

# Local Planning Policy No. 13: Tree Retention and Provision

## 1. Citation

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 No. 13 – Tree Retention and Provision.

## 2. Introduction

The Town recognises the importance of retaining trees due to their amenity, environmental and health benefits. Trees assist in mitigating the impacts of the urban heat effect, reduce air pollution, improve groundwater quality and provide important habitats for wildlife. ~~This policy aims to ensure the retention and enhancement of the Town's tree canopy cover is considered at all stages of development.~~

~~Whilst Local Planning Scheme No. 10 provides statutory provisions relating to the retention of significant trees, this Policy seeks to encourage the retention of existing trees on development sites and increase the urban canopy cover as infill development occurs.~~

~~Tree damaging activity constitutes 'works' under the *Planning and Development (Local Planning Scheme) Regulations 2015* and 'development' under the *Planning and Development Act 2005*. This policy outlines circumstances in which development approval is required for tree damaging activities and guides the assessment of applications where tree retention and provision requires consideration.~~

## 3. Policy Objectives

- ~~(a) To retain existing trees to maintain a local sense of place.~~
  - ~~(b) To increase canopy coverage and shade to provide amenity, environmental and health benefits.~~
  - ~~(c) To provide a framework for assessing whether a tree should be subject to a Tree Preservation Order.~~
  - ~~(d) To provide for the retention and planting of trees associated with development on privately owned land.~~
  - ~~(e) To outline the requirements for additional tree planting on privately owned land.~~
- a) Provide a clear definition of a 'regulated tree' and clarify when development approval is required for a 'tree damaging activity'.
  - b) Prioritise retention, protection and provision of trees on private land and adjacent reserves in the planning process;
  - c) Promote tree preservation and provision at the earliest possible stage in the planning and development process, balancing the preservation of trees with desired built form and land use outcomes;
  - d) Preserve and enhance neighbourhood amenity, character and sense of place;

- e) Mitigate the urban heat island effect, reduce air pollution, improve groundwater quality and contribute to biodiversity and other environmental benefit.

#### 4. Application

This Policy applies to:

- ~~any assessment of whether a tree(s) should be subject to a Tree Preservation Order.~~
- ~~all applications for subdivision involving residential-zoned land and/or residential development.~~
- ~~all applications for development approval involving Single Houses and Grouped Dwellings, where the estimated cost of development is \$100,000 or more.~~

~~Note: The requirements do not extend to applications for multiple dwellings as such development is assessed against State Planning Policy 7.3 – Residential Design Codes – Volume 2 – Apartments~~

This Policy applies to planning applications involving land 'zoned' under the operative local planning scheme, including:

- a) Development applications (where the estimated cost of development is \$100,000 or more)
- b) Subdivision applications;
- c) Strategic planning proposals, including scheme amendments and structure plans; and
- d) Tree damaging activity to a regulated tree.

This Policy does not apply to:

- e) Applications for 'multiple dwellings' subject to the Residential Design Codes – Volume 2.

#### 5. Definitions

**Arborist Report:** *means a report which is prepared 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.*

**Large Tree:** *means a species of tree that has the potential to have a canopy diameter greater than 9m and height of more than 12m.*

**Medium Tree** *means a species of tree that has the potential to have a canopy diameter greater than 6m and height of more than 8m.*

Maintenance Pruning: *means pruning that:*

- a) involves removing dead or diseased wood only; or*
- b) is the first pruning of the tree in the calendar year and affects less than 10% of the canopy; or*
- c) is of a fruit tree and done for fruit production; or*
- d) does not include removing limbs with a diameter of 100mm or more; or*
- e) is otherwise minor maintenance or thinning of the crown that does not adversely affect the health or general appearance of the tree; or*
- f) is undertaken in accordance with the standard for Pruning Amenity Trees ASNZ4373.*

Regulated Tree: *means a living tree that:*

- a) Is over 8m 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 registers.*

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*
- e) the ringbarking, topping or lopping of a tree; and/or*
- f) any other substantial damage to a tree*

*unless the tree is of a species that is included on State or local area weed registers.*

~~Tree Growth Zone: is an area provided to support healthy growth of a tree and is free from development or structures, including areas of hardstand.~~

Deep Soil Area: *soft landscape area on a lot with no impeding building structure or feature above or below, which supports growth of small to large canopy trees and meets a stated minimum dimension. Used primarily for landscaping and open to the sky, deep soil areas exclude basement car parks, services, swimming pools, tennis courts and impervious surfaces including car parks, driveways and roof areas.*

## 6. Exemptions

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 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.”*
- 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.

*NOTE: Development approval is required for tree damaging activities to a regulated tree where other works are proposed on a subject site, even if those other works are exempt from development approval under the local planning scheme as per Schedule 2, Part 7 Clause 61 (deemed provisions) of the Planning and Development (Local Planning Scheme) Regulations 2015 (eg, the erection of a Single House that meets the deemed-to-comply requirements of the Residential Design Codes).*

## 7. Application Requirements

Unless otherwise advised by the Town, development applications, subdivision applications and strategic planning proposals that are subject to this Policy must be accompanied by the following applicable information:

- a) Site survey and/or site plan indicating:
  - a. location of all regulated trees, including street trees;
  - b. whether any regulated tree is proposed to be retained or affected by any tree damaging activity;
  - c. Tree Protection Zone(s) in accordance with Australian Standard AS4970 – Protection of Trees of Development Sites; and
  - d. Any trees proposed to be planted on the development site.
- b) Written justification for any proposed tree damaging activity against the objectives and requirements of this Policy; and
- c) An Arborist 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;
  - b. To explain any mitigation measures proposed to protect a regulated tree including works proposed within the Tree Protection Zone (refer to AS4970 for details to identify the Tree Protection Zone).

## 8. Policy Requirements

### ~~6.1 Tree Preservation Orders~~

~~Clause 4.7.7.2(i) of Local Planning Scheme No. 10 (LPS 10) provides the local government the ability to order the preservation and maintenance of a tree via a Tree Preservation Order. In assessing whether a tree meets the characteristics prescribed by Clause 4.7.7.2(i) of the Scheme, Council will not support the establishment of a Tree Preservation Order unless the tree(s) meets at least one of the following criteria:~~

#### ~~a) Historical Association~~

~~Those trees that are of importance to the Aboriginal community, European significance, association with a significant heritage site, or commemorative plantings.~~

#### ~~b) Aesthetic Quality~~

~~Those trees that due to their context in and contribution to the landscape, are considered to be of aesthetic, location and/or landmark significance.~~

#### ~~e) Rarity~~

- ~~i. Those trees that are of an outstanding size or age, horticultural significance, or contain curious growth forms.~~
  - ~~ii. Rarity is to be considered from a state-wide and Town of Bassendean context.~~
  - ~~iii. Outstanding size or age and horticultural significance is based on the size and age of the tree relative to normal mature size and age of trees for that species in the Town.~~
  - ~~iv. Curious growth forms include abnormal outgrowths, fused branches or unusual root structures.~~
- ~~d) Other Significance Other significance includes, but is not limited to, habitat significance. Although all trees have some habitat value, in undertaking assessments under this policy the habitat value of a tree is only deemed significant if it provides a breeding, feeding or roosting site regularly used by fauna protected under state or federal legislation.~~

## **8.1 Retention of Regulated Trees**

- a) Unless removal is approved as part of a subdivision or development approval, or is exempt under the provisions of this Policy, a regulated tree must be retained in perpetuity and protected.
- b) Retention and protection of regulated trees should be prioritised, and development works, structure plan and subdivision design should preferably avoid, or as a minimum, minimise harm to regulated trees.
- c) Where tree damaging activity is proposed to a regulated tree the following will be given due regard:
  - 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;
  - 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) (as per AS4970);
  - k. Tree replacement and/or planting proposed;
  - l. Recommendations of an Arborist Report; and
  - m. The objectives of this Policy.

- d) The following justifications for tree damaging activity to a regulated tree will not be supported:
  - a. Impact on views;
  - b. The tree variety is disliked;
  - c. The tree variety causes nuisance by way of leaf, fruit or bark shedding or the like; or
  - d. The tree impacts on private gardens, solar installations, swimming pools or the like.
- e) The Town will assess any development application in accordance with the general requirements above.
- f) 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 should, where possible, avoid impacting any regulated tree.
- g) Tree damaging activity to a regulated tree may be considered if the following relevant information and/or technical reports are provided to demonstrate:
  - a. The regulated tree is unhealthy, based on the recommendations of an Arborist report;
  - b. The regulated tree causes safety risks to people, infrastructure or buildings based on recommendations on an Arborist report and/or Structural Engineering Report; or
  - c. The redesign of the development to accommodate the regulated tree is unfeasible.

## 8.2 ~~Subdivision and Development~~ Tree Provision

- a) Clause 5.3.2 C2.2 (i) of the R-Codes Volume 1 Part B; and Clause 1.2 C1.2.4(i) of Part C are replaced with the following:

*Residential development will be required to incorporate at least one medium tree for every 350m<sup>2</sup> of site area (rounded to the nearest whole number), with a minimum of one tree per lot/ site area. In this regard, a large tree is worth two medium trees. **The trunks of trees are to be located in a Deep Soil Area that meets the follows parameters:***

Requirement	Large Tree	Medium Tree
Minimum deep soil area	64m <sup>2</sup>	36m <sup>2</sup>
Minimum deep soil area dimension	6m	3m

- b) Any required trees are to be provided prior to the occupation of the development and must be ~~at a minimum 2m high and 100 litre pot size~~ a minimum 35 litre pot size.

- c) The number of trees required by clause (a) may be reduced by two where a medium or large tree is retained on site and protected by a Tree Protection Zone, subject to the submission of details of ~~proposed suitable~~ measures to protect the tree(s) ~~identified on the site plan~~ as outlined in *Australian Standard – AS4970-2009 - Protection of trees on development sites*.
- d) ~~Where an existing tree is retained and/or new trees are provided, the Town will impose conditions on the approval requiring:~~
- ~~(i) the retention of the tree in perpetuity; and~~
  - ~~(ii) a notification to be registered on the Certificate of Title under Section 70A of the Transfer of Land Act 1893 advising prospective purchasers that the site contains a tree which is required to be retained and protected from development works.~~

~~Where an existing tree is retained and/or new trees are provided, the Town will impose conditions on the approval requiring the retention of the tree and associated deep soil area.~~

- e) The relocation of existing trees to elsewhere on the same site will only be considered where:
- a. a report by a suitably qualified arborist is provided to the satisfaction of the Town, demonstrating that the new location of the tree is suitable, and how the tree will be maintained in good health during and after relocation; and
  - b. a legal agreement has been prepared and executed at the landowner/applicant's cost to the satisfaction of Town, confirming maintenance arrangements and replacement of the tree in the event the tree does not survive.
- f) The relocation of existing tree(s) into the Town's reserves (including within the road reserve) is not supported.
- g) The retention of an existing, mature tree will be positively considered when assessing any application against the Design Principles of the Residential Design Codes – Volume 1.

### 8.3 Subdivision

- a) ~~In supporting any subdivision that will create additional residential lots, the Town will recommend the imposition of a condition requiring satisfactory arrangements being made to inform prospective purchasers of the requirements prescribed by this Policy.~~



The Town may recommend that prior to the determination of an application for subdivision approval, information be provided to allow consideration of the impacts of the subdivision and layout on any regulated tree and whether the general requirements of this policy have been addressed.

- b) Subdivision design, layout and earth working levels, shall prioritise the retention of regulated trees.
- c) The subdivision plan shall 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.
- d) The Town will request the WAPC include the following condition on the subdivision approval to ensure regulated trees identified by the Town are protected:

*“The regulated tree(s) identified on the approved plan of subdivision dated \_\_\_\_\_ shall be retained and protection measures implemented to ensure such trees are not impacted by subdivisional works. These trees must not be removed when clearing the conditions of this approval unless development approval for their removal is obtained from the local government”.*

<b>Document responsibilities:</b>			
<b>Owner:</b>			
<b>Inception date:</b>	OCM 23 June 2020	<b>Owner Business Unit:</b>	Planning and Regulation
<b>Review date:</b>	June 2024	<b>Decision maker:</b>	Council
<b>Compliance requirements:</b>	N/A	<b>Repeal and replace:</b>	N/A
<b>Legislation:</b>			
<b><i>Planning and Development Act 2005            Planning and Development (Local Planning Scheme) Regulations 2015</i></b>			