of every landscape, community, and environment. As landscape designers a strong understanding of trees is as important as any other facet of our work.

Trees are emotive! They draw strong reactions from every person and every corner of the society. To protect all trees in a current society is a utopian thought. To remove all trees is a disastrous outcome. Striking a balance is a difficult goal and our industry has a large role to play.

As we prepare documents for landscapes, considerations of client requirement and community outcomes places the designer in a precarious position. Fortunately, the Australian Standard AS 4970 : Protection of Trees on Development Sites has been drafted to assist.

In this ever-evolving landscape of Australian urban development, a delicate balance between progress and environmental conservation has become a focal point for landscape designers. At the heart of this challenge is AS 4970-2009, the Australian Standard for the Protection of Trees on Development Sites. This provides indispensable insights into tree protection, with a focus on the Tree Protection Zone (TPZ) and Structural Root Zone (SRZ).

WHY USE THE AS 4970?

Councils require the information in the AS 4970 2009 for plans to be approved.

"Existing trees of appropriate species and sound structure can significantly enhance new development by providing immediate benefits such as shade, stormwater reduction..." (AS4970 -2009).

Trees can increase the value to a project by aesthetic and recreational appeal, acting as carbon sinks, air purification, provide habitat, supporting biodiversity, and temperature regulation.

These are a just few important reasons why as landscape designers we need to be aware and implement the AS 4970 in our plans.

The standard challenges designers of structures around trees so as to navigate the success of the development and welfare of the tree. The Tree Protection Zone (TPZ) and the

Structural Root Zone (SRZ) are two criteria used to get the best outcomes for the tree in the first instance and the developer, with a landscape plan that can be approved by regulators, implemented and add value to the development .

To clarify, from the AS 4970, what is the TPZ and SRZ?

- TPZ: "a specified area above and below ground and at a given distance from the trunk set aside for the protection of a trees roots and crown..."
- SRZ: "the area around the base of a tree required for the tree's stability in the ground."

The TPZ incorporates the SRZ. What is the difference between the TPZ and SRZ?



Above: A mature tree right on the boundary with works about to start on one side. The Tree Protection Zone will be significant and require full consideration

DETERMINING THE TPZ

The radius of the TPZ is calculated by multiplying its DBH x 12. This can be much larger than the canopy radius!

DBH = the diameter at breast height
-the nominal trunk diameter at 1.4 metres above ground level determined from the circumference of the trunk divided by pi (3.14)

There can be variations to the TPZ and these will be calculated by a Consulting Arborist's (AQF 5 qualification) report. A structure or structures that are within the TPZ as calculated are considered by the arborist as to the impact on the tree. These are called encroachments and will be considered as minor if less than 10% of the area of the TPZ and outside the SRZ, and major if more than 10% or inside the SRZ (Ref. Figure 2).

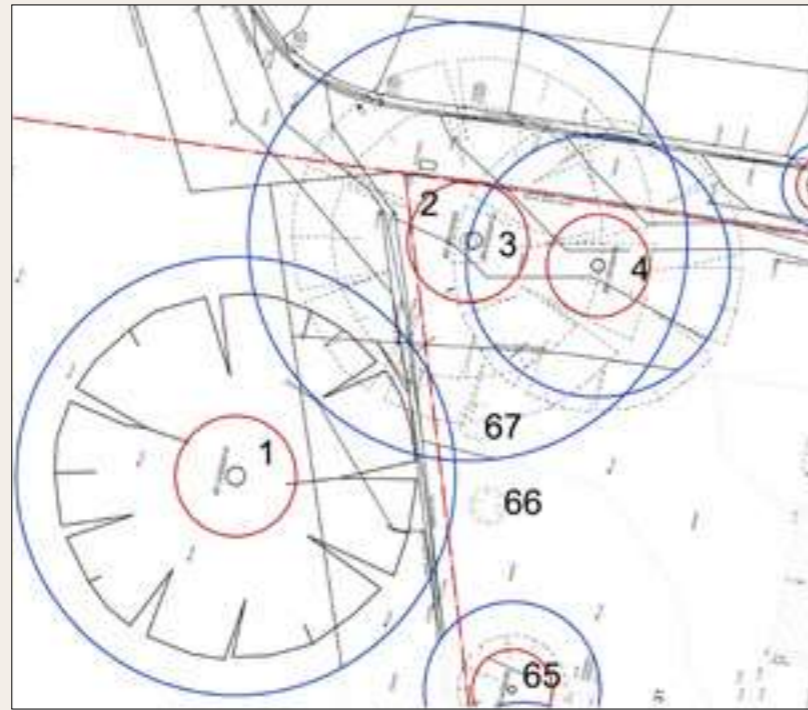
The arborist must make considerations as noted in 3.3.4 AS 4970 and must demonstrate the tree/s would remain viable.

A TPZ radius is measured from the centre of the trunk at ground level, which is what we put on our plans, using a coloured circle, for example blue (See Figure 1 – landscape plan showing TPZ blue circle).

We can use a site survey with trees set in locations for many trees or our own locations and DBH if just a few.

The surveyor on his plan also calculates the spread, height and diameter but we need to be aware that these can be incorrect, so if there is an arborist's report (usually done for a development site) then use their calculation instead.

Councils will prefer landscape plans to have trees numbered and be consistent with an arborist's report and/or survey.



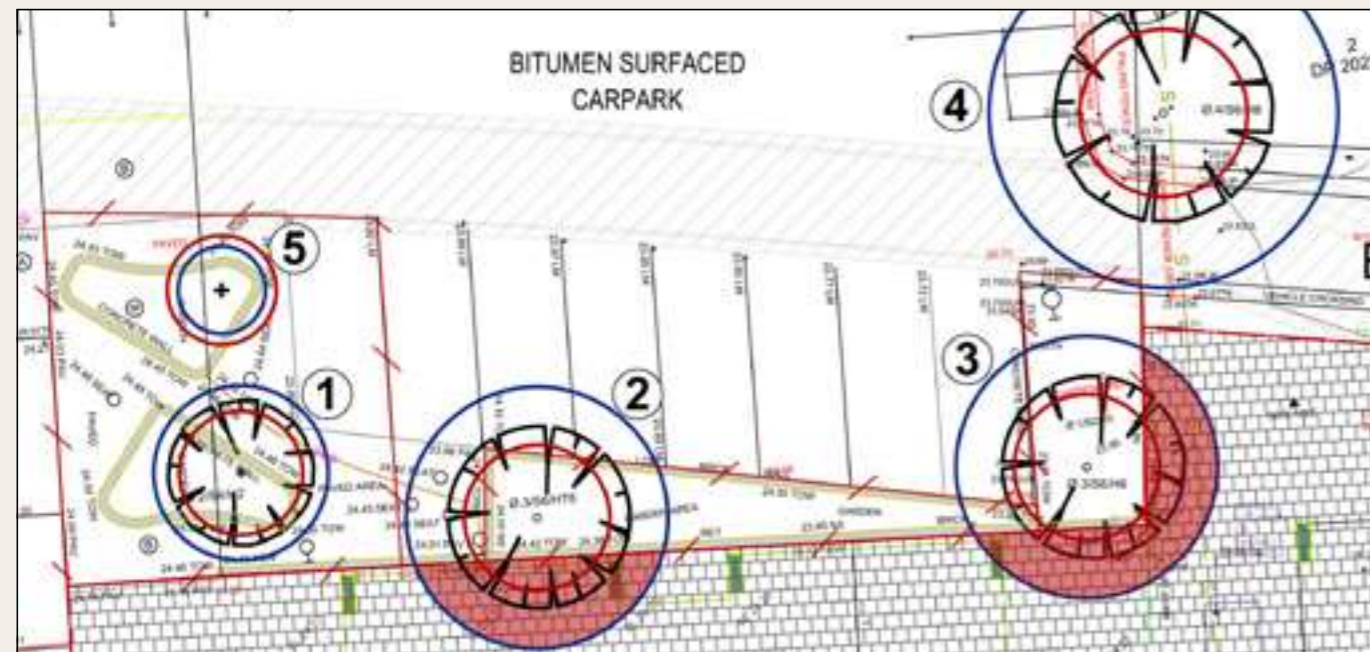
Above: Figure 1

DETERMINING THE SRZ

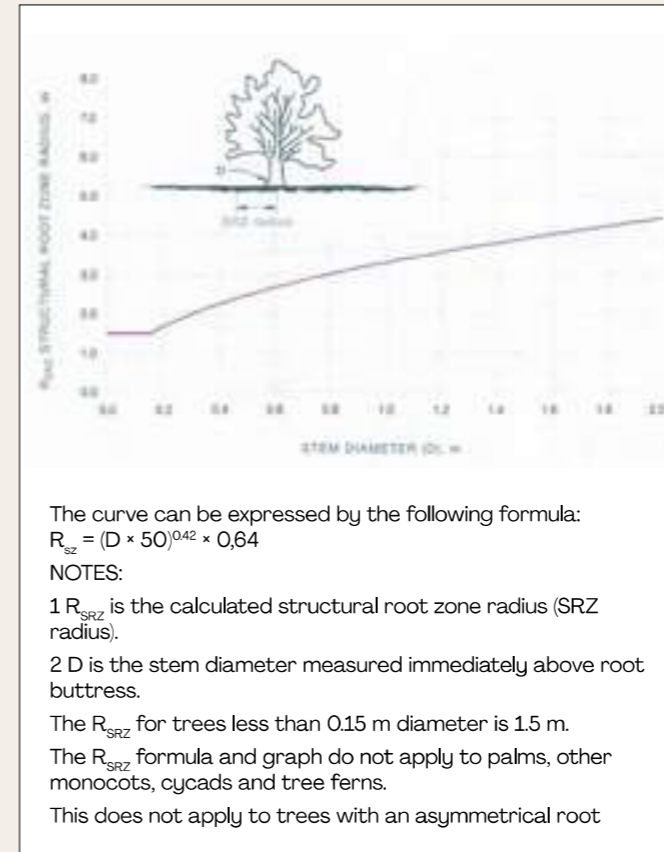
The SRZ is the area required for tree stability, although a larger area is required to maintain a viable tree. Again, the viability discussion is the domain of the arborist in their report or consultation advice.

The SRZ only needs to be calculated when there is major encroachment into a proposed TPZ.

In the Standard is a mathematical calculation, but the easiest way is to use the table on page 13 of the manual (See Figure 1, Figure 2 landscape plan here with red circle showing SRZ and calculations on Page 13).



Above: Figure 2

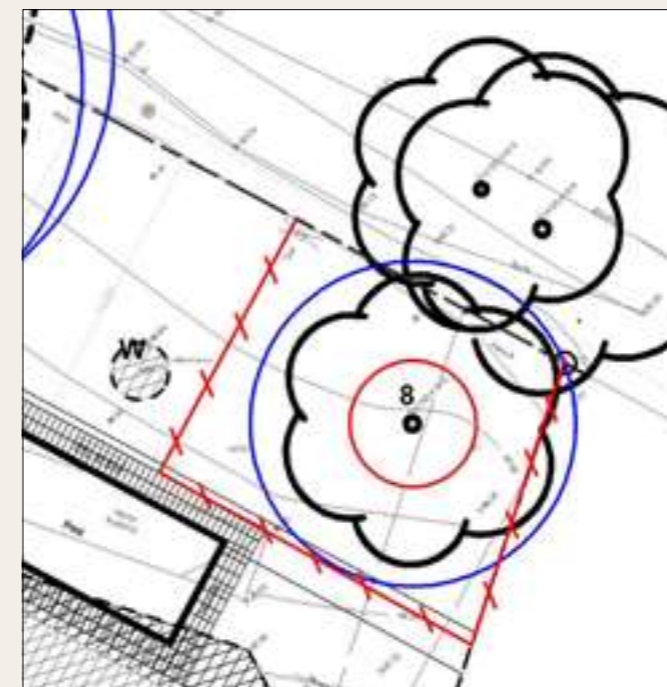


Above: Figure 5

PROTECTIVE FENCING FOR TPZ

4.1 AS 4970 "Fencing should be erected before any machinery or materials are brought onto the site and before commencement of works."

See the site diagram of TPZ fencing on our landscape plan according to our calculations. Fencing will take into consideration if there isn't enough room for the fencing (Refer Figure 4).

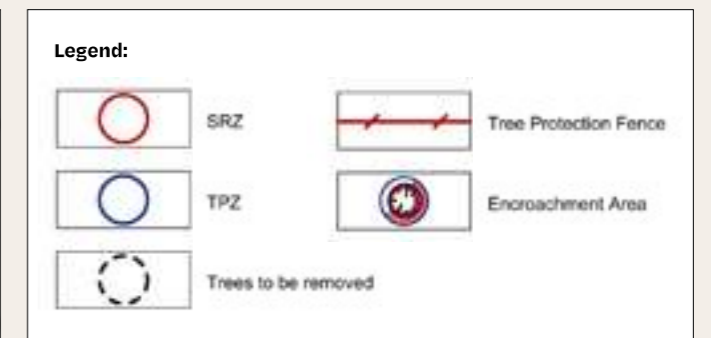


Above: Figure 4



Above: Tree protected on nature strip prior to works

We use "4.5 – Other protective measures on Page 16-17 of AS 4970". These measures are trunk and branch protection, ground protection, and have good diagrams to use on your plan with referencing.



Above: Figure 3

By incorporating TPZ and SRZ considerations into landscape design, professionals contribute to the sustainable integration of built environments with existing vegetation.

This approach ensures that trees are not only preserved but also thrive within the context of development projects. It aligns with principles of environmental stewardship, biodiversity conservation, and responsible urban planning.