

## Local Planning Policy No.39

Adopted: 18 February 2020

Last Amended: XX Month Year

### Tree Retention

**Commented [JH1]:** @Ellie van Rhyn @Robert Cruickshank updated LPP tree retention for your review

**Commented [JH2R1]:** @Laura Sabitzer @Sturt McDonald @Deniqua Boston FYI

**Commented [RC3R1]:** @Jack Hobbs comments added below

### 1.0 Citation

This Local Planning Policy is prepared under Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations). This Policy may be cited as 'Local Planning Policy 39 - Tree Retention'.

### 2.0 Introduction

Trees and other vegetation in urban areas provide significant social, economic, and environmental benefits to the community. The greatest environmental, aesthetic and cooling benefits of trees are provided by large, mature trees which typically have the largest canopy cover.

This policy outlines that the Town of Victoria Park recognises the increasing importance of retaining trees on private land to achieve the Town's objectives to increase town wide tree canopy coverage. It is important that the retention of trees is considered at all stages of development.

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 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.

### 3.0 Objectives

The objectives of this policy are to:

- a) To assist with achieving the Town of Victoria Park's objectives to increase town wide tree canopy coverage.
- b) Provide a clear definition of a 'regulated tree' and clarify when a development application is required for 'tree-damaging activity';
- c) Prioritise the retention and protection of trees on private land in the planning process;
- d) 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;
- e) Preserve and enhance neighbourhood amenity, character and sense of place; and
- f) Mitigate the urban heat island effect, reduce air pollution, improve groundwater quality and contribute to biodiversity and other environmental benefits.

## 4.0 Scope

4.1 This policy applies to all zoned land within the Town of Victoria Park under the Local Planning Scheme including in the circumstances described below:

- a) Development applications;
- b) Subdivision applications;
- c) Other strategic planning proposals including scheme amendments and structure plans; and
- d) Any tree damaging activity to a regulated tree.

**Commented [RC4]:** what about reserved land such as Curtin University (land not under the care of the Town) ? I guess we just accept that the land is under the control of others and the WAPC are the responsible planning agency for any development/tree removal over this land.

**Commented [JH5R4]:** my view is that MRS reserve land should be outside the scope of the policy given the Town is not the responsible planning agency and the intent of the policy was to regulate trees on privately owned land

4.2 This policy does not apply to land within the Town of Victoria Park reserved as a Local Scheme Reserve, such as roads or public open spaces, under the Local Planning Scheme where Council Policy 255 – Tree Management applies.

**Commented [RC6]:** reword - reads like it could apply to reserved land where Council Policy 255 does not apply (ie. Curtin Uni as one example)

4.3 This policy does not apply to land within the Town of Victoria Park reserved as a Region Scheme Reserve, such as Parks and Recreation, Primary Regional Roads or Public Purposes, under the Metropolitan Region Scheme where the Town is not the determining authority for applications for development approval.

**Commented [JH7R6]:** @Robert Cruickshank modifications made and additional clause added to clarify that the policy does not apply to land subject to local or regional reserves.

4.4 A development application is required for any tree damaging activity 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 of the Regulations.

**Commented [RC8]:** I am not understanding the reference to other works. My understanding is that the intent is for any tree damaging activity to a regulated tree to require approval. The reference to "other works" seems to suggest otherwise and that a DA for tree damaging activity to a regulated tree is only required where other works are proposed (meaning you can undertake tree damaging activity if the only works you are proposing is the works to the tree)

## 5.0 Exemptions

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

- a) the tree does not satisfy the definition of regulated tree;
- b) the tree damaging activity is carried out in the course of works in accordance with the Regulations Schedule 2 Part 7 Clause 61 (b) item 18:  
*"works that are urgently necessary for any of the following —*
  - c) public safety;
  - d) the safety or security of plant or equipment;
  - e) the maintenance of essential services; or
  - f) the protection of the environment."
  - g) the tree damaging activity is required as part of an approved Bushfire Management Plan;
  - h) the tree damaging activity is maintenance pruning;
  - i) tree damaging activity to a regulated tree that is a species on a State or local weed register.
  - j) the tree damaging activity is a public work.

**Commented [JH9R8]:** @Robert Cruickshank on that basis should this clause be deleted? I'm of the view it adds know real value but retained it to be consistent with the WALGA policy

**Commented [JH11R10]:** yes. errors in prefix formatting has been a constant frustration as policies are checked in and out of docassembler for editing. attachments will be edited and converted to pdf to overcome this issue once finalised

**Commented [RC10]:** are c) to f) meant to be (i) to (iv) ???

## 6.0 General Requirements

6.1 Where tree damaging activity is proposed to a regulated tree the following will be given due regard in the assessment process:

- 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;
- k) The location of the tree within the development site and capacity for a modified building design or subdivision to maximise tree retention;
- l) In the opinion of the Town, the redesign of the development to accommodate the regulated tree is unfeasible.
  - e) Any existing development on the site;
  - f) Design and location of proposed crossovers to retain trees;
  - g) Topography and the potential impact from excavation/fill;
  - h) Possible safety risks due to tree limb failure and infrastructure and/or structural damage associated with the retaining of the tree;
  - i) Tree Protection Zone(s) (as per Australian Standard 4970-2009 – Protection of Trees on Development Sites);
  - j) Tree replacement and/or planting proposed;
  - k) Recommendations of an Arborist Report;
  - l) The objectives of this policy.

**Commented [RC12]:** in my opinion item c) should be listed under item 6.1 as it is an item that will be considered in assessing an application

6.2 The following justifications for tree damaging activity to a regulated tree will not be supported:

- a) Impact on views;
- b) The trees variety is disliked;
- c) The trees variety causes nuisance by way of leaf, fruit or bark shedding or the like;
- d) The tree impacts on private gardens, solar installations, swimming pools or the like;
- e) Allergies.

## 7.0 Development applications

7.1 There is a general presumption against tree damaging activity (other than maintenance pruning) to any regulated tree and the siting and design of any new development should, where possible, avoid impacting any regulated tree.

7.2 Where an applicant seeks support for tree damaging activity on the basis of the tree being unhealthy or unsafe, then the application should be supported by an Arborist Report and/or Structural Engineers report as relevant.

## 8.0 Subdivision Applications

8.1 The Town may recommend that prior to the determination of an application for subdivision

approval, additional information be provided to the Western Australian Planning Commission to allow consideration of the impacts of the subdivision design and layout on any regulated tree, and whether the general requirements of this Policy have been addressed.

- 8.2 Subdivision design, layout and earth working levels, including the positioning of public open space, configuration of the public road network, lot design and densities, shall prioritise the retention of regulated trees.

## 9.0 Strategic Planning Proposals

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

## 10.0 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** means pruning that:

**pruning**

- m) involves removing dead or diseased wood only; or
- n) is of a fruit tree and done for fruit production; or
- o) is otherwise minor maintenance or thinning of the crown that does not adversely affect the health or general appearance of the tree.

**regulated tree** means a living tree that —

- a) Is 8m or more high; 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

**Commented [RC13]:** numbering

**Commented [RC14]:** if tree damaging activity occurs without approval, then from a planning compliance perspective how do we prove after the event that the tree was of a height, canopy size etc that would have required approval ? additionally, does this mean that a landowner needs to engage the service of a land surveyor /arborist etc to determine the height and size of a tree, and whether a DA is then required for works to the tree ?

register.

**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.

### 11.0 Relevant Legislation, Policies, Documents

This Policy should be read in conjunction with:

- Planning and Development Act 2005
- Planning and Development (Local Planning Scheme) Regulations 2015
- Town of Victoria Park Local Planning Scheme
- Town of Victoria Park Local Planning Policies
- Council Policy 255 – Tree Management
- Australian Standards AS 4970—2009 - Protection of trees on development sites
- Australian Standards AS 4373-2007 Pruning of Amenity Trees.

### 12.0 Version Control & Administration

<b>Responsible Service Area</b>	Urban Planning
<b>Adoption Date</b>	To be confirmed 'Ordinary Meeting of Council' 'Council Item #'
<b>Date(s) Amended</b>	Not applicable
<b>Next Review Date</b>	To be confirmed (4 years from last review)