

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 **or landscaping features** 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 certain size of tree within any of the City's **Strategic Regional Centre, District Centre, Local Centre and Mixed Business / Residential** 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 – Tree Preservation Orders); and
- g) retention of trees **and landscape features** in public open space, **drainage corridors and road reserves** (e.g. through the Structure Planning **and subdivision** process); and
- h) **the identification of vegetation retention as part of the State Government's 'Liveable Neighbourhoods (i.e. Element 1 – Community Design)'**.

This policy **provides guidance on the application and administration of circumstance where Clause 80A of Schedule A may be applied (item (f) above)** 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.”

The policy also focuses on guidance and administration on the retention of **Groups of Trees and Landscape Features (item (g) and (h) above)** that are deemed significant by the community and identifies mechanisms for their protection through the planning and development process.

1.1 DEFINITIONS

“Landscape feature” is defined in section 3.2.2 of this policy.

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

“Significant tree” is defined in section 3.2.1 of this policy.

“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 of Schedule A of TPS No.4.
- b) To provide guidance on the review of a registered tree and guidance on administrative processes associated with the protection of a registered tree.
- c) To provide guidance on the level of information required by the City when considering significant trees and landscape features at each stage of the planning framework.
- d) To aim for the retention of significant trees and other landscape features through the strategic and statutory planning framework to retain the character of the area.
- e) To provide referral advice and / or advocate to the Western Australian Planning Commission and DevelopmentWA, the retention of trees and other landscape features when considering Structure Plans and Subdivision Plans.
- f) Advocate for the achievement of ‘environmental offsets’ in the City’s municipal boundary.

3. POLICY STATEMENT

3.1 How the Policy is to be applied

This policy applies to all land within the City of Armadale Town Planning Scheme No.4 and, areas where the City does not have planning control and instead provides referral advice, during the following planning phases and circumstances described below:

- District Structure Plans;
- Local Structure Plans;
- Subdivision applications (10 or more lots);
- Development Applications; and
- Individual selection of significant trees (only) for protection via community or Government nomination.

This policy is to be read in conjunction with Town Planning Scheme No 4 (i.e. Clause 80A of Schedule A) and other relevant strategies and policies and is intended to complement and be used in conjunction with relevant State Government legislation, policies and guidelines, specifically Liveable Neighbourhoods – Element 1 ‘Community Design’ under ‘Site and Context Analysis requirements’ as follows:

'1.2 – Identify and respond to significant environmental assets such as landform, geology, areas of landscape significance, Environmental Policy Protection areas, bushlands, wetlands and foreshore reserves in the proposed urban structure'

'1.3 – Enhance local identity by recognising and incorporating local character values, landmark, heritage, views and any other significant natural and cultural assets'

3.2 What is considered a Significant Tree(s) and Landscape Feature

The criteria and process used to determine the significance of a tree and landscape feature is discussed in this section.

In respect to the application of Clause 80A of Schedule A, only trees deemed to be significant as assessed against the criteria below will warrant notice under Clause 80A or retention during the Structure Plan, Subdivision and / or Development process.

3.2.1 Significance Criteria – Trees

In terms of determining what is a Significant Tree(s) that is worthy of retention, a tree or trees 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 of Schedule A, or retention through the Structure Plan and Subdivision process 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).

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 by the City 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 **or the trees recommended to be retained as part of the District and Local Structure Plan process or Subdivision and Development Stages**. 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 **and / or recommending to the Western Australian Planning Commission that the tree(s) be retained as part of the District and Local Structure Plan process and Subdivision and decision on Development Application process**.

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 **or the trees are not retained as part of the District or Local Structure Plan process, Subdivision or Development Application process**.

3.2.2 Significance criteria – Landscape Features

A Landscape Feature is to be considered a unique or identifiable feature of the landscape including ridgelines, rocky outcrops, vegetation, creek lines and wetlands.

Landscape Features can be identified in the District and Local Structure Planning phase of the planning and development process and subdivision phase of the planning and development process.

In the case of a 'group' of trees being identified as a significant Landscape feature, the retention of individual trees will be undertaken in accordance with criteria identified in Section 3.2.1 of this policy.

3.3 Information required by the City for Assessment

This section sets out the City's expectations on the minimum information required for investigation and management of significant trees and landscape features that may be identified during the various stages of the planning framework including District and Local Structure Planning stage, Subdivision stage, Development stage or when individually nominated by the City, Government organisation or Member of the Community.

The City may at its discretion, waive or modify any of the requirements where it is satisfied that the information provided by the applicant is appropriate for the City to consider Landscape Features and Significant Trees.

The City's requirements in relation to Significant Trees and Landscape Feature retention at each stage of the planning framework or via individual nomination is detailed below:

District Structure Planning

The following information is required to be prepared and submitted to the City for approval at District Structure Planning stage to assist in satisfying Items '1.2 and 1.3' of the 'Site and Context Analysis' requirements under Element 1 'Community Design' of Liveable Neighbourhoods:

A District Landscape Feature and Tree Retention Strategy is to be submitted to the City as part of the District Structure Plan in accordance with *Schedule 2 Clause 16(1)(c)(i) of the Planning and Development (local planning schemes) Regulations 2015*. A District Landscape Feature and Tree Retention Strategy should be prepared in consultation with the City and include the following:

- Identification of all Landscape Features and Significant Trees (or groups of significant trees where appropriate) overlaid on the District Structure Plan and recent aerial image;
- Statement of how the District Structure Plan has considered and responded to Element 1 (Community Design) of Liveable Neighbourhoods; and
- Description of the process for retaining Significant Trees and Landscape Features during subsequent stages of the planning framework in accordance with this policy.

Local Structure Plans

The following information is required to be prepared and submitted to the City for approval at Local Structure Planning stage to assist in satisfying Items '1.2 and 1.3' of the 'Site and Context Analysis' requirements under Element 1 'Community Design' of Liveable Neighbourhoods: :

Local Landscape Feature and Tree Retention Strategy

A Local Landscape Feature and Tree Retention Strategy is to be submitted to the City as part of a Local Structure Plan in accordance with *Schedule 2, Clause 16(1)(c)(i) of the Planning and Development Regulations 2015*. A Local Landscape Feature and Tree Retention Strategy should be prepared in consultation with the City and include the following:

- A description and map prepared by a suitable qualified professional (to the satisfaction of the City) showing the location, species, size and structural health of Significant trees on site;
- A map showing which Significant Trees are proposed to be retained and which Significant Trees are to be removed;
- A description of methods to avoid impacts on trees that are to be retained;
- A description of ongoing management and maintenance;
- A map and description of all landscape Features on site;
- A map of the Landscape Features that are proposed to be retained, modified or removed; and
- Statement of how the District Structure Plan has considered and responded to Element 1 (Community Design) of Liveable Neighbourhoods.

The Local Landscape Feature and Tree Retention Strategy must give due consideration to Element 1 'Community Design' of Liveable Neighbourhoods. Structure Plan is to outline how Element 1 of Liveable Neighbourhoods has been achieved and identify mechanism for implementation at subdivision stage.

a) Subdivision Applications

In order for the City to provide advice to the Western Australian Planning Commission for the assessment of subdivision applications where 10 or more lots are proposed, or where an existing Landscape Feature and Tree Retention Plan exists (i.e. for District and / or Local Structure Plan), the City will require the following:

Landscape Feature and Tree Retention Plan

A Landscape Feature and Tree Retention Plan is to be prepared in consultation with the City prior to the submission of a Subdivision Application to the Western Australian Planning Commission with the intention of resolving any inconsistencies between:

- The retention of the Significant Trees and Landscape Features and the location of services, driveways, garage locations and retaining walls; and
- Preliminary engineering designs / water management plans, and the retention of Significant Trees and Landscape Features to be retained.

The Landscape Feature and Tree Retention Plan should be consistent with the Local Landscape Strategy and/or approved Local Structure Plan and should identify (where applicable):

- A map prepared by a suitable qualified professional (as determined by the City) showing the location, species, size and structural health of Significant Trees to be retained;
- A description of methods to avoid impact of Significant Trees that are to be retained;

- Cut and fill levels where Significant Trees are to be retained;
- Buffer distances around Significant Trees in accordance with AS4970-2009 – Protection of Trees on development sites (or as amended);
- A description of ongoing management and maintenance of Landscape Features and Significant trees; and
- A map of the Landscape Features that are proposed to be retained.

When subdivision applications are assessed under this Policy, the City may recommend conditions to the Western Australian Planning Commission requiring Landscape Features and/or Significant Trees to be retained in accordance with a Landscape and Tree Retention Plan that has been approved by the City.

b) Civil Design

Following subdivision approval by the WAPC, where a Landscape and Tree Retention Plan is in place following previous phases of the approval framework, at the Civil Design stage the following information is required:

- Civil drawings submitted to the City (including for retaining walls, drainage and POS, roads, services and footpaths) shall be consistent with the Landscape and Tree Retention Plan adopted by the City. Requirements of the adopted plan need to be incorporated into the Civil drawings;
- The proponent will be required to engage with the City to undertake a site visit to demonstrate how the Landscape and Tree Retention Plan is to be followed; and
- Plans of the location, approximate height, diameter, species and condition of the Significant Trees and Landscape Feature shall be provided to the City with the civil drawings.

c) Prior to Earthworks / Engineering Approval

Following subdivision approval by the WAPC, where a Landscape and Tree Retention Plan is in place following previous phases of the approval framework, the following is required prior to the issue of earthworks / engineering approval by the City:

- Construction drawings to be provided in the appropriate format showing the location, species, approximate height, DBH and canopy of all retained trees and landscape features;
- Ground truth public open space and road reserves prior to clearing, with a representative from the City to ensure Significant Trees and Landscape Features are to be protected, are surveyed and clearly identified on site;
- Service installation in the proximity of Significant Trees and / or Landscape Features shall be undertaken using methods other than excavation which comply with AS 4970-2009; and
- Where services conflict with a Significant Tree or Landscape Feature, the City may require service alignments to be altered to

minimise impact on the Significant Tree and Landscape Feature, in agreement with the service provider.

d) Requirements at Practical Completion of Subdivision

Following the completion of civil and landscape works in a stage of subdivision the following is required:

- A representative from the City will undertake an inspection of the subdivision works to determine if the Significant Trees and Landscape Features have been retained in accordance with the Landscape Feature and Tree Retention Plan;
- Any Significant Trees with damage may require review by an independent arborist to determine if the tree is viable. Trees that are not viable will be removed and replaced with a tree of the same species at the full expense of the proponent and to the satisfaction of the City.

e) Development Applications

Development application approvals may also be conditioned requiring Landscape Features and / or Significant trees to be retained in accordance with a Landscape Feature and Tree Retention Plan that has been approved by the City.

If a Landscape Feature and Tree Retention Plan does not apply to a Development Application the City can undertake its own assessment using the criteria established in clause 3.2.1 and 3.2.2 and if necessary issue a Tree Preservation Notice via Clause 80A of TPS No.4 or alternatively apply a condition of Development Approval for the Tree Retention and / or Landscape Feature.

f) Nomination of Significant Tree by Government or Community

It is possible that either a Government entity or Member of the Community can identify and seek the approval of the City to retain a Significant Tree on a property or road reserve.

In these circumstances the City will undertake an assessment in accordance with Clause 3.2.1 and if warranted will consider the best mechanism for protecting the tree. 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 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).

3.4 Process for requesting the City to issue a notice

In circumstances where 3.3 (f) applies in this policy, 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 **Clause 3.2.1 of this policy**.

3.5 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).

3.6 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 **as per Clause 3.2.1** 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.

3.7 Protection of Registered Trees and Landscape Features within Future Developments and Subdivisions

Proposed development, strata titling and/or subdivision of private land shall be designed to account for **Registered Tree and /or identified Landscape Features** 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 private property affected by a Registered Tree as part of a development, strata titling and/or subdivision approval.

3.8 Removal of a Significant Tree identified for retention without appropriate authorisation

Should a landowner wish to remove a Significant Tree that has been identified in a Landscape Feature and Tree Retention Plan or via another mechanism identified in this Policy, the express permission of the City and / or formal approval is required before undertaking any site works. The City will undertake its investigation in accordance with Clause 3.6 above.

In the event that a Significant Tree that is identified for retention is part of a Landscape Feature or is identified in a Tree Retention Plan, or is identified in the City's register of protected trees and has been removed without authorisation from the City, the following may result:

- If the tree relates to a Structure Plan and / or Subdivision application, the City may withhold the issue of subdivision clearance until such time as a suitable replacement has been agreed with the City (where a subdivision condition requesting a Landscape Feature and Tree Retention Plan applies); and
- If the tree relates to a Development Application or tree on the City's Tree Register, a suitable replacement may be sought to the City's satisfaction or alternatively the City may take compliance action under the *Planning and Development Act 2005*.

3.9 Environmental Offsets

There may be circumstances where a landowner and/or developer is granted permission to remove 'significant trees' for a proposal such as in the scenarios below:

- Removal of Significant Trees without authorisation (Section 3.8); and
- Removal of Significant Trees and / or Vegetation in accordance with the *Environmental, Protection and Biodiversity Conservation Act 1999*;

Where the above circumstances apply, it will be the City's Policy to request the landowner / developer to provide environmental offsets within the project area or suburb as the first priority. If this is not possible the City can request the following:

- The landowner / developer to purchase land in the City to be protected for environmental purposes to the City's satisfaction; or
- The landowner / developer come to an agreement with the City to plant new trees within existing reserves within the City of Armadale to the City's satisfaction.

In the case where the above options are not possible, the City reserves the right to advocate to the relevant Federal or State Government body for the environmental offsets to be provided within the City of Armadale.

Town Planning Scheme No.4 - Tree Register Nomination Form

Address or location of tree (or group of trees)

Owner's Name and address (if known)

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.

Photographs attached? Yes / No

What is the general condition of the tree? Good / Fair / Poor

Nominator's details

Name

Address

Phone No & e-mail

Signed and dated

Nomination forms should be sent to the Chief Executive Officer, City of Armadale, Locked Bag No 2, Armadale WA 6992 [or via email on infor@armadale.wa.gov.au](mailto:infor@armadale.wa.gov.au)

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