



# CITY OF FREMANTLE

## LOCAL PLANNING POLICY 2.23

### REGISTER OF SIGNIFICANT TREES AND VEGETATION AREAS

**ADOPTION DATE:** 27 February 2019 (Council adoption)

**AUTHORITY:** LOCAL PLANNING SCHEME NO.4 and PLANNING AND DEVELOPMENT (LOCAL PLANNING SCHEMES) REGULATIONS 2015

#### STATUTORY BACKGROUND

The Schedule 2 Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015 are to be read as though part of City's Local Planning Scheme (LPS4).

Clause 67 of the Deemed Provisions defines matters to be considered by local government in determining a development application and includes, amongst other things:

- *whether any trees or vegetation should be preserved; and*
- *any local planning policy for the Scheme area.*

Clause 3 of the Deemed Provisions allows local government to prepare a local planning policy in respect of any matter relating to the planning and development of the Scheme area.

Schedule A of LPS4 makes provision for Council to create and maintain a register:

#### *Clause 13A Conservation of Significant Trees or Vegetation Areas*

*(1) The Council may establish and maintain a register of significant trees to identify those trees or vegetation areas within the Scheme area considered worthy of conservation under the provisions of the Scheme, together with a description of each tree or vegetation area and the reasons for its entry.*

*(2) In considering a proposal to include a place on the register of significant trees, the Council shall –*

- notify in writing the owner and occupier of the place where the tree is located and provide them with a copy of the description referred to in clause 4.1 and the reasons for the proposed entry,*
- invite submissions on the proposal from the owner and occupier of the place within 21 days of the date specified in the notice,*
- carry out such other consultations as it thinks fit, and*

- (d) consider any submissions made and resolve to enter the place on the register of significant trees with or without modification or reject the proposal after consideration of the submissions.*

Local Planning Policy 1.4 Development exempt from approval under Local Planning Scheme No. 4 permits tree and vegetation removal on private land without approval unless the tree or vegetation is identified on a significant tree or vegetation register:

**POLICY**

*The following uses and development are exempt from the requirement to obtain development approval under Local Planning Scheme No. 4:*

**Demolition and Removal**

- 30. Removal of trees or vegetation areas except where those which are identified on the Register of Significant Trees or Vegetation Areas, or where required to be retained on a site through a condition of development approval.*

This policy applies as a Local Planning Policy prepared under Clause 3 of the Deemed Provisions.

**PURPOSE**

The purpose of this policy is to:

- Define criteria for the inclusion or removal of trees and vegetation areas on the Significant Trees and Vegetation Areas Register ('the Register').
- Provide guidance for the assessment of development applications for sites including trees and vegetation areas listed on the Register.

**APPLICATION**

This policy applies to land subject to the provisions of LPS4. Land and development outside the control of LPS4 (including works on reserved land by a public authority) are not bound by the provisions of LPS4 or this policy and so there is a presumption against inclusion of trees and vegetation areas on the Register which are not on zoned land.

**POLICY**

**1. Criteria for Inclusion on Significant Trees and Vegetation Areas Register**

- 1.1 Nominations for trees or vegetation areas must be authorised by the owner(s) of the land on which the tree is located at the time of nomination.
- 1.2 Nominations will be assessed against the following criteria:
- a) Healthy specimen with ongoing viability.
  - b) Species not a weed of national interest.
  - c) Particular significance based on at least one of the following:

#### **i. Botanic/Horticultural value**

Tree(s) or vegetation may:

- be a rare or endangered species;
- be of a significant size or specimen for its species; or
- have special scientific value.

#### **ii. Visual/Aesthetic/Landmark value**

Tree(s) or vegetation may:

- have significant visual and aesthetic qualities e.g. size/form/shape/ colour/texture; or
- create a significant landmark.

#### **iii. Heritage value**

Tree(s) or vegetation may:

- be of high cultural heritage significance defined against historic, social, spiritual, rarity and representativeness values.

#### **iv Ecological value not otherwise protected through environmental legislation**

Tree(s) or vegetation may:

- provide significant habitat and/or seed source;
- represent remnant pre-European tree or vegetation;
- have special ecological significance; or
- provide substantial canopy cover.

#### **v. The potential of a juvenile tree to become significant by virtue of height at maturity, native food source and rarity.**

Species will only to be considered if endemic to the area, listed in the Urban Forest Plan and a minimum of 6m of height.

1.3 In assessing the ongoing viability of the nominated tree / vegetation, consideration may be given to the following:

- The development potential of the site and prospects for retaining the tree or vegetation in future development.
- Proximity to and impact on buildings and / or infrastructure.
- Proximity to boundary and impact on neighbouring property.
- The root structure and attributes of the plant and its propensity to be affected by changes to the environment outside the lot boundaries (e.g. development on neighbouring land).

Trees with a limited prospect of long term retention or lifespan will not be included.

- 1.4 In assessing the ecological value of trees and vegetation areas, consideration will be given to proximity to recognised ecological linkages or biodiversity corridors.
- 1.5 Nominations for inclusion, and requests for removal of trees and vegetation areas from the Register made independent of a development application will be assessed annually, in accordance with any applicable procedure.

## **2. Development Application for Sites including a Tree / Vegetation Area on the Register**

- 2.1 Development shall avoid detrimental impact on the registered tree / vegetation where feasible.
- 2.2 Applications to remove a tree or vegetation area on the Register not associated with other development will be assessed against the criteria and considerations listed in 1 above. Withdrawal of the support of the owner of the land (or subsequent owner of the land) will not be considered sufficient reason for removal.
- 2.3 Applications for other forms of development involving or likely to result in removal of a tree or vegetation areas on the Register will be considered under the following circumstances:

- (i) Where retention is likely to cause damage or injury to infrastructure, services, buildings or health and safety

Tree/vegetation removal is permissible where it has been clearly demonstrated that the tree/vegetation roots and/or branches are likely to cause damage or injury to –

- a. water, stormwater, power, gas, telecommunications or sewer lines, or
- b. the structural integrity of a building or structure of value, or
- c. the safe and efficient operation of an existing public road, private road, right-of-way, or formed accessway, or the integrity of a base course of an existing public road, private road, right-of-way, or formed vehicle accessway; or
- d. health and safety of a person/s; and
- e. all other reasonable remedial treatments have been determined to be ineffective.

- (ii) Where the tree or vegetation is structurally unsound or in poor health  
Tree/vegetation removal is permissible where it has been clearly demonstrated that the tree / vegetation is:
  - a. imminently dangerous (refer Exempted Development below); or

- b. in poor health with a low chance of survival; and
- c. all other reasonable remedial treatments have been determined to be ineffective.

(iii) Where the retention of tree/vegetation on a development site would preclude permissible development

Tree/vegetation removal is permissible where it has been clearly demonstrated that the location of the tree / vegetation:

- a. renders development of the site in accordance with its zoned purpose unfeasible.

- 2.4 In assessing proposals, applicants may be requested to provide professional evidence such as an arboricultural report or a structural engineers report demonstrating compliance with the above criteria.
- 2.5 Where removal is supported, replacement of the tree or vegetation in a suitable location may be sought as a condition of approval.
- 2.6 Development on lots containing registered tree or vegetation shall comply with AS 4970 – 2009 Protection of trees on development sites.

#### **ADVISORY NOTES:**

**Exempt Development:** Works urgently necessary for public safety, safety or security of plant or equipment, maintenance of essential services, or protection of the environment is exempt from the requirement to obtain development approval under LPS4. Demonstration of compliance with this definition may be sought where works are undertaken without approval.

**Pruning:** Pruning of a tree or vegetation on the Register is permitted where it does not constitute removal. Pruning is encouraged to comply with Australian Standards (AS 4373- 2007 Pruning of amenity trees) and may:

- (i) Involve removal of dead wood, treatment of disease, or is in the general interests of the health of the tree; or
- (ii) Address risk to public or private safety where other alternatives are not viable; or
- (iii) Address damage to buildings or structures of value where other alternatives are not viable; or
- (iv) Maintain the aesthetic appearance and structural integrity of the tree or vegetation.

#### **Review information and related documentation**

<b>Reviewing officer:</b>	<b>Manager Strategic Planning</b>
<b>Policy adopted:</b>	<b>27 February 2019 (Council adoption)</b>
<b>Policy amended:</b>	<b>22 May 2019 Item Ref SPT1905-3</b>
<b>Legislation:</b>	<b><i>Planning &amp; Development (Local Planning Schemes) Regulations 2015</i></b>
<b>Delegations:</b>	<b>NA</b>
<b>Related documents:</b>	<b>NA</b>
<b>Next review date:</b>	<b>5 yrs from adoption</b>



## Procedure for Administering the Register of Significant Trees and Vegetation Areas

### Part 1 – Nomination and Inclusion of Trees or Vegetation Areas on the Register

The process for nomination and inclusion of a significant tree or vegetation area on the Register is set out in *6.12 Schedule A – Supplementary provisions to the deemed provisions, Clause 13A Conservation of Significant Trees or Vegetation Areas* of Local Planning Scheme No.4 (LPS4). The procedure for including a tree or vegetation area on the Register is as follows:

- (i) Applicant is to complete the *Register of significant trees or vegetation areas on private land nomination form*, as provided in Appendix A, to apply for a significant tree or vegetation to be included on the Register. The application should address the criteria for inclusion listed in the policy.

*Note: The City will not accept an application for a significant tree or vegetation area to be included on the Register without the landowner's consent.*

- (ii) Applicant to lodge the application with the City of Fremantle's strategic planning team by:

Email (preferred method): [planning@fremantle.wa.gov.au](mailto:planning@fremantle.wa.gov.au)

Post: Planning Services, City of Fremantle, PO Box 807, FREMANTLE WA 6959

Hand Deliver: City of Fremantle Administration Building

- (iii) The City will undertake an assessment of nominated trees and vegetation areas in accordance with part one of the policy. This assessment will involve internal referrals to relevant departments (e.g. Parks, Heritage) and may include the commission of an independent arboricultural report. Assessments may be deferred to align with annual reporting [see (v) below].
- (iv) The City will provide the assessment to the landowner and occupier of the place (if applicable) and invite comment from them and immediately adjoining neighbours for a period of 21 days.
- (v) A report on the nominated trees and vegetation areas and public submissions received will be submitted to Council annually (generally between February and April) for a decision on their inclusion on the Register [contained in Appendix B].
- (vi) The landowner, occupier and any person who made a submission on the nomination will be notified of Council's decision, and the City's records (including GIS mapping) will be updated accordingly.

## **Part 2 - Removal of trees or vegetation areas from the Register:**

### **A. Where removal does not form part of a development application**

- (i) Requests for removal of trees or vegetation from the Register which do not form part of a Development Application should be submitted in writing to the City and be accompanied by justification addressing the criteria listed in part one of the policy including, where appropriate, supporting technical documents such as an arboricultural report or structural engineering report demonstrating relevant criteria are met.
- (ii) The City will undertake an assessment of trees and vegetation areas in accordance with part one of this policy. This assessment may include the commission of an independent arboricultural report. Assessments may be deferred to align with annual reporting (see v above).
- (iii) Where the City's assessment does not support the request for removal, the City will provide the assessment to the landowner and occupier of the place (if applicable) and invite comment from them for a period of 21 days. The City may, at its discretion, also invite comment from adjacent neighbours.
- (iv) A report on trees and vegetation areas requested for removal, along with any public submissions received will be submitted to Council annually (generally between February and April) for a decision on their removal from the Register [contained in Appendix B].
- (v) The landowner, occupier and any person who made a submission on the nomination will be notified of Council's decision, and the City's records (including GIS mapping) will be updated accordingly.

### **B. Where removal forms part of a development application**

- (i) The City will undertake an assessment of trees and vegetation areas in accordance with part one of the policy as part of the statutory planning assessment of the development application. This assessment will involve internal referrals to relevant departments (eg Parks, Heritage) and may include the commission of an independent arboricultural report and / or consultation with adjacent landowners.
- (ii) All trees or vegetation granted development approval for removal will be automatically removed from the Register without further consultation with the landowner or other parties, and the City's records (including GIS mapping) updated accordingly.



## Appendix A - Nomination Form

### INFORMATION ON TREE/VEGETATION FOR NOMINATION

Please tick appropriate:

- ☐ Single Tree/Plant
- ☐ Group of Trees/Plant. Number of trees / plants in group.....

#### Location of tree/vegetation

Street number..... Lot number .....

Street name.....

Suburb .....

Location on the site.....

#### Tree/vegetation details

Common name.....

Latin/Botanical name.....

Height (approximate) (m).....

Girth 1.4m above ground (m).....

Age (approximate).....

#### Why do you think the tree/vegetation is important (please tick applicable):

- ☐ Botanical/Horticultural value (rare/endangered species or genetic type)
- ☐ Visual/Aesthetic/Landmark value (size/form/colour/texture/landmark)
- ☐ Heritage value (social/spiritual/rarity/representative)
- ☐ Ecological value (provides significant habitat/seed source/remnant of pre European vegetation)

.....

.....

.....

.....

#### NOMINATED BY

Name .....

Address .....

Telephone .....

Date .....

#### OWNER'S CONSENT

*Consent from the owner(s) of the land upon which the tree or vegetation is located must be obtained when nominating trees/vegetation. The City of Fremantle will not consider a nomination without owner's consent.*

Name ..... Signature.....

(please include additional names and signatures separately where multiple owners exist)

*Cont. overleaf*



## **Appendix A - Nomination Form (cont.)**

### **ADDITIONAL INFORMATION**

To assist the nomination process please provide the following additional information as an attachment to this form:

- ☐ Any additional information to support your nomination  
(e.g. cover letter, media articles, historical information, arboriculturalist report etc.)
- ☐ Photo(s) of the tree(s)/vegetation
- ☐ Site Plan indicating location of the tree(s)/vegetation within the site  
including distance to boundaries, buildings and structures

## Appendix B – Register of Significant Trees and Vegetation Areas

Tree ID	Common and Botanical name	Address (& GPS coordinates)	Brief description of tree(s) or vegetation	Statement of significance (reason for entry)
19-01	Norfolk Island Pine ( <i>araucaria heterophylla</i> )	11 Harvest Road North Fremantle  <b>LONG</b> 115.755134 <b>LAT</b> -32.034814	Tree on private property	Heritage Significance - Originally on MHI & Heritage List  Contributes to the streetscape and has landmark qualities.
19-02	Norfolk Island Pine ( <i>araucaria heterophylla</i> ) and Canary Island palm ( <i>phoenix canariensis</i> )	15 Harvest Road North Fremantle  <b>LONG</b> 115.755661 <b>LAT</b> -32.034396	Tree on private property	Heritage Significance - Originally on MHI & Heritage List  These trees were probably planted in the Inter-War period.
19-03	Black Paperbark ( <i>melaleuca lanceolata</i> ) and Tuart ( <i>eucalyptus gomphocephala</i> )	21 Harvest Road North Fremantle  <b>LONG</b> 115.755806 <b>LAT</b> -32.033955	Trees on private property	Heritage Significance - Originally on MHI & Heritage List  These trees were probably planted after the Second World War.
19-04	Moreton Bay Fig Tree ( <i>ficus macrophylla</i> )	195 High Street Fremantle  <b>LONG</b> 115.750800 <b>LAT</b> -32.053268	Tree on private property	Heritage Significance - Originally on MHI & Heritage List  It is claimed by some that the Moreton Bay Fig tree is the progenitor of many of the Moreton Bay

				Fig trees in Fremantle, including the Proclamation Tree (which was planted in 1890). Webster is also credited with planting the Moreton Bay Fig trees around Kings Square and St John's Church grounds.
19-05	Trees, Henderson Street	45 Henderson Street Fremantle  <b>LONG</b> 115.750100 <b>LAT</b> -32.054580	Trees on private property	Heritage Significance - Originally on MHI & Heritage List  This place includes: police station, lock-up, lock-up keepers cottage, constable houses, immigration depot, drill hall, court house, police station, and trees.
19-06	Rose Gum ( <i>Eucalyptus grandis</i> )	7/18 John Street, North Fremantle  <b>LONG</b> 115.758 <b>LAT</b> -32.033	Tree on private property	Visual/aesthetic value, habitat provided for local fauna.
19-07	River Red Gum ( <i>Eucalyptus camaldulensis</i> )	7/18 John Street, North Fremantle  <b>LONG</b> 115.758 <b>LAT</b> -32.033	Tree on private property	Visual/aesthetic value, habitat provided for local fauna.

**Last Updated: 28 October 2020**  
**(As per Committee decision 21 October 2020 - SPT 2010-02)**

**NOTE:** Also refer to the State Register of Heritage Places, City of Fremantle Heritage List, and federal and state environmental legislation for other listings