

## **1. INTRODUCTION**

Town Planning Scheme No.4 (TPS No. 4) includes a number of mechanisms that protect or that can be used to achieve preservation of trees or groups of trees including:

- a) the use of development envelopes (Clause 4.7 and Policy PLN 2.1);
- b) a requirement for permission to clear remnant vegetation in the Special Rural and Rural Living zones (Clause 4B.7);
- c) a requirement for permission to remove, lop, top, chop, ringbark or otherwise trim or destroy a tree within any of the City's Commercial zones. (Clause 4C.9);
- d) identification of areas as landscape and bushland protection areas on Special Control Area Map 1 which can serve to protect groups of trees (Clause 5.5);
- e) listing on the heritage list where those trees are of cultural heritage significance and worthy of conservation;
- f) serving of a notice requiring landholders to preserve a tree or group of trees (Clause 80A of Schedule A); and
- g) retention of trees in public open space (e.g. through the Structure Planning process).

This policy focuses on administration of mechanism "f" noted above, namely Clause 80A which reads as follows:

*"The Local Government may by notice served upon individual landowners or upon a subdivider of land, require the preservation of a tree or group of trees. Thereafter no landowner shall cut, remove or otherwise destroy any tree unless the Local Government grants approval or rescinds the notice or order."*

### **1.1 DEFINITIONS**

"Registered tree" is a tree or group of trees subject to a notice under Clause 80A of Town Planning Scheme No.4.

"Tree" includes shrubs and other perennial plants, and should be read in the singular or plural to include a group of trees.

## **2. POLICY OBJECTIVES**

- a) To provide guidance on the criteria that shall be used when considering whether or not a tree is significant enough to warrant issuing of a notice under Clause 80A.
- b) To provide guidance on the review of a registered tree.
- c) To provide guidance on administrative processes associated with the protection of a registered tree.

### **3. POLICY STATEMENT**

#### **3.1 Using the appropriate mechanism for tree protection**

In general Clause 80A should only be used:

- when other mechanisms (e.g. as identified in the introduction to this policy) are deemed inadequate or not suitable; and/ or
- the tree in question is of such significance that additional protection is warranted.

Trees of cultural significance that qualify for heritage listing under *Schedule 2, Part 3 of Planning & Development (Local Planning Schemes) Regulations 2015* should also be protected by a notice issued under Clause 80A of the Scheme.

In general, Clause 80A is not an appropriate mechanism for protecting trees on reserves vested in the City of Armadale or road reserves<sup>1</sup>.

In the course of processing an application for planning approval, the City may require an owner to submit a site plan identifying trees likely to be deemed significant under this Policy that are affected by the proposed development. Details will also need to be submitted of proposed measures to protect trees identified on the site plan as outlined in the Australian Standard 4970-2009: Protection of trees on development sites (or superseding Australian Standard).

#### **3.2 Guidance in determining whether or not a notice should be issued for a tree**

The criteria and process used to determine the significance of a tree are discussed below. Only trees deemed to be significant when assessed in accordance with this criteria and process will warrant issuing of a notice under Clause 80A.

In terms of process, a tree will need to meet at least one of the first three criteria listed below (“a”, “b” or “c”) to be considered worthy of issuing of a notice under Clause 80A, in addition to being deemed acceptable under criteria “d” (i.e. a tree must meet criteria “d” but only needs to meet at least one of the first three criteria).

##### **3.2.1 Significance Criteria**

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<sup>1</sup> Other administrative mechanisms are in place to protect significant trees on reserves vested in the City and with regard to roads, although the *Land Administration Act 1997* identifies local government as having the care, control and management of road reserves other legislation permits installation of public utility services such as electricity, gas and water with little or no need for approval from the local government.

**a) *Heritage Significance***

Heritage significance can arise from importance to the Aboriginal community, European significance, association with a significant heritage site, or commemorative plantings.

Heritage significance should be determined with due regard to the advice of the City's Community Heritage Advisory Group, or in the case of Aboriginal significance with due regard to the advice of the Department of Planning, Lands and Heritage.

**b) *Species Significance***

Species significance can arise from a range of factors including outstanding size or age, horticultural significance, rarity, habitat value, or curious growth forms.

Outstanding size or age should be assessed by the City's Parks and Reserves Services based on the size and age of the tree relative to normal mature size and age of trees for that species in the City.

Horticultural significance should be assessed by the City's Parks and Reserves Services using the species significance factors noted above and horticultural advice.

Rarity should be considered from a state-wide and City of Armadale context. Declared Rare Flora and Priority Flora are adequately protected under the *Wildlife Conservation Act 1950* and will not be listed under this policy. The City's Parks and Reserves Services and/or Environmental Services should provide advice on rarity.

In undertaking assessments under this policy the habitat value of a tree is deemed significant if it provides a breeding, feeding or roosting site regularly used by fauna protected under state or federal legislation or international treaties or is a mature tree with a diameter at breast height of 50cm or greater. The City's Environmental Services should provide advice on habitat value.

Habitat value may be listed as a valued attribute for trees identified as significant for other reasons, even if the tree's habitat value does not meet the abovementioned criteria. This would be the case for example for a Marri tree (*Corymbia calophylla*) listed as significant for other reasons because Marri provide habitat for a much wider range of fauna than many other local trees.

Curious growth forms include abnormal outgrowths, fused branches or unusual root structures, and should be assessed by the City's Parks and Reserves Services.

**c) *Location, Landscape and Landmark Significance***

Some trees acquire significance due to their context in and contribution to the landscape and are sometimes identified as landmarks by the community. Assessment of location, landscape and landmark significance is primarily subjective, yet many people can share the same perception. Such significance should therefore only be ascribed where there appears to be general agreement by the community.

Location, landscape and landmark significance should be assessed by the City's Planning Services, who may consult with the Community Heritage Advisory Group.

**d) *Tree Condition and Impacts***

If a tree is deemed as significant under one or more of the above Criteria, the condition of the tree and its existing and potential impacts will also need to be assessed. Such an assessment, which may take the form of a "*Quantified Risk Assessment*", will be undertaken by the City's Parks and Reserves Services and should consider the following matters:

- a) Usual Life expectancy;
- b) Health condition (vitality) and structural integrity;
- c) Evidence of existing impacts a tree is having on buildings and/or structures;
- d) Future growth habits and their potential impacts;
- e) Potential size at maturity;
- f) Safety Risks (or Risk of Harm);
- g) Amenity and Lifestyle Impacts; and
- h) If applicable, evidence from a relevant and qualified medical professional that a tree is causing medical problems to a member/s of the community.

The tree condition and impact assessment will be the final matter that is considered in deciding if a notice under Clause 80A should be issued. With consideration of the advice received from the City's Parks and Reserves Services (and other advice where applicable), the City's Planning Services will make the final recommendation or decision on the appropriateness of issuing a notice under Clause 80A. If the condition or impacts of a tree are deemed unacceptable by the City, it may be recommended or decided that a notice issued under Clause 80A is not issued.

**3.3 Process for requesting the City to issue a notice**

Any person may request that the City investigate the significance of a tree with a view to issuing a notice under Clause 80A of Town Planning Scheme No.4. Such requests should be prepared using the form provided (attached).

Once received the request will be processed by the City's officers by undertaking an assessment using the framework provided by 3.2 above, and a recommendation made.

### **3.4 Administrative mechanisms for the protection of registered trees**

The City will maintain a Tree Preservation Register that lists notices issued, their date of issue and a brief summary of the tree's significance.

Trees in the Tree Preservation Register will be identified on the City's geographic information system.

To assist owners with registered trees the City offers:

- a standard plinth and plaque for the base of a significant tree at cost; and
- advice to approved contractors on tree pruning as outlined in the Australian Standard 4373-2007: Pruning of amenity trees (or superseding Australian Standard).

Subject to availability of resources, the City will undertake regular inspections when development works are approved in the vicinity of a registered tree, with development works to be undertaken as outlined in the Australian Standard 4970-2009: Protection of trees on development sites (or superseding Australian Standard).

If a registered tree is on public land (e.g. road reserve) the City will install a plaque or sign except where it is decided that erection of a sign next to the tree will increase threats to the tree (e.g. increased likelihood of theft or damage due to the advertisement of its importance).

### **3.5 Review of registered trees**

The City's Parks and Reserves Services will reinspect all registered trees at least every five years.

As part of a reinspection, the City's Parks and Reserves Services will consider Significance Criteria "d" above to help determine the appropriateness of a tree remaining registered or to determine what action is required to ameliorate the impacts and improve the condition of a registered tree.

If in between inspections a landowner identifies that the condition of a registered tree on private land or on public land has deteriorated and its impacts are becoming a risk, they can provide evidence and request the City's Parks and Reserves Services to inspect the tree to determine if remedial action is necessary. There is therefore a duty of care placed on a landowner in this regard, as outside of the City's inspections that occur

every five years, the City will only inspect a registered tree when requested in writing.

The City's Planning Services will make the final recommendation or decision on the appropriateness of a tree remaining registered or what action is required to ameliorate the impacts and/or improve the condition of a registered tree.

### **3.6 Protection of Registered Trees within Future Developments and Subdivisions**

Proposed development, strata titling and/or subdivision of private land shall be designed to account for the ongoing protection of registered trees with consideration to the potential impacts and growth habits of a tree throughout its life cycle to the City's satisfaction, with all works adjacent to significant trees to be undertaken as outlined in the Australian Standard 4970-2009: Protection of trees on development sites (or superseding Australian Standard).

The City shall require a Section 70A notification to be placed on the Certificate of Title of a property affected by a registered tree as part of a development, strata titling and/or subdivision approval.

## Town Planning Scheme No.4 - Tree Register Nomination Form

Address or location of tree (or group of trees)

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Owner's Name and address (if known)

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Common name and/ or botanical name

Reason for nominating the tree (please tick the box)

- |  |   |
|--|---|
| <input type="checkbox"/> Heritage significance           | <input type="checkbox"/> Species significance |
| <input type="checkbox"/> Location/ landmark significance | <input type="checkbox"/> Other                |

Please provide more information of significance of tree, by reference to the criteria provided in City of Armadale Policy PLN 2.4. Please attach other sheets as needed.

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Photographs attached?

Yes / No

What is the general condition of the tree?

Good / Fair / Poor

Nominator's details

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Name

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Address

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Phone No & e-mail

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Signed and dated

Nomination forms should be sent to the Chief Executive Officer, City of Armadale, Locked Bag No 2, Armadale WA 6992.

**D106/6/03 Development Services Committee 9 June 2003 - Adopted by Council 16 June 2003**  
**D160/9/04 Development Services Committee 13 Sept 2004 - Adopted by Council 20 Sept 2004**  
**D113/9/07 Development Services Committee 11 Sept 2007 - Adopted by Council 17 Sept 2007**  
**D65/9/12 Development Services Committee 17 Sept 2012 - Adopted by Council 24 Sept 2012**  
**D32/8/16 Development Services Committee 16 Aug 2016 - Adopted by Council 22 Aug 2016**  
**- Revised September 2017 & April 2018 (as per Amendment 86)**  
**D32/5/20 Development Services Committee 19 May 2020 - Adopted by Council 25 May 2020**