

## Introduction

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Schedule A – Supplemental provisions to the deemed provisions, clause 13A of the Shire of Capel Local Planning Scheme No.8 (LPS8) makes provision for the Shire to create a register of significant trees to identify trees within the scheme area that are worthy of protection. LPS8 also sets out provisions for the administration of the Significant Tree Register (the Register) and requirements for development proposals that may affect trees on the Register.

This Local Planning Policy seeks to complement the provisions in the Scheme by defining criteria for the inclusion or removal of trees on the Shire’s Significant Trees Register (‘the Register’) and providing guidance for the assessment of development applications for sites including trees listed on the Register.

This Local Planning Policy has been adopted by the Shire of Capel in accordance with the provisions of Schedule 2, Part 2, Div. 2 of the *Planning and Development (Local Planning Scheme) Regulations 2015*.

## Purpose

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The objectives of this Policy are to:

1. Define criteria for the assessment of the significance of trees which are proposed to be included or removed from the Register;
2. Provide guidance for the assessment of development applications for sites including trees listed on the Register; and
3. Outline procedures for administering the Shire’s Significant Tree Register.

## Application

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This policy applies to land subject to the provisions of LPS8, including private and public property and land reserved or zoned in the Scheme.

Development outside the control of LPS8 (including works on reserved land by a public authority) are not bound by the provisions of this policy.

## Policy Statement

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1. Nomination for a tree(s) to be included on the Register must be:
  - 1.1 authorised by the owner(s)/responsible managing authority of the land on which the tree is located at the time of nomination;
  - 1.2 a species that is not a weed of national interest; and
  - 1.3 a healthy specimen.
2. In assessing the nomination of a tree, consideration may be given to the following:
  - 2.1 The development potential of the site and the prospect for retaining the tree in regard to that development potential.

- 2.2 Proximity to and impact on buildings and / or infrastructure.
  - 2.3 Proximity to a boundary and impact on neighbouring property(s).
  - 2.4 The root structure and attributes of the plant and its propensity to be affected by changes to the environment outside the lot boundaries.
  - 2.5 Trees with a limited prospect of long-term retention or lifespan may not be included.
3. The following criteria are identified to enable the significance of a tree to be assessed and its inclusion in the Register to be justified:
- 3.1 Historical, Cultural or Social Significance:
    - 3.1.1 Tree/s that are associated with public significance or important historical event.
    - 3.1.2 Tree/s highly valued by the community or cultural group for reasons of strong religious, spiritual, cultural or other social associations, including trees associated with aboriginal heritage and culture.
    - 3.1.3 Tree/s associated with a heritage listed place and representative of its heritage values.
    - 3.1.4 Tree/s that have local significance, are important to the local community and/or are recognised features of the immediate landscape.
  - 3.2 Botanic or Scientific Significance:
    - 3.2.1 Tree/s that are of an important genetic value that could provide important and valuable propagating stock. This could include specimens that are particularly resistant to disease or climatic extremes or have a particular growth form.
    - 3.2.2 Tree/s that demonstrate a likelihood of producing information that will help the wider understanding of natural or cultural history by virtue of its use as a research site, teaching site, type locality or benchmark site.
  - 3.3 Ecological Significance
    - 3.3.1 Priority, rare, threatened or locally uncommon species or ecological community.
    - 3.3.2 Indigenous remnant tree/s that predate the urban development in its immediate proximity.
    - 3.3.3 Tree/s that make a significant contribution to the integrity of an ecological community, including its role as a seed source or specialised habitat and proximity to recognised ecological linkages or biodiversity corridors.
    - 3.3.4 A remnant specimen now reduced in range or abundance, which indicates the former extent of the species, particularly range limits.
    - 3.3.5 Tree/s which is a significant habitat element for rare, threatened, priority or locally uncommon or common native species.
  - 3.4 Amenity or Aesthetic Significance
    - 3.4.1 Tree/s that is outstanding for its/their height, trunk circumference or canopy spread.
    - 3.4.2 Tree/s that occur in a prominent location or context.
    - 3.4.3 Tree/s that contribute significantly to the landscape in which it/they grow [including streetscapes, parks, gardens or natural landscapes].
    - 3.4.4 Tree/s that exhibit an unusual growth form or physical feature, including unusually pruned forms.
    - 3.4.5 Tree/s that are particularly old or vulnerable.
  - 3.5 The above criteria will also be used to enable the significance of a tree to be assessed where it is part of or affected by a local structure plan or local development plan proposal or an application for development or subdivision approval.
4. Applications to remove a tree on the Register will be assessed against the provisions in the scheme and the criteria and considerations listed in 3. 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.
5. Any proposals for development shall avoid detrimental impacts on any registered tree.

6. In assessing proposals, applicants may be requested to provide professional evidence such as an arboriculture report, bushfire assessment or a structural engineer's report to justify retention or removal of a significant tree.
7. Where removal of a significant tree is supported, replacement of the tree in a suitable location may be sought as a condition of approval.
8. Development on lots containing registered tree(s) shall comply with AS 4970 – 2009 Protection of trees on development sites.

## Procedure

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1. The procedure for including a tree on the Register, in addition to the statutory provisions set out in the Shire of Capel Local Planning Scheme No.8 Schedule A Clause 13A(5), is as follows:
  - 1.1. Applicant is to complete the nomination form for the Register of Significant Trees to apply for a tree to be included on the Register. The application should provide the necessary detail about the tree and how it specifically addresses the criteria contained in 3. above.
  - 1.2. The Shire will not accept an application for a tree to be included on the Register without the consent of the landowner and/or responsible managing authority.
  - 1.3. Applicant to lodge the application in writing with the Shire of Capel by email ([info@capel.wa.gov.au](mailto:info@capel.wa.gov.au)) or post (Shire of Capel 31 Forrest Road PO Box 369 Capel WA 6271).
  - 1.4. Upon receipt of a nomination, the Shire will check all relevant information about the tree has been provided and acknowledge receipt of application with the applicant.
  - 1.5. Following acceptance of the application, the Shire will notify in writing each owner/responsible managing authority, surrounding owners and occupier of the place where the tree is located and place a notification on the Shire's website.
  - 1.6. Comments on the nomination are to be submitted in writing to the Shire within 21 days of the day on which the notice is served or within a longer period of time specified in the notice.
  - 1.7. Following closure of the notification period, the Shire will undertake an assessment of the significance of nominated trees in accordance with the Policy Statement above. This assessment will be undertaken by a Significant Tree Assessment Panel (STAP) consisting of Shire officers from relevant services with expertise in planning, natural resource management, engineering, community, etc. This assessment may include the commission of an independent arboriculture report. Assessments may be deferred to align with annual reporting [see 1.10 below].
  - 1.8. Following initial assessment, parties affected will be notified of whether the tree is considered to be significant.
  - 1.9. If the STAP determines there is significance and/or the landowner / responsible managing authority objects to the proposed registration, the nomination will be determined by Council via a report to Council. Affected parties will be notified and provided the opportunity to address the Council meeting.
  - 1.10. 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.

- 1.11. The landowner/responsible managing authority, occupier and any person who made a submission on the nomination will be notified of Council's decision, and the Register and other Shire records (including GIS mapping) will be updated accordingly.
2. After a tree has been entered into the Register, a notification in the form of a memorial is to be placed on the Certificate(s) of Title of a lot or proposed lot(s), advising of the presence of a Significant Tree in accordance with Section 70A of the Transfer of Land Act 1893, to the satisfaction of the Shire of Capel and at the landowner/responsible managing authority's cost.
3. It is the responsibility of the landowner/responsible managing authority to maintain and preserve the significant tree listed on the Register.
4. Requests for removal of trees from the Register which do not form part of a Development Application should be submitted in writing to the Shire and be accompanied by justification as to why a tree should be removed and including, where appropriate, supporting technical documents such as an arboriculture report, bushfire assessment or structural engineering report demonstrating relevant criteria are met.
5. Requests for removal of trees from the Register will be assessed in accordance with the procedure outlined in 1. above, assessed against clause 4 of the policy statement and will be referred to Council for decision.
6. Where the proposed removal of a significant tree forms part of a development application, the Shire will publish a notice in accordance with 1.5 above and allow public comments to be submitted in writing to the Shire within 21 days of the day on which the notice is served or within a longer period of time specified in the notice.
7. Following the end of the notification period, the Shire will assess the proposed removal of the significant tree in accordance with 1.7 above and with reference to the Significant Tree Assessment Panel.
8. If the STAP determines that the removal of the tree is not supported with regard to the considerations in the Shire of Capel Local Planning Scheme No.8 Schedule A Clause 13A(9), or there are significant objections to the proposed removal, the development application will be determined by Council via a report to Council. Affected parties will be notified and provided the opportunity to address the Council meeting.
9. Where development approval for the removal of a significant tree is granted, the tree 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.
10. Under section 51C of the Environmental Protection Act 1986 (EP Act), clearing of native vegetation is an offence unless:
  - 10.1. it is undertaken under the authority of a clearing permit
  - 10.2. it is done after the person has received notice under Section 51DA(5) that a clearing permit is not required
  - 10.3. the clearing is subject to an exemption
11. Prior to the commencement of development works, landowners and applicants are encouraged to discuss all development proposals with Shire officers to determine whether the terms and requirements of this policy apply.
12. Before carrying out any development, any other licences, permits, or approvals required must be obtained in accordance with any other law.

Department:	Development Services	Next review:	April 2025
Reviewer:		Legislation:	Local Government Act 1995 Planning and Development Act 2005 Planning and Development (Local Planning Schemes) Regulations 2015
Adopted:	26 April 2023	Delegation:	166
Amended:		Risk:	
Policy ref #:	<b>LPP6.4</b>	Version:	1.0