

## LOCAL PLANNING POLICY

### NO. 27 TREE RETENTION

<i>Responsible Department</i>	Development Services
<i>Resolution Number</i>	
<i>Resolution Date</i>	
<i>Next Scheduled Review</i>	
<i>Related Shire Documents</i>	Shire of Northam Local Planning Scheme No. 6; Shire of Northam Verge Policy; Shire of Northam Crossover Policy
<i>Related Legislation</i>	<i>Planning &amp; Development Act 2005; Planning &amp; Development (Local Planning Schemes) Regulations 2015</i>

### INTRODUCTION

Trees are an important element of the Shire's urban and rural areas, providing a variety of social, economic, and environmental benefits to the community. The Shire has experienced a gradual decline in tree coverage and this policy is aimed at reducing the loss of trees and associated negative impacts.

The benefits of trees include, but are not limited to, reducing the impact of heatwaves, providing biodiversity and habitat, air purification, community sustainability, public health, mental health, and providing for neighbourhood amenity.

Good design should recognise the importance and value of retaining and enhancing trees as an integral part of the design and subsequent subdivision and development process.

This Policy recognises that there should be an appropriate balance between the need to facilitate development and retain established trees and vegetation worthy of retention.

This Policy should be read in conjunction with:

- Any relevant scheme provisions including significant tree register or Tree Preservation Orders;
- State Planning Policy 7.3 – Residential Design Codes Volumes 1 and 2;
- State Planning Policy 3.7 – Planning in Bushfire Prone Areas;
- Shire of Northam's Verge Policy;
- Shire of Northam's Crossover Policy;
- Shire of Northam's Biodiversity Strategy;

- Australian Standards AS 4970—2009: Protection of trees on development sites; and
- Australian Standards AS 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 is 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:

- Provide a clear definition of a **significant existing tree** and clarify when a development application is required for **tree damaging activity**;
- 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; and
- Mitigate the urban heat island effect, reduce air pollution, improve groundwater quality and contribute to biodiversity and other environmental benefits.

## SCOPE

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. 27 – Tree Retention.

## DEFINITIONS

**Arborist 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 the first pruning of the tree in the calendar year and affects less than 10% of the canopy, not altering the overall shape 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; and
- f) is undertaken in accordance with the standard for Pruning Amenity Trees ASNZ4373.

**Significant Existing Tree** means an existing tree that meets the following criteria –

- a) is a healthy specimen with ongoing viability;
- b) is a species is not included on a State or local area weed register; and
- c) has a height of at least 8m, and/or a trunk circumference of at least 1.5m, measured 1.4m from the ground; and/or an average canopy diameter of at least 6m; or
- d) as specified with the local planning framework.

**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

This Policy applies to all land within the Shire of Northam Local Planning Scheme No. 6, 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 **significant existing tree** where no other development or subdivision is proposed.

### 1. General requirements

- a) Unless its removal is approved as part of a subdivision or development approval, or is exempt under the provisions of this Policy, a **significant existing tree** should be retained in perpetuity and protected.
- b) Retention and protection of **significant existing trees** should be prioritised, and development works, structure plan and subdivision design should preferably avoid or as a minimum minimise harm to **significant existing trees**.

- c) Where **tree damaging activity** is proposed to a **significant existing tree** the following will be given due regard in the assessment process:
- Health, maturity, species, and location of the *tree*;
  - Ecological, biodiversity and environmental values of the *tree*;
  - Contribution of the *tree* to the streetscape;
  - The preservation of any other **significant existing tree** on the subject site;
  - The location of the *tree* within the development site and capacity for a modified building design or subdivision to maximise tree retention;
  - Any existing development on the site;
  - Design and location of proposed crossovers;
  - Topography and the potential impact from excavation/fill;
  - Possible safety risks due to tree limb failure and infrastructure and/or structural damage associated with the retaining the *tree*;
  - Tree Protection Zone(s) (as per AS4970);
  - Tree replacement and/or planting proposed;
  - Recommendations of an **Arborist Report**, and
  - The objectives of this Policy.
- d) The following justifications for **tree damaging activity** to a **significant existing tree** will not be supported:
- Impact on views;
  - The tree variety is disliked;
  - The tree variety causes nuisance by way of leaf, fruit or bark shedding or the like; or
  - The tree impacts on private gardens, solar installations, swimming pools or the like.
  - Any proposed **tree damaging activity** to a street tree is to be referred to the Shire's Engineering Services, for consideration, having regard to the Shire's Verge Policy.

## 2. Requirement for development approval and exemptions

Tree damaging activity requires development approval except in any of the following circumstances:

- a) the tree does not satisfy the definition of **significant existing 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 —*

- *public safety;*
- *the safety or security of plant or equipment;*

- *the maintenance of essential services; or*
  - *the protection of the environment.”*
- c) the **tree damaging activity** is required as part of an approved Bushfire Management Plan;
- d) the **tree damaging activity** is **maintenance pruning**;
- e) **tree damaging activity** to a **significant existing tree** that is on the Western Australian Organism List; or
- f) the **tree damaging activity** is carried out by the local government on a street tree and/or the tree damaging activity is a public work.

*NOTE: A development application is required for any **tree damaging activity** to a **significant existing 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 (e.g., the erection of a Single House that meets the deemed-to-comply requirements of the Residential Design Codes).*

### 3. Application requirements

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

- a) Site survey and/or site plan indicating:
- location of all **significant existing trees**, including street trees;
  - whether any **significant existing tree** is proposed to be retained or affected by any **tree damaging activity**;
  - Tree Protection Zone(s) in accordance with AS4970; and
  - 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) Whether any **significant existing tree** was identified to be retained at a previous planning stage (e.g., structure plan or subdivision approval).

An **Arborist Report** may be required in the following instances:

- a) To justify **tree damaging activity** to a **significant existing 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 **significant existing tree** including works proposed within the Tree Protection Zone (refer to AS4970 for details to identify the Tree Protection Zone).

- c) 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. Development application assessment

- a) The Shire will assess any development application in accordance with the general requirements above.
- b) There is a general presumption against **tree damaging activity** (other than **maintenance pruning**) to any **significant existing tree** and the siting and design of the development should, where possible, avoid impacting any **significant existing tree**.
- c) **Tree damaging activity** to a **significant existing tree** may be considered if the following relevant information and/or technical reports are provided to demonstrate:
- The **significant existing tree** is unhealthy, based on the recommendations of an **Arborist report**,
  - The **significant existing tree** causes safety risks to people, infrastructure or buildings based on recommendations on an **Arborist report** and/or Structural Engineering Report; or
  - The redesign of the development to accommodate the **significant existing tree** is unfeasible.
- d) Tree Planting Requirements.

*NOTE: Any tree planting requirements that vary the deemed to comply provisions of State Planning Policy 7.3 Residential Design Codes Volume 1 and 2 requires approval from the Western Australian Planning Commission.*

#### 5. Development approval conditions

- a) If a **significant existing tree** is proposed to be retained as part of an approved development, the Shire may include the following condition on the development approval:

**“1. The existing tree identified on the site plan must:**

- (i) Be retained and subsequently maintained in a healthy state;**
- (ii) Be protected during the construction of the development in accordance with Australian Standard AS4970; and**
- (iii) Only be maintenance pruned in accordance with Australian standard AS4373.**

***If, notwithstanding paragraph (i) the existing tree dies or becomes unhealthy and requires replacement, the landowner must notify and make suitable arrangements with the shire for a replacement tree(s).***

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***Thereafter, the replacement tree(s) must be retained and maintained in accordance with this condition.***

***2. The tree protection zone(s) shown on the site plan must be retained.”***

- b) If tree planting or tree replacement is required as part of an approved development, the Shire may include the following condition on the development approval:

***“1. The tree(s) shown on the approved site plan / landscaping plan must:***

- (i) be planted before the development is occupied;***
- (ii) be maintained during the life of the development; and***
- (iii) only be maintenance pruned in accordance with Australian Standard AS 4373.***

***If, notwithstanding paragraphs (i) and (ii) a tree dies or becomes unhealthy the landowner must notify and make suitable arrangements with the Shire for a replacement tree(s). Thereafter, the replacement tree(s) must be retained and maintained in accordance with this condition.***

***2. The tree protection zone(s) shown on the approved site plan / landscaping plan must be created before the development is occupied, and thereafter retained.”***

## **6. Subdivision application assessment**

- a) The Shire 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 ***significant existing tree*** and whether the general requirements above have been addressed.
- b) 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 ***significant existing trees***.
- c) The subdivision plan should identify ***significant existing trees*** and note if they are to be retained or removed, and the applicant is to demonstrate how the retained ***significant existing trees*** will be protected as part of the subdivision process.
- d) The Shire will request the WAPC to include the following condition on the subdivision approval to ensure ***significant existing trees*** identified by the Shire are protected:

***“The significant existing tree(s) identified on the approved plan of subdivision dated [insert value] shall be retained and protection measures implemented to ensure such trees are not impacted by***

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***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.”***

**7. Strategic planning proposals (local planning scheme amendments and structure plans)**

- a) Where applicable, Local Planning Scheme (LPS) amendments and Structure Plan proposals should identify ***significant existing trees*** and shall outline mechanisms and measures to protect ***significant existing trees*** at subsequent stages of the planning process.
- b) Concept Plans supporting LPS amendment applications and Structure Plans shall prioritise positioning of public open space (POS), configuration of the public road network and lot design and densities to retain ***significant existing trees***.
- c) Strategic planning proposals shall be supported by technical information and reports which demonstrate that the protection of ***significant existing trees*** has been prioritised.