

Draft Amended Local Planning Policy No. 13 (LPP 13) – Tree Retention and Provision: FAQ Document

What is the key difference between the existing policy and the draft amended Policy?

The amended local planning policy introduces the identification of a 'tree damaging activity' as 'works' or 'development' that requires approval under the Town's Local Planning Scheme No. 11 in certain circumstances.

Why did the Town prepare the draft LPP?

Perth has the worst urban canopy among Australian capital cities, with significant tree loss occurring as a result of urban development. There is a growing pressure on the Town's urban tree canopy from infill development and climate change. Removal of mature (or regulated) trees from private property as part of a new development proposal or where no development is occurring at all, is experienced across the Town. Protecting the urban tree canopy by preservation of existing mature trees provide a range of benefits including:

- Mitigating the urban heat island effect;
- Mitigating and adapting to the effects of climate change;
- Enhancing and supporting biodiversity; and
- Maintaining the Town's leafy green character.

The policy also responds to the communities desire to retain and enhance the Towns urban canopy, which was a consistent theme during the BassenDream Our Future, Local Planning Strategy and Local Planning Scheme No. 11 community engagement processes.

Which trees would be impacted by the draft LPP 13?

Trees which meet the definition of a *Regulated Tree* would be affected by the draft LPP.

What is the definition of a Regulated Tree?

A Regulated Tree is any living tree which meets one of the following criteria:

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

What is tree-damaging activity?

Tree-damaging activity means any of the following:

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

Where would the draft LPP apply?

The draft LPP applies to all land zoned under Local Planning Scheme No. 11 in the Town of Bassendean, including all private properties.

When is development approval not required for tree damaging a tree damaging activity?

Development approval is not required for tree damaging activities in the following circumstances?

- a) The tree does not satisfy the definition of a regulated tree;
- b) The tree damaging activity is carried out in the course of works in accordance with eh 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."*
- c) The tree damaging activity is required to comply with an approved Bushfire Management Plan;
- d) The tree damaging activity is maintenance pruning;
- e) Tree damaging activity is to a regulated tree that is on an adopted Town of Bassendean unwanted species list.

What is maintenance pruning?

Development approval is required for pruning of a Regulated Tree unless the works meet the definition of *maintenance pruning* (as defined in the draft LPP):

- a) Involves removing dead or diseased wood only;
- b) Is the first pruning of the tree in the calendar year and affects less than 10% of the canopy;
- c) Is of a fruit tree and done for fruit production;
- d) Does not include removing limbs with a diameter of 100mm or more;
- e) Is otherwise minor maintenance or thinning of the crown that does not adversely affect the health or general appearance of the tree;
- f) Is undertaken in accordance with the standard for *Pruning Amenity Trees Australian Standard 4373-2007 – Pruning of Amenity Trees*.

What if my neighbours tree is encroaching / overhanging on my land?

The pruning of a *Regulated Tree* is different to pruning other trees.

General Pruning Advice:

Landowners have a duty to take reasonable steps to ensure that harm is not caused by a tree on their property.

If a tree from a neighbouring property has branches and / or roots that encroach into your land, you are entitled to remove the material up to the boundary of your property without prior approval from your neighbour. You must not cut the branch or root on your neighbours side of the boundary without their agreement, nor are you entitled to enter the neighbouring property to do this without prior permission.

Any material removed from a neighbouring tree still belongs to the tree's owner and should be returned. Care must be taken when pruning and returning the pruned branches as you may be liable for any damage you may cause.

Pruning of a Regulated Tree:

Where a Regulated Tree is located on your neighbours property and is encroaching / overhanging onto your land, development approval is required to prune the portion of the tree on your land, unless the works are maintenance pruning as defined by the draft LPP.

If you need to prune a Regulated Tree, located on your neighbours property, the Town recommends you liaise with your neighbour and discuss whether a development application is required to ensure compliance with the draft LPP.

How were the criteria for a Regulated Tree determined?

The criteria within the policy is based on the Western Australian Local Government Association's (WALGA) Tree Retention Model Local Planning Policy. The criteria were developed to reflect larger trees which contribute to the Town's urban canopy.

The loss of large canopy trees is considered to have the greatest impact on amenity and as such, the proposed criteria was seen as an appropriate balance between protection of trees and residents' ability to manage vegetation on their properties.

How do I apply for development approval to remove a tree covered by the draft LPP?

A development application is required to be submitted to the Town with:

- A completed development application form;
- A scaled site plan / site survey including the location of the Regulated Tree onsite.
- Supporting Information – including but not withstanding, written justification for any proposed tree-damaging activity against the objectives of the draft LPP, arborist report and or structural engineering report at the applicant's cost.

What would the application fees be?

Development application fees would be in accordance with the Town's Schedule of Fees and Charges. However, it would be open Council to resolve to waive costs of a development application to encourage people to do the right thing.

How would the application be assessed?

The draft amendment outlines that there is to be a presumption against tree removal unless:

- the trees health, structural stability or risk to life / property warrants removal; or
- tree retention is not feasible.

What happens if an application for removal is not supported?

An applicant has the right of review at the State Administrative Tribunal against a decision made, or a condition attached to a determination. Such an application must be lodged within 28 days of the date of the determination.

What happens if I remove a Regulated Tree without approval should Council approve the LPP?

A person must not commence or carry out development which development approval is required unless approval has been obtained. Failure to obtain approval constitutes an offence under the *Planning and Development Act 2005*.

The maximum penalties for breaching an offence provision under the *Planning and Development Act 2005* are significant and are currently \$200,000 in the case of a natural person and \$1,000,000 in the case of a body corporate, with the potential for additional daily penalties in the case of ongoing non-compliance.

I have further questions about the draft LPP?

Please contact the Town's Planning Services on 9377 8000 if you would like further information on the draft amended policy.

I would like to provide feedback on the draft LPP, how do I provide a submission to the Town?

Submissions should be made in writing either via email (mail@bassendean.wa.gov.au) or post to the Chief Executive Officer, Town of Bassendean, PO Box 87, Bassendean WA 6934. The advertising period closes **5:00pm Friday 30 August 2024**.

What will happen to my submission?

Your feedback will be considered as part of the process to finalise the draft LPP before it is presented to Council for adoption. If you make a submission, we will let you know when the draft LPP will be considered by Council.