



Local Planning Policy 2.26

Tree Retention

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Statutory background

This is a Local Planning Policy prepared under Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. This policy may be cited as Local Planning Policy 2.26: Tree Retention (LPP 2.26).

Introduction and purpose

Trees and other vegetation in urban areas provide significant social, economic, and environmental benefits to the community. The greatest environmental, aesthetic and cooling benefits of trees are provided by large, mature trees which typically have the largest canopy cover.

This policy outlines that the City recognises the increasing importance of retaining trees and ensures that retention and enhancement of the City's tree canopy cover is considered at all stages of development.

This Policy should be read in conjunction with:

- Any relevant provisions of the City of Fremantle Local Planning Scheme No. 4, including the Register of Significant Trees and Vegetation Areas;
- State Planning Policy 7.3 – Residential Design Codes of Western Australia, Volume 1 and Volume 2;
- State Planning Policy 3.7 – Planning in Bushfire Prone Areas;
- City of Fremantle Trees on City Owned or Managed Land Policy;
- City of Fremantle Crossover Policy;
- City of Fremantle Urban Forest Plan;
- Australian Standard 4970 – 2009 – Protection of Trees on Development Sites; and
- Australian Standards 4373 – 2007 – Pruning of Amenity Trees.

Tree-damaging activity constitutes works under the *Planning and Development (Local Planning Scheme) Regulations 2015* and development under the *Planning and Development Act 2005*. The policy clarifies the circumstances in which a development application and approval are required for any tree-damaging activity and guides the assessment of these applications and other planning proposals.

Objectives

The policy aims to encourage and facilitate the protection of trees and to maintain and enhance tree canopy. The objectives of the policy are to:

- Prioritise the retention, protection, and the provisions of trees on private land and adjacent reserves in the planning process.
- Promote and facilitate tree preservation at the earliest possible stage in the planning and development process, balancing with the desired built form and land use outcomes.
- Preserve and enhance neighbourhood amenity, character and sense of place.
- Mitigate the urban heat island effect, reduce air pollution, improve groundwater quality and contribute to biodiversity and other environmental benefits.

Definitions

Arborist's report means a report which is prepared by a suitably qualified and experienced arboriculturist with a minimum qualification of Diploma of Horticulture (Arboriculture) Australian Qualification Framework (AQF 5) or equivalent, and with demonstrated experience in high level tree assessment and diagnosis.

Maintenance pruning means pruning that:

- a) involves removing dead or diseased wood only; or
- b) is of a fruit tree and done for fruit production; or
- c) is otherwise minor maintenance or thinning of the crown that does not adversely affect the health, stability or general appearance of the tree or is to balance the tree.

Regulated tree means a living tree that:

- a) is 8m or more in height; and / or
- b) has an average canopy diameter of at least 6m; and / or
- c) has a trunk circumference of at least 1.5m, measured 1.4m above the ground; and
- d) is of a species that is not included on State or local area weed register.

Tree-damaging activity means:

- a) the killing or destruction of a tree; and / or
- b) the removal of a tree; and / or
- c) the severing of branches, limbs, stems or trunk of a tree; and / or
- d) the ringbarking, topping or lopping of a tree; and / or
- e) any other substantial damage to a tree.

Policy Statement

1. Policy Application

- 1.1 This Policy applies to all Development Areas and land coded R30 and below within the City's Local Planning Scheme No. 4 area, including in the circumstances described below:
- development applications;
 - subdivision applications;
 - other strategic planning proposals including scheme amendments and structure plans; and
 - any tree-damaging activity to a regulated tree where no other development or subdivision is proposed.
- 1.2 A development application is required for any tree-damaging activity to a regulated tree even if a proposal is for other works that are exempt from development approval under the Local Planning Scheme per Schedule 2, Part 7 Clause 61 (deemed provisions) of the *Planning and Development (Local Planning Scheme) Regulations 2015* (e.g. the erection of a Single House that meets the deemed-to-comply requirements of the Residential Design Codes of Western Australia) or Local Planning Policy 1.6 - Development Exempt from Approval Under Local Planning Scheme No. 4.

2 Exemption from Development Approval

- 2.1 Tree-damaging activity requires development approval except in any of the following circumstances:
- a) the land is located outside the application area set out in clause 1.1 of this Policy;
 - b) the tree does not satisfy the definition of a regulated tree;
 - c) the tree-damaging activity is maintenance pruning as defined in this policy;
 - d) the tree is a palm tree;
 - e) the tree-damaging activity is required as a result of a development approval or deemed-to-comply notification issued prior to this policy coming into effect;
 - f) the tree-damaging activity is carried out in the course of works in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2 Part 7 Clause 61 (b) item 18:
works that are urgently necessary for any of the following —
 - a) *public safety;*

- b) *the safety or security of plant or equipment;*
- c) *the maintenance of essential services; or*
- d) *the protection of the environment.*

In such cases, the onus is on the proponent to demonstrate the above to the satisfaction of the City;

- g) the tree-damaging activity is required as part of an approved Bushfire Management Plan and there are no other viable options;
- h) tree-damaging activity to a regulated tree that is listed as a Weed of National Significance, or is declared by the Department of Primary Industries and Regional Development or other relevant government agency to be a harmful plant or pest under the *Biosecurity and Agriculture Management Act 2007*;
- i) the tree-damaging activity is carried out by the local government on a City-owned or managed tree;
- j) the tree-damaging activity is a public work; or
- k) the Department of Primary Industries and Regional Development or relevant authority has issued a direction to carry out tree damaging activity on a regulated tree. A copy of this direction is to be provided to the local government prior to works occurring.

3. Application Requirements

3.1 Development applications, subdivision applications and strategic planning proposals that are subject to this Policy are to provide the following applicable information:

- a) A site survey and / or site plan indicating:
 - (i) the locations of all regulated trees, including street trees;
 - (ii) whether any regulated tree is proposed to be retained or affected by any tree damaging activity;
 - (iii) tree protection zone(s) in accordance with Australian Standard 4970 – Protection of Trees on Development Sites; and
 - (iv) any trees proposed to be planted on the development site.
- b) Where practicable, identification of all regulated trees on neighbouring properties within 5m of the development footprint;
- c) For any regulated trees within 5 metres of the proposed development footprint, a demonstration that the root zones will not be impacted in a manner that would detrimentally affect the tree;
- d) Written justification for any proposed tree damaging activity against the objectives and requirements of this Policy; and

- e) Whether any regulated tree was identified to be retained at a previous planning stage (e.g. structure plan or subdivision approval).

3.2 An arborist's report may be required in the following instances:

- a) To justify tree-damaging activity to a regulated tree specifically considering the health of the tree and / or any safety risk it may pose to people or property; and
- b) To explain any mitigation measures proposed to protect a regulated tree including works proposed within the tree protection zone (refer to Australian Standard 4970 – Protection of Trees on Development Sites for details on how to identify the tree protection zone).

3.3 Additional technical reports (i.e. environmental reports, tree retention strategy, structural engineering reports) may be required for structure plan and large-scale subdivision applications.

4. General Requirements

4.1 Unless its removal is approved as part of a subdivision or development approval, or is exempt under the provisions of this Policy, a regulated tree is to be retained and protected for the duration of its natural life.

4.2 Retention and protection of regulated trees is to be prioritised, and development works, structure plan and subdivision design are to avoid or, as a minimum, minimise harm to regulated trees.

4.3 Where tree-damaging activity is proposed to a regulated tree the following will be given due regard in the assessment process:

- a) health, maturity, species, and location of the tree;
- b) ecological, biodiversity, and environmental values of the tree;
- c) contribution of the tree to the streetscape;
- d) the preservation of any other regulated tree on the subject site;
- e) the location of the tree within the development site and capacity for a modified building design or subdivision to maximise tree retention with particular regard for retaining regulated trees within setback areas, private open space, and common property areas;
- f) any existing development on the site;
- g) design and location of proposed crossovers;
- h) topography and the potential impact from excavation / fill;
- i) possible safety risks due to tree limb failure and infrastructure, and / or structural damage associated with the retaining the tree;

- j) tree protection zone(s) per Australian Standard 4970 – Protection of Trees on Development Sites;
- k) tree replacement and / or planting proposed;
- l) recommendations of an arborist's report; and
- m) the objectives of this Policy.

4.4 The following justifications for tree damaging activity to a regulated tree will not be supported:

- a) impact on views;
- b) the tree is disliked;
- c) to reduce presence of birds or other fauna;
- d) the tree causes nuisance by way of leaf, fruit, or bark shedding or the like; or
- e) the tree impacts private gardens, solar installations, swimming pools or the like.

5. Development Application Assessment

- 5.1 The City will assess any development application in accordance with the general requirements above.
- 5.2 There is a general presumption against tree-damaging activity (other than maintenance pruning) to any regulated tree and the siting and design of the development shall, where possible, avoid impacting any regulated tree.
- 5.3 Where necessary to retain a regulated tree, the City may consider variations to provisions of the Scheme, Residential Design Codes (R-Codes), or local planning policies where these provisions may be lawfully varied and are acceptable on planning grounds.
- 5.4 Tree-damaging activity to a regulated tree may be considered where, in the City's opinion, the following relevant information and / or technical reports have been provided that demonstrate:
 - a) the regulated tree is unhealthy, based on an arborist's report;
 - b) the regulated tree causes safety risks to people, or damage to infrastructure or buildings based on recommendations of an arborist's report and / or structural engineering report; or
 - c) the redesign of the development to accommodate the regulated tree is unfeasible.

6. Tree Replacement and Maintenance

- 6.1 Where removal of a regulated tree is approved by the City, two replacement trees of minimum 30 litre pot size and capable of achieving a height of 8m shall be planted



in-ground within the lot, each having the minimum tree planting areas as prescribed by clause 5.3.2 of the R-Codes or otherwise approved by the City.

Note: The City's Urban Forest Plan includes suggested trees appropriate for your area.

- 6.2 The City may include conditions on the care and maintenance of regulated trees proposed to be retained and, when applicable, provision of replacement trees.

7. Subdivision applications

- 7.1 The City may recommend that, prior to the determination of an application for subdivision approval, additional information be provided to the Western Australian Planning Commission (WAPC) to allow consideration of the impacts of the subdivision design and layout on any regulated tree and whether the general requirements above have been addressed.
- 7.2 Subdivision design, layout and earth working levels, including the positioning of public open space (POS), configuration of the public road network, lot design and densities, should prioritise the retention of regulated trees.
- 7.3 The subdivision plan should identify regulated trees and note if they are to be retained or removed, and the applicant is to demonstrate how the retained regulated trees will be protected as part of the subdivision process.
- 7.4 The City may request the WAPC to include a condition on the subdivision approval to ensure identification and/or protection of regulated trees on site.

8 Strategic Planning Proposals (Scheme Amendments, Structure Plans, etc.)

- 8.1 Where applicable, local planning scheme amendments, structure plan proposals and the like should identify regulated trees and shall outline mechanisms and measures to protect regulated trees at subsequent stages of the planning process.
- 8.2 Concept plans supporting local planning scheme amendments, structure plans and the like shall prioritise positioning of public open space (POS), configuration of the public road network, and lot design and densities to retain regulated trees.
- 8.3 Strategic planning proposals shall be supported by technical information and reports that demonstrate that the protection of regulated trees has been prioritised.

Responsibility and review information	
Responsible officer:	Manager Strategic Planning and City Design
Document adoption/approval details	TBC Ordinary Meeting of Council – Item - Date
Next review date	+ 4 years