

Policy	Tree Protection
Policy Number (Governance Purpose)	5.23



Policy Type

Local Planning Policy

Policy Purpose

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.

Trees with identified cultural, social, historical and/or outstanding amenity contribution are included on the City of Cockburn 'Significant Tree' register.

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 development approval is required for any **tree damaging activity** and guides the assessment of proposals seeking to remove a tree or undertake **tree damaging activity** where development approval is required, including trees on the 'Significant Tree' register.

This Policy should be read in conjunction with:

- *City of Cockburn Town Planning Scheme No. 3, including clearing requirements for the 'Rural', 'Resource' and 'Conservation' zone*
- *City of Cockburn Public Open Space Strategy*
- *State Planning Policy 7.3 - Residential Design Codes Volume 1 and Volume 2*
- *State Planning Policy 3.7 - Planning in Bushfire Prone Areas*
- *Council Street Tree Policy*
- *Council Crossover Policy*
- *Council Policy – Environmental Conservation*
- *Council Policy - Sustainability*
- *City of Cockburn Urban Forest Plan 2018-2028*
- *Australian Standards AS 4970-2009 'Protection of trees on development sites'*
- *Australian Standards AS 4373-2007 'Pruning of Amenity Trees'*.

(1) 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:

1. Provide a clear definition of a **regulated tree** and clarify when development approval is required for **tree damaging activity**;

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2. Prioritise the retention, protection, and provision of new trees on private land and establish a clear process for the assessment of **regulated tree** removal and other **tree damaging works**;
3. Promote and facilitate tree preservation at the earliest possible stage in the planning and development process, balancing the retention of regulated and other trees with the desired built form and land use outcomes as reasonably anticipated by the zoning of the land;
4. Preserve and enhance neighbourhood amenity, character (including intended future character) and sense of place;
5. Mitigate the urban heat island effect, reduce air pollution, improve groundwater quality and enhance local biodiversity; and
6. Protect trees included on the 'Significant Tree' register for their identified values, including cultural heritage, and prioritise their retention.

(2) 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.

Regulated tree means a living tree of a species that is not included on a State or local area weed register, and that meets one or more of the following criteria, but excludes palm species unless included on the 'Significant Tree' register:

- a. Is identified as 8m or more in height as shown in mapping produced by Urban Monitor (available on DataWA)
- b. is included on the City of Cockburn 'Significant Tree' register
- c. is a tree planted as required by a replanting condition of a development or subdivision approval issued for the removal of a **regulated tree**
- d. is a tree that has been identified on a site survey, as required by *Council Policy – Environmental Conservation*.

Significant Tree register means the City of Cockburn Local Government Inventory/Local Heritage Survey 'Significant Tree' register.

Tree means any perennial plant having one or more permanent, woody, self-supporting trunk with branches forming a crown, and includes all parts of the plant whether above or below ground.

Tree-damaging activity means all or any of the following interventions:

- a. the killing of a tree
- b. destruction of a tree that will result in the death or decline in the health of the tree
- c. the removal of a tree
- d. damaging more than 10 per cent of the tree root area within the canopy drip line area within the lot on which the tree is located

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- e. works within the canopy drip line area (within the lot on which the tree is located) such paving, asphaltting, or increasing or lowering the level of soil around the tree and/or compaction of soil causing the death or decline of the tree
- f. the severing of branches from the trunk or leading stem
- g. the ringbarking, poisoning, topping or lopping of a tree
- h. any other substantial damage to a tree.

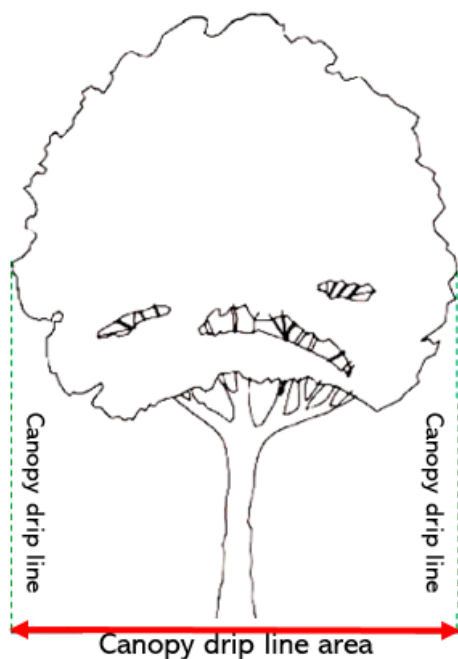


Figure 1. Canopy drip line

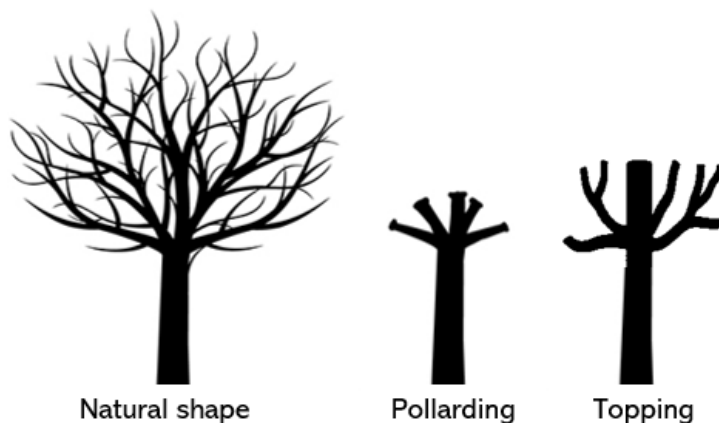


Figure 2. Examples of natural tree shape and tree damaging works – Tree pollarding and topping

Policy Statement

(1) Policy Application

This Policy applies to all zones within the City of Cockburn Town Planning Scheme No.3 (TPS3), and will be used in considering the following proposals:

- Development Applications;
- Subdivision Applications;
- Local Development Plans;
- Strategic planning proposals including scheme amendments, structure plans, and precinct plans; and
- Any **tree damaging activity** to a **regulated tree** where no other development or subdivision is proposed.

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(2) Requirement for Development Approval and Exemptions

1. Development Approval is not required for **tree damaging activity** under the following circumstances:
 - a. The tree(s) is not defined as a **regulated tree**.
 - b. The tree(s) are not subject to Clause 4.10.5 (c) (as amended) of TPS3.
 - c. 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:
 - a. “works that are urgently necessary for any of the following — public safety;
 - a. the safety or security of plant, buildings or equipment;
 - b. the maintenance of essential services; or
 - c. the protection of the environment.”
 - d. The **tree damaging activity** is expressly required as part of an approved Bushfire Management Plan.
 - e. The tree(s) is either a ‘**Declared Plant**’ or a ‘**Weed of National Significance**’.
 - f. The **tree damaging activity** is undertaken in accordance with an express written direction or requirement of a State Government Department in response to plant biosecurity issues.
 - g. The **tree damaging activity** is undertaken in accordance with a notice issued under the *Local Government Act 1995* relating to obstructive and/or dangerous tree removal (detailed in Schedule 3.1).
 - h. The **tree damaging activity** is undertaken in accordance with the requirements of the City of Cockburn Fire Control Order.
 - i. Pruning of Regulated Trees in prescribed air space, where defined as a ‘**controlled activity**’ under the Air Services Act 1995 (or equivalent) by Jandakot Airport or the Civil Aviation Safety Authority (CASA).

*NOTE (i) 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 TPS3 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

1. A Development Application shall include the following information in support of an application for removal of a **regulated tree(s)** and/or **tree damaging activity**:

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- a. Site survey and/or site plan indicating:
 - i. Location of all **regulated trees** and street trees;
 - ii. Information about the **regulated trees** (including species, height and relative health), which may require the input of a qualified arborist;
 - iii. Whether any **regulated tree** is proposed to be retained or affected by any **tree damaging activity**, and if so what type of damage is expected;
 - iv. Tree Protection Zone(s) in accordance with AS4970, if relevant;
 - v. Any trees/vegetation 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 **regulated tree** was identified to be retained at a previous planning stage (e.g. structure plan or subdivision approval).
2. An **Arborist Report** may be required in the following instances:
- a. To justify **tree damaging activity** to a **regulated 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 **regulated tree** including works proposed within the Tree Protection Zone (refer to AS4970 for details to identify the Tree Protection Zone).
3. A structural engineering report may be required to demonstrate damage to structures or infrastructure where this forms part of the justification for **tree damaging activity** to a **regulated tree**.
4. Additional technical reports (e.g. Environmental reports, Tree Retention Strategy, Structural Engineering Reports, overlay of tree survey and proposed cut to fill levels) may be required for Structure Plan and large-scale subdivision applications that include **regulated trees**.

(4) General Requirements

1. Unless removal is expressly approved as part of a Subdivision or Development Approval, or is exempt under the provisions of this Policy, a **regulated tree** should be retained and protected for its natural lifespan.
2. Retention and protection of **regulated trees** should be prioritised, and development works, local development plans, structure plans and subdivision design should preferably avoid or as a minimum minimise harm to **regulated trees**, with justification provided for proposals that would result in the removal of **regulated trees** or other **tree damaging activity**.
3. Where **tree damaging activity** is proposed to a **regulated tree** the proponent should demonstrate adequate justification for those works, including evidence that re-design options have been explored, including but not limited to the following:

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- a. Reduction in the size of the dwelling, building or structure;
 - b. Alternative design and layout;
 - c. Alternative construction methods, materials and/or building techniques;
 - d. Alternative crossover, access, driveways and parking area location and design.
4. Where **tree damaging activity** is proposed to a **regulated tree** the following will be given due regard in the assessment process to determine if the proposal is appropriate:
- a. Health, maturity, species, and location of the **regulated tree** and whether it can be feasibly retained whilst achieving the type and level of development proposed and reasonably anticipated by the zoning of the land;
 - b. Ecological, biodiversity, environmental, cultural and historical values of the **regulated tree** which may make it more desirable and important to retain;
 - c. Whether the **regulated tree** is a Black Cockatoo breeding or roosting tree (which may also require referral and approval under the federal *Environment Protection and Biodiversity Conservation Act 1999*), whereby there will be a strong presumption against removal;
 - d. Importance of the tree's positive contribution to the streetscape and identified future character of the area;
 - e. The preservation of any other **regulated tree(s)** or other trees on the subject site and how that contributes to achieving the objectives of this policy;
 - f. The location of the **regulated tree** within the development site and capacity for a modified building design or subdivision to maximise tree retention to achieve the objectives of this policy;
 - g. Any existing development on the site and how it impacts tree retention;
 - h. Design and location of proposed crossovers and how it indirectly impacts street trees (existing and future opportunities for street trees) and retention of **regulated trees** on the site;
 - i. Topography and the potential impact from excavation/fill and site works on **regulated tree** retention, and including whether there are feasible alternatives to facilitate viable tree retention;
 - j. Possible safety risks due to tree limb failure and infrastructure and/or structural damage associated with retaining the **regulated tree**, considering whether these risks can be mitigated through re-design, tree pruning or other practical treatments or techniques;
 - k. The ability to accommodate Tree Protection Zone(s) (as per AS4970), including through re-design opportunities;
 - l. For trees on the 'Significant Tree' register, the cultural heritage values, identified significance and Council adopted 'Significant Tree' register criteria;
 - m. Proposed tree replacement planting, establishment watering and maintenance, and how that meets the objectives of this policy;
 - n. The ability to retain the tree by constructing buildings to withstand higher Bushfire Attack Levels;
 - o. Recommendations of an **Arborist Report**; and
 - p. The objectives of this Policy.

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5. The following justifications for **tree damaging activity** to a **regulated tree** will not be supported:
 - a. Impact on views;
 - b. The tree variety is disliked;
 - c. The tree variety causes nuisance by way of leaf, fruit, pollen or irritants, nuts or bark shedding, bird sounds or droppings, or the like; or
 - d. The tree impacts on private gardens, solar installations, swimming pools, vehicle parking, or the like.

(5) Development Applications

1. The City will assess proposals for the removal of a **regulated tree** or **tree damaging activity** in accordance with the general requirements above.
2. There is a general presumption against **tree damaging activity** to any **regulated tree** and the siting and design of the development should, where possible, avoid impacting any **regulated tree**.
3. **Tree damaging activity** to a **regulated tree** may be considered if the following relevant information and/or technical reports are provided to demonstrate:
 - a. The **regulated tree** is unhealthy in a manner that cannot be remedied with treatment and/or is unsafe, based on the recommendations of an **Arborist Report**;
 - b. The **regulated tree** causes safety risks to people, infrastructure or buildings that are immediate or cannot be mitigated, based on recommendations of an **Arborist Report** and/or Structural Engineering Report;
 - c. The redesign of the development to accommodate the **regulated tree** is demonstrated to be unfeasible whilst achieving a reasonable level of development that could be anticipated by the zoning of the land;
 - d. The development proposal results in the improvement of tree canopy that would otherwise not be possible without the removal of existing tree(s).
4. Where a **regulated tree** is determined to be removed in line with the policy provisions above, the applicant shall reinstate tree(s) elsewhere within the site. If the City determines there is no suitable location on site for replacement tree(s) consideration will be given to the replacement tree(s) being located on the verge, with the species and location of the tree(s) to be approved by the City and all costs paid by the applicant or landowner.

(6) Development Approval Conditions

1. If a **regulated tree** or other tree(s) (including 'significant existing trees' as defined by the Residential Design Codes) are proposed to be retained as part of an approved development, the City of Cockburn may include the following condition on the Development Approval:

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“1. The existing [INSERT SPECIES] tree(s) identified on the site plan must:

- i. be retained and subsequently maintained in a healthy state for the duration of its lifespan;*
- 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 AS 4373 or in accordance with the City of Cockburn’s Local Planning Policy for tree protection.*
- iv. If, notwithstanding paragraph (i) the existing tree dies or becomes unhealthy and requires replacement, the landowner must notify and make suitable arrangements with the City of Cockburn for a replacement tree(s) at the landowner’s cost, prior to undertaking any tree damaging works. 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 in such a way to support tree health.”

3. If tree planting or tree replacement is required as part of a Development Approval, the City of Cockburn 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 or in accordance with the City of Cockburn’s Local Planning Policy for tree protection.*
- iv. If, notwithstanding paragraphs (i) and (ii) a tree dies or becomes unhealthy the landowner must notify and make suitable arrangements with the City of Cockburn for a replacement tree(s) at the landowner’s cost. 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.”

(7) Subdivision applications

1. The City of Cockburn 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 **regulated tree** and whether the general requirements above have been addressed.

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2. 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 **regulated trees**.
3. The subdivision plan should identify **regulated trees** and note if they are to be retained or removed, and the applicant is to demonstrate how the retained **regulated trees** will be protected as part of the subdivision process.
4. The City of Cockburn will request the WAPC include the following condition on the subdivision approval to ensure **regulated trees** identified by the City are protected:

“The regulated 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 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.”

(8) Strategic Planning Proposals

1. Where applicable, Local Planning Scheme (LPS) amendments and Structure Plan proposals should identify **regulated trees** and outline mechanisms and measures to protect **regulated trees** at subsequent stages of the planning process.
2. 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 **regulated trees**.
3. Strategic planning proposals shall be supported by technical information, indicative earthworks plans and reports which demonstrate the protection of **regulated trees** has been prioritised.

Strategic Link:	Town Planning Scheme No.3
Category:	Planning – Town Planning & Development
Lead Business Unit:	Development Assessment and Compliance
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Next Review Due: (Governance Purpose Only)	May 2028
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