

Tree Retention on Private Property in Crawley-Nedlands

Local Planning Policy

DRAFT

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1.0 CITATION

This is a local planning policy prepared under Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. This Policy may be cited as the *Tree Retention on Private Property in Crawley-Nedlands Local Planning Policy*.

2.0 PURPOSE AND APPLICATION

2.1 Purpose

Trees in urban areas provide significant social, economic, and environmental benefits to the community. Mature trees provide the greatest canopy cover offering environmental, aesthetic and cooling benefits to their surrounding area, with large and mature trees internationally recognised as a critical aspect of building a resilient City.

This policy recognises trees on private property as assets that contribute to the well-being of residents, workers and visitors, as well as the natural environment. At the same time, it is important to balance these benefits with the development outcomes.

The purpose of this policy is to identify the characteristics of a tree that is worthy of protection by defining a **regulated tree**, clarify the circumstances in which an application is required for **tree damaging activity**, and provide a framework to guide the assessment of these applications.

2.2 Application

This policy applies to all land zoned in the Crawley-Nedlands neighbourhood under Town Planning Scheme No. 4 and City Planning Scheme No. 2, as shown in Appendix 2.

This policy applies to applications for development approval, subdivision, local development plans, structure plans and scheme amendments that propose **tree damaging activity**.

This policy does not apply to land within the public realm (including public open space and road reserves).

2.2.1 Relationship to other Planning Documents

This policy should be read in conjunction with the local planning scheme and other relevant planning policies.

Where this policy is inconsistent with the local planning scheme, the provisions of the local planning scheme prevail to the extent of any inconsistency.

Where this policy is inconsistent with another planning policy, the requirements of this planning policy prevail to the extent of inconsistency.

3.0 OBJECTIVES

- To retain trees that contribute to an attractive streetscape, improve local amenity, enhance urban greening and provide natural shade and shelter.
- To protect trees that contribute significantly to the landscape character of the Crawley-Nedlands neighbourhood as outlined in the City's Local Planning Strategy and Local Planning Scheme.
- To support the retention of trees whilst achieving development outcomes consistent with the City's Local Planning Strategy and Local Planning Scheme.

3.1 Neighbourhood Principle

When considering applications for **tree damaging activity**, the local government will seek to protect the character and amenity of the Crawley-Nedlands neighbourhood.

The retention of a **regulated tree** is prioritised in the Residential Zone where building and site design should enhance the existing landscape character of the area. The retention of a **regulated tree** in the Neighbourhood Mixed Use Zone is preferred where it contributes to the public realm, pedestrian environment or existing green links.

Refer to Table 1 for the neighbourhood description and Appendix 2 for the neighbourhood boundary and zones.

Table 1: Neighbourhood Principle

CRAWLEY-NEDLANDS NEIGHBOURHOOD DESCRIPTION

Trees in the Crawley-Nedlands neighbourhood form a significant part of the established leafy neighbourhood character and provide a high level of amenity in the Residential and the Mixed Neighbourhood Use Zones.

Trees located on private property in the Residential Zone and/or trees visible from primary roads, including Broadway, Hampden Road and Stirling Highway are prioritised for retention. Retaining mature trees in these areas support a high level of residential amenity and maintains the established neighbourhood character and green linkages that connect the foreshore and Kings Park.

Trees located on private property in the Neighbourhood Mixed Use Zone are preferred for retention where they contribute to the streetscape and/or improve the pedestrian environment.

4.0 EXEMPTIONS FOR REGULATED TREES

(a) **Tree damaging activity** is exempt from requiring development approval where:

- i. The tree does not meet the definition of a **regulated tree**; or
- ii. The **tree damaging activity** meets the conditions for exemption set out in Table 2.

*Note: Under Appendix 1, a **regulated tree** means a living tree that –*

(a) is 8m or higher and/or meets at least one of the following criteria:

- i. has an average canopy diameter of at least 6m; or*
- ii. in the case of a tree with a single trunk, a trunk circumference of at least 1.5m, measured 1.4m above the ground, or*
- iii. in the case of a tree with multiple trunks, the total cumulative trunk circumference is at least 1.5m, with the average trunk circumference being at least 625 mm, measured 1.4 above the ground.*

and

(b) is of a species that is not included on a State or local area weed register.

Table 2: Exemptions from the requirement to lodge an application for development approval

Development for which development approval is not required		
Works	Conditions	
1. Maintenance pruning	(a) Satisfies the definition of <i>maintenance pruning</i> , or (b) Undertaken by a suitably qualified and experienced arborist with a minimum qualification of Diploma of Horticulture (Arboriculture) AQF 5 or equivalent, and is in accordance with the recommendations in a <i>tree condition assessment</i> .	
2. Removal	(a) Required as part of an approved Bushfire Management Plan, or (b) Undertaken by a suitably qualified and experienced arborist with a minimum qualification of Diploma of Horticulture (Arboriculture) AQF 5 or equivalent, and is in accordance with the recommendations in a <i>tree condition assessment</i> .	
3. Essential works	(a) The <i>tree damaging activity</i> is carried out in the course of works in accordance with the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> Schedule 2 Part 7 Clause 61 (b) item 18: <i>“works that are urgently necessary for any of the following —</i> (i) <i>public safety;</i> (ii) <i>the safety or security of plant or equipment;</i> (iii) <i>the maintenance of essential services; or</i> (iv) <i>the protection of the environment.”</i> and/or (b) The Department of Primary Industries and Regional Development or relevant authority has issued a direction under the <i>Biosecurity and Agriculture Management Act 2007</i> to carry out <i>tree damaging activity</i> . A copy of this direction is to be provided to the local government prior to works occurring.	

5.0 GENERAL PROVISIONS

- (a) Unless its removal is approved as part of a subdivision or development approval, or is exempt under the provisions of this Policy, a ***regulated tree*** should be retained in perpetuity and protected.
- (b) Considerations for retaining a ***regulated tree*** will be balanced with development outcomes expected in a capital city.
- (c) Where a ***regulated tree*** is proposed to be retained as part of a development, variations to the built form may be considered subject to:
 - i. the applicant demonstrating that such variations are required to mitigate the loss of developable area from retaining a ***regulated tree***;
 - ii. the objectives of the scheme, and relevant precinct plans and policies being met; and

- iii. the design outcome would not adversely affect the amenity, streetscape or desired character of the street or area.
- (d) For an application that proposes **tree damaging activity**, Part 5.1 sets out assessment criteria that are applicable to all applications. In addition, regard will be given to the Objectives set out in Part 3.0 and Neighbourhood Principle in Part 3.1. **Tree damaging activity** that does not comply with the assessment criteria in Part 5.1 will be assessed against the policy Objectives and Neighbourhood Principle in Part 3.0.
- (e) Applications that propose **tree damaging activity** are to provide the applicable information set out in Appendix 3.

5.1 Assessment Criteria

- (a) Applications to undertake **tree damaging activity** should consider the following matters:
 - i. Tree characteristics (e.g. tree siting, species, dimensions). Trees that provide a significant tree canopy cover are prioritised for retention;
 - ii. Site and planning considerations (refer Part 5.1.1);
 - iii. Whether the **tree damaging activity** is proposed in conjunction with development, and the extent the proposed development achieves the City's strategic outcomes;
 - iv. Existing development on the site (how the site layout impacts the ability to retain the tree, whether existing development limits or enables tree retention and/or whether redesign is possible).
 - v. Whether the tree was originally part of the site's landscaping plan, making retention more desirable;
 - vi. Topography and the potential impact from excavation/fill;
 - vii. Tree Protection Zone(s) (as per AS4970);
 - viii. Tree replacement and/or landscaping proposed;
 - ix. Recommendations of an **Arborist report** and/or any other technical report related to the tree. **Tree damaging activity** will be considered where the **regulated tree** is unhealthy, or causes safety risks to people, infrastructure or buildings, based on recommendations of an **Arborist report** and/or Structural Engineering report or other suitably qualified professional; and
 - x. Exceptional circumstances where the **regulated tree** results in excessive hardship and makes it difficult for the resident to reside at the property due to medical reasons, and the applicant provides evidence from a suitably qualified professional.
- (b) Where a tree should be retained in accordance with 5.1(a), applications for **tree damaging activity** may be supported where an **arborist report** demonstrates the **regulated tree**:
 - i. is in an impaired condition, and/or
 - ii. has severe structure defect, and/or
 - iii. has an estimated remaining life expectancy of less than 10 years.
- (c) The following justifications for **tree damaging activity** will not be supported:
 - i. Impact on views;
 - ii. The tree variety is disliked;

- iii. Tree requires maintenance;
- iv. The tree variety causes nuisance by way of leaf, fruit or bark shedding or the like; or
- v. The tree impacts on private gardens, solar installations, swimming pools or the like.

5.1.1 Site and Planning Considerations

- (a) The site and planning considerations for **tree damaging activity** will have regard to whether the site is in the Residential Zone or Neighbourhood Mixed Use Zone as shown in Appendix 2, and provisions in Table 3.

Table 3: Site and Planning Considerations

Strategic Setting	Provisions
Residential Zone	<ul style="list-style-type: none"> (a) Development should be sited and designed to minimise loss of a regulated tree. Trees that provide a significant contribution to the street and public realm and/or are visible from the street should be prioritised for retention. Trees that are visible from adjoining properties should be retained for their passive cooling and privacy benefits. (b) Tree damaging activity may be supported when it is required to facilitate development subject to the following: <ul style="list-style-type: none"> i. the tree is located in the developable area on a site, and ii. the applicant has demonstrated the tree cannot be reasonably accommodated within the design of the development. (c) Where a regulated tree is removed in accordance with (b), replacement tree planting should be provided in accordance with the minimum deep soil area and tree provision requirements set out in Table 3.3a and tree sizes set out in Table 3.3b of the Residential Design Codes Volume 2, clause Part 3.3 - Tree canopy and deep soil areas of the Residential Design Codes Volume 2.
Neighbourhood Mixed Use Zone	<ul style="list-style-type: none"> (a) Where development is proposed to be built to the front lot boundary, tree damaging activity within the setback area will be supported. (b) Where development is not built to the front lot boundary, a regulated tree in the setback area should be retained. (c) Tree damaging activity will be supported where the regulated tree is located behind the proposed lot boundary setback and on the developable area on the site.

6.0 APPENDICES

Appendix 1. Definitions

Regulated tree means a living tree that —

- a) is 8m or higher and/or meets at least one of the following criteria:
 - i. has an average canopy diameter of at least 6m; or
 - ii. in the case of a tree with a single trunk, a trunk circumference of at least 1.5m, measured 1.4m above the ground, or
 - iii. in the case of a tree with multiple trunks, the total cumulative trunk circumference is at least 1.5m, with the average trunk circumference being at least 625 mm, measured 1.4 above the ground.
- and
- b) is of a species that that is not included on a State or local area weed register.

Tree damaging activity means any of the following activities to a **regulated tree**:

- a) the killing or removal of a tree;
- b) destruction that results in death or decline in health of tree;
- c) activities that result in the death or decline in the health of a tree;
- d) poisoning of a tree;
- e) the severing of branches, limbs, stems or trunk of a tree, except where it meets the definition of **maintenance pruning**;
- f) the ringbarking, topping or lopping of a tree;
- g) Excavation, stockpiling of fill, and/or soil compacting within the tree protection zone (as per AS4970);
- h) any other damage to a tree that harms the health, stability, or long-term viability of a tree.

Maintenance pruning means pruning that does not harm the health, stability, or long-term viability of a tree, such as:

- a) removing dead or diseased wood; or
- b) activity done to a fruit tree for fruit production; or
- c) is otherwise minor maintenance or thinning of the crown that does not adversely affect the health or general appearance of the tree or is to balance the tree; and/or
- d) is undertaken in accordance with the standard for *Pruning Amenity Trees* ASNZ4373.

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 and insurance.

Tree condition assessment is type of **arborist report** that provides a quantitative and qualitative information on trees. Consideration should be given to relevant information in the following areas:

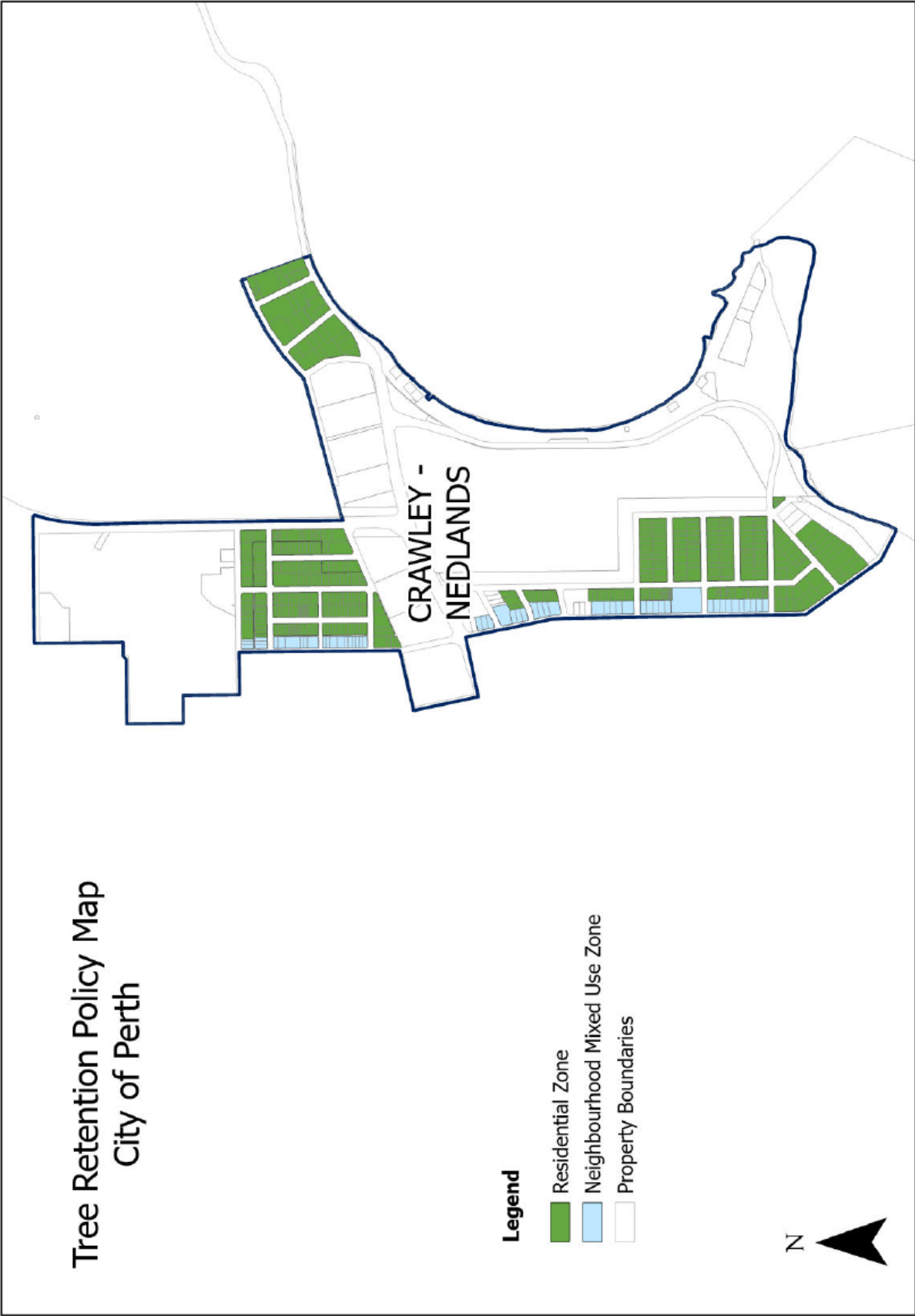
- a) Correct botanical identification and common name
- b) Health
- c) Structure

- d) Dimensions
- e) Age class
- f) Estimated life expectancy
- g) Landscape significance
- h) Heritage and/or cultural matters
- i) Ecological and habitat matters
- j) Location relative to existing site features
- k) Other matters relevant to the site
- l) Retention value

Tree Protection Zone (TPZ) is the area surrounding a tree that must remain free from disturbance to protect the tree's root system, trunk, and canopy during development. The size and configuration of the TPZ shall be calculated and implemented in accordance with AS 4970–2009 – Protection of Trees on Development Sites.

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Appendix 2. Map



Appendix 3. Application Requirements for Tree Damaging Activity

Applications for development approval, subdivision applications, local development plans, structure plans and scheme amendments for **tree damaging activity** are to provide the applicable information:

- (a) Site survey and/or site plan indicating:
 - i. location of all **regulated trees**;
 - ii. whether any **regulated tree** is proposed to be retained or affected by any **tree damaging activity**;
 - iii. Tree Protection Zone(s) in accordance with AS4970; and
 - iv. any trees 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, the planning scheme and any applicable Precinct Plan; and
- (c) Whether any **regulated tree** was identified to be retained at a previous planning stage (e.g. development or subdivision approval).
- (d) An **Arborist Report** may be required in the following instances:
 - i. To justify **tree damaging activity** specifically considering the health of the tree and/or any safety risk it may pose to people or property;
 - ii. 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) during development works (e.g. Tree Management Plan).
- (e) Additional technical reports (i.e., Environmental reports, Tree Retention Strategy, Structural Engineering Reports) may be required when an application for development approval for a **tree damaging activity** is on the basis of structural matters.