

Local Planning Policy No. 21

Tree Development Exemption
and Assessment Policy



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This is a Local Planning Policy prepared under Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

1. Policy Basis

In some circumstances, tree damaging activity may constitute 'development' under the *Planning and Development Act (2005)*. This Policy sets out the circumstances in which tree damaging activity is exempt from the requirement to obtain development approval. It also provides guidance for the assessment of applications proposing tree damaging activity, having regard to the matters outlined in Schedule 2, Part 9, Clause 67(2)(p) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

2. Policy Application

This Policy applies to all zoned and reserved land under Local Planning Scheme No. 15 (LPS 15) within the City of Belmont, except street trees and where trees are subject to a Tree Preservation Order. It will be used when:

- a) Determining whether tree damaging activity is exempt from the need to obtain development approval; and
- b) Assessing development applications, subdivision applications, and strategic planning proposals such as Local Planning Scheme amendments and Structure Plans.

3. Policy Objectives

The objectives of this Policy are to:

- 3.1 Identify when tree damaging activity is exempt from the need to obtain development approval.
- 3.2 Ensure tree retention is the starting presumption, with tree damaging activity supported only where justified on planning grounds or where necessary to enable appropriate development outcomes that cannot reasonably accommodate retention.
- 3.3 Provide guidance for assessing planning proposals which involves tree damaging activity not subject to an exemption.
- 3.4 To ensure that trees which contribute positively to amenity, neighbourhood character and sense of place are properly considered in decision making with priority given to their retention where practicable.

4. Policy Definitions

Certified Arborist

An Arborist with a minimum qualification of Diploma of Horticulture (Arboriculture) Australian Qualification Framework (AQF 5) or equivalent.

Tree Preservation Order

An Order made by the City of Belmont under LPS 15 to protect specific trees from damage or removal.

Tree Damaging Activity

For the purposes of this policy, tree damaging activity includes, but is not limited to:

- a) the killing of a tree; and/or
- b) the removal of a tree; and/or
- c) the ringbarking, poisoning, topping or lopping of a tree.

5. Development Requirements

5.1 Exemptions from Development Approval

5.1.1 Development approval is not required for tree damaging activity if the tree meets any of the following criteria, unless the tree is subject to a Tree Preservation Order under LPS 15:

- a) The tree is less than 8 metres in height, has an average canopy diameter of less than 6 metres, and has a trunk circumference of less than 1.5 metres (measured 1.4 metres above the ground); or
- b) is a species listed on a State or local area weed register or is a palm or pencil pine; or
- c) the works are undertaken in accordance with an express written direction or requirement of a Federal or State Government Department; or
- d) the works are undertaken in accordance with a City of Belmont Firebreak and Fire Hazard Notice, a notice issued in accordance with the *Local Government Act 1995* or any other direction from the City of Belmont; or
- e) the works are required as part of an approved Bushfire Management Plan; or
- f) the works are carried out by the City in the exercise of its statutory functions, whether or not they constitute a public work; or
- g) the activity is exempt under Clause 61(1)(b) of Schedule 2, Part 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* because they are:
 - "works that are urgently necessary for any of the following –
 - a) Public safety;
 - b) The safety or security of plant or equipment;

- c) *The maintenance of essential services;*
- d) *The protection of the environment."*

5.2 Assessment Criteria

- 5.2.1 Development, subdivision and strategic planning proposals should be designed to avoid impacting any tree which does not meet the exemption criteria set out in Section 5.1. Tree damaging activity should only be proposed where retention cannot reasonably be achieved having regard to site layout, access and design constraints, or where the condition of the tree precludes retention.
- 5.2.2 In considering a development application, subdivision application or strategic planning proposal that proposes to remove a tree that is not exempt from the need to obtain development approval, the City will not grant approval, or in the case of a subdivision application recommend to the WAPC that approval is not granted, for tree damaging activity unless suitable supporting justification is provided with the application or proposal. The supporting justification should address the following factors which the City will have regard to (where relevant):
- a) The health, condition, useful life expectancy and structural soundness of the tree;
 - b) Whether the tree is or is likely to cause damage to people, infrastructure or buildings;
 - c) Whether the applicant demonstrates that reasonable consideration has been given to alternative design responses to retain the tree, and that tree damaging activity is unavoidable;
 - d) Whether retention of the tree would prevent a reasonably expected development on the lot, having regard to its size, shape and orientation (for example, a small or constrained lot with a tree located centrally);
 - e) Topography and the potential impact from excavation/fill;
 - f) The cumulative impact of tree damaging activity within the subject site or surrounding area;
 - g) Whether the proposed tree damaging activity would enable improvements to the tree canopy that would not otherwise be achievable, including through new tree planting;
 - h) Whether the tree has any cultural or historical significance, including whether it is:
 - i. Included on the City of Belmont Local Heritage List; or
 - ii. Associated with or attached to a listed heritage site and directly relates to the heritage value of the site; or
 - iii. Connected to or within an Aboriginal Heritage Site;
 - i) Whether the tree has landscape or amenity significance due to:
 - i. Representing a growth form that significantly contributes to the landscape and has become a unique or widely renowned specimen; or
 - ii. Occurring in a unique or prominent location and acting as a landmark to the local area;

iii. Being visible from a public street or public open space and contributing to the streetscape or neighbourhood character;

j) Any report prepared by a Certified Arborist or supporting documentation provided.

5.2.3 Tree damaging activity will not be supported solely on the basis that the tree:

- a) has an impact on views;
- b) causes leaf, fruit flower, bark, cone or twig drop;
- c) causes issues arising from roosting, nesting or browsing fauna;
- d) is of a variety that is disliked;
- e) causes allergies;
- f) impacts on solar installations, swimming pools or the like; or
- g) has any other minor or subjective impact.

5.3 Application Requirements

5.3.1 All planning proposals should be accompanied by a plan indicating:

- a) the location of all trees on the property that are not exempt under Clause 5.1.1;
- b) whether any trees that are not exempt under Clause 5.1.1 are proposed to be removed or retained;
- c) where applicable, Tree Protection Zone(s) in accordance with Australian Standard 4970; and
- d) for development applications only, any trees proposed to be planted on the development site.

5.3.2 All planning proposals proposing tree damaging activity not exempt under Clause 5.1.1 shall provide written justification against the assessment criteria of this Policy.

5.3.3 A report (Certified Arborist Report and where necessary a Quantified Tree Risk Assessment) prepared by a Certified Arborist shall be submitted in the following instances:

- a) To provide supporting information on the health, condition, structural soundness or likely impacts of the tree on surrounding infrastructure or development, as referred to in Clauses 5.2.2(a), (b) and, where relevant, (e); and
- b) To outline mitigation measures where works are proposed within a tree protection zone, or where a non-exempt tree under Clause 5.1.1 is proposed to be retained in a high risk location, such as close proximity to a building.

5.3.4 Additional technical reports may be required at the request of the City of Belmont.

5.4 Conditions

5.4.1 Where a tree is designated by a development or subdivision application for retention, the City may impose or, in the case of a subdivision, recommend a condition of approval requiring the owner to notify the City if the tree dies or is damaged beyond viability, and to replace the tree with one or more of a species and size specified by the City, with those trees thereafter retained and maintained.

5.4.2 The City may impose any other conditions or include advice notes on development or subdivision approvals as it considers reasonable and appropriate to achieve the objectives of this policy.

Governance References

Statutory compliance	<i>Planning and Development Act 2005</i> <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> Local Planning Scheme No. 15
Industry compliance	
Organisational compliance	
Process links	

Local planning policy administration

Directorate	Officer Title	Contact
Development and Communities	Manager Planning Services	9477 7222

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