

<b>Local Planning Policy 33 – Tree Retention</b>	
<b>Local Planning Policy</b>	<b>Relevant Delegation</b> Development Services

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## 1. Introduction and Purpose

Trees are an important element of the City of Kalamunda's (City's) diverse urban and rural environment, providing a variety of social, economic, and environmental benefits to the community. The City has experienced a general decline in tree canopy and is therefore developing strategies and policies aimed at reducing the loss of trees and associated negative impacts.

Subdivision and development can result in the clearing of established trees. The purpose of this Policy is to carefully consider the need for the removal of trees and, where possible, minimise the removal of trees of a particular size and maturity. The Policy also seeks, where practical, to increase canopy cover. The objectives of this Policy are consistent with the Design Principles of State Planning Policy 7.3 Residential Design Codes Volume 1 which seek to retain existing trees and/ or provide new trees to maintain and enhance the tree canopy and local sense of place.

The benefits of trees include, but are not limited to, reducing the impact of heatwaves, providing biodiversity and habitat, air purification, community sustainability, public health, mental health, and providing for neighbourhood amenity. Good design should recognise the importance and value of retaining and enhancing trees as an integral part of the design and subsequent subdivision and development process. This Policy recognises that there should be an appropriate balance between the need to facilitate development and retain established trees worthy of retention.

The application of this Policy will assist with achieving the goals of the Draft Urban Forest Strategy.

## 2. Application of Policy

This Policy applies to all strategic planning, subdivision and development proposals, including associated impacts on verges (street trees). This Policy also applies to any works impacting trees worthy of retention where no other development, subdivision or change of use is proposed.

This Policy does not apply to development assessed under State Planning Policy 7.3 – R-Codes Volume 2 – Apartments.

Table 1 of this Policy provides alternate provisions for SPP 7.3 Volume 1 - R-Codes Design Element 5.3.2 Landscaping.

Exemptions to the application of this Policy are detailed in Section 6.

## 3. Statutory Authority / Legal Status

1. This Policy is prepared in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*, Schedule 2 and does not remove the exemptions for development approval under Clause 61 subject to sufficient



information being provided at the subdivision, development approval, and building permit stage.

2. Removal of a tree worthy of retention constitutes works under the *Planning and Development Act 2005* and due regard should be given to the provisions of this Policy when considering strategic planning, subdivision and development proposals.
3. This Policy supplements, and should be read in conjunction with, the Local Planning Scheme No. 3 (LPS3), particularly:
  - a) Part 1.6 - Aims of the Scheme, particularly:
    - (b) "to secure the amenity, health and convenience of the Scheme area and the residents thereof"; and
    - (d) "to preserve and enhance the natural environment whilst managing further development".
  - b) Part 4.2 – Objectives of the Zones.
  - c) Part 5 – General Development Requirements
  - d) Part 5.18 – Tree & Vegetation Preservation.
4. The following Commonwealth and State Government Legislation, Regulations, policies, and guidelines are also a relevant consideration and should be read, where relevant, in conjunction with this Policy:
  - 1) *Environment Protection and Biodiversity Conservation Act 1999*
  - 2) *Environmental Protection Act 1986*
  - 3) *Environmental Protection (clearing of native vegetation) Regulations 2004*
  - 4) *Biodiversity Conservation Act 2016*
  - 5) State Planning Policy 3.7 - Planning in Bushfire Prone Areas
  - 6) State Planning Policy 7.3 - Residential Design Codes Volume 1 (R-Codes)
  - 7) Development Control Policy 2.2 – Residential Subdivision
  - 8) Local Government Guidelines for Subdivisional Development (in particular, Part 8.3.1.3 Clearing).
5. In relation to Street trees, this Policy should be read in conjunction with the City's policy, Service 8: Street Tree and Streetscape Management.

## 4. Objectives

1. The objectives of this Policy are to encourage and facilitate the protection and growth of trees worthy of retention to maintain and enhance canopy cover on land subject to strategic planning, subdivision, and development by:
  - a) Encouraging holistic design and development that facilitates the protection and growth of trees worthy of retention;
  - b) Balancing the protection of trees worthy of retention and desired built form and land use outcomes at the earliest possible stage in the planning process;
  - c) Maintaining and, where appropriate, increasing canopy cover to assist with mitigation of the urban heat island effect, reducing air pollution and facilitating



carbon sequestration, improving groundwater quality and contributing to habitat for wildlife (including ecological corridors) and native biodiversity;

- d) Maintaining and enhancing neighbourhood amenity, character and sense of place through the provision of tree canopy cover.

## Policy Statement

### 5. Definition of a Tree Worthy of Retention

1. Trees which meet the following criteria are defined under this Policy as a tree worthy of retention:
  - a) Healthy specimens with ongoing viability if not disturbed; **and**
  - b) Species is not included on a Commonwealth, State or local weed register<sup>1</sup>; **and**
    - i. Height of at least 4m; and/or
    - ii. Trunk diameter of at least 160mm, measured 1m from the ground, and/or
    - iii. have an average canopy diameter of at least 4m.

### 6. Exemptions

1. Clearing of one or more trees that meet the definition of a tree worthy of retention, is exempt from development approval if the City is satisfied that:
  - a) The removal of a tree is to satisfy the deemed-to-comply requirements under design element 5.3.2 Landscaping (refer Section 7 in this Policy), after a building permit has been granted for the relevant works;
  - b) Is required to be removed to adhere to an approved Bushfire Management Statement or Plan<sup>2</sup>, or in accordance with a City Firebreak and Fuel Load Notice;
  - c) The tree is included on a Commonwealth, State, or local weed register<sup>3</sup>,
  - d) Constitutes an immediate danger to life or property;
  - e) Is causing structural damage to a dwelling, external fixture, or incidental development;
  - f) The Tree Protection Zone is within the area required to install a City approved effluent disposal system;
  - g) The Tree Protection Zone is within 0.5m of existing piped infrastructure such as a sewer, water main, or stormwater drainage pipe, or 2m of an effluent disposal system and where the tree has caused, or is likely to cause, damage or blockage to that system;

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<sup>2</sup> Note that this Policy includes measures for Asset Protection Zones that must be complied with (refer Section 8).

<sup>3</sup> Such as weeds of national significance or Declared Pests listed under the *Biosecurity and Agriculture Management Act 2007*, or a weed listed on the Swan Weeds Database.



- h) Is within the required clearance distance from a power line or other power infrastructure as specified in Western Power guidelines or requirements and tree pruning and management is deemed by the City not reasonably practicable;
- i) Is a palm tree or fruit tree;
- j) Is part of an approved orchard, vineyard, or timber plantation;
- k) Is identified for removal as part of a subdivision or development approval, or building permit granted prior to the adoption of this Policy.

## 7. Provisions Varying the R-Codes

1. The provisions contained in Table 1 of this Policy are alternative design principles and deemed-to-comply requirements for SPP 7.3 Volume 1 - R-Codes design element 5.3.2 Landscaping. This Policy should be read in conjunction with the R-Codes, including the relevant definitions.

*Table 1. R-Codes Design element 5.3.2 Landscaping*

<b>Design Principles</b>	<b>Deemed-to-comply</b>
Development demonstrates compliance with the following design principles	Development satisfies the following deemed-to-comply requirements
<p><b>5.3.2 Landscaping</b></p> <p>P2 Landscaping of open spaces that:</p> <ul style="list-style-type: none"> <li>• Contribute to the appearance and amenity of the development for the residents;</li> <li>• Contribute to the streetscape;</li> <li>• Enhance security and safety for residents;</li> <li>• Contribute to positive local microclimates, including provision of shade and solar access as appropriate; and</li> <li>• Retains existing trees and/or provides new trees to maintain and enhance the tree canopy and local sense of place.</li> </ul>	<p>C2.1 Landscaping of grouped and multiple dwelling common property and communal open spaces in accordance with the following:</p> <ul style="list-style-type: none"> <li>i. The street setback area developed without car parking, except for visitors' bays;</li> <li>ii. Pedestrian access providing wheelchair accessibility connecting entries to all ground floor buildings with the public footpath and car parking spaces;</li> <li>iii. One tree to provide shade for every four uncovered car parking spaces (in addition to the trees required in C2.2), with the total number of trees to be rounded up to the nearest whole number;</li> <li>iv. Lighting to pathways, and communal open space and car parking areas;</li> <li>v. Bin storage areas conveniently located and screened from view;</li> <li>vi. Trees which are greater than 3m in height shall be retained, in communal open space which is provided for the development;</li> <li>vii. Adequate sight lines for pedestrians and vehicles;</li> </ul>



	<p>viii. Clear line of sight between areas designated as communal open space and at least two habitable room windows; and</p> <p>ix. Clothes drying areas which are secure and screened from view.</p> <p>C2.2 Landscaping of single houses, grouped dwellings and multiple dwellings to include the following:</p> <p>i. <b>Grouped and multiple dwelling development being designed to enable trees worthy of retention being protected in street setback areas, outdoor living areas, open space areas, communal open spaces, and uncovered car parking areas;</b></p> <p>ii. <b>Trees worthy of retention being retained and protected where any part of a tree protection zone is located greater than 2 metres from any exempt works*;</b></p> <p>iii. The minimum number of trees and associated planting areas in <b>Table 1.1</b> below;</p> <p>iv. <b>The minimum number of trees may include retained trees worthy of retention that existed prior to the commencement of development; and</b></p> <p>v. Landscaping of the street setback area, with not more than 50 per cent of this area to consist of impervious surfaces.</p> <p>* Note: Exempt works are works that do not require development approval under CI 61 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>. See appendix 3 for list of exempt works.</p>
<p><b>5.3.4 Design of car parking spaces</b></p>	<p>C4.1 Car parking spaces and manoeuvring areas designed and provided in accordance with AS2890.1 (as amended).</p> <p>C4.2 Visitor car parking spaces:</p> <ul style="list-style-type: none"> <li>• marked and clearly signposted as dedicated for visitor use only, and located close to, or visible from, the point of entry to the</li> </ul>



	development and outside any security barrier; and • provide an accessible path of travel for people with disabilities.  <b><i>C4.3 Car parking areas provided with one shade tree between each four external car parking spaces.</i></b>
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***\*Bold italic text indicates varied provisions to the existing R-Codes***

Table 1.1 – Tree requirements

Dwelling type		Minimum tree requirement	Minimum planting area requirement
Single houses and grouped dwellings		1 tree per <b>350m<sup>2</sup> of lot area, or where the site area per dwelling is less than 350m<sup>2</sup>, 1 tree per dwelling.</b>	2m x 2m
Multiple dwellings (trees per site)	Less than 700m <sup>2</sup>	2 trees	
	700m <sup>2</sup> - 1,000m <sup>2</sup>	3 trees	
	Greater than 1,000m <sup>2</sup>	4 trees	

***\*Bold text indicates varied provisions to the existing R-Codes***

## 8. Tree Retention

### General requirements

1. Where there is no relevant development, works or change of land use proposed, trees worthy of retention should be retained and protected.
2. Trees worthy of retention should be retained and protected onsite in accordance with AS4970-2009, including establishment of a Tree Protection Zone (TPZ) unless approved to be removed as part of an approved landscaping plan or exempt under the provisions of this Policy.
3. An application for subdivision, development, or a building permit shall include information detailing existing trees worthy of retention proposed to be retained and removed. This should include a site survey of existing trees worthy of retention impacted by development and subdivision works, and plans detailing works necessary to enable the subdivision and development of land.
4. An application for subdivision, development or a building permit shall include a plan showing proposed clearing areas, as well as areas of retention, relocation, and/ or replacement of trees worthy of retention (refer Appendix 1 – Plan example) to



demonstrate that the objectives and requirements of this Policy have been addressed. An application should include supporting information to demonstrate:

- a) The siting and design of development has, where possible, avoided impacts on trees worthy of retention onsite (including consideration of the location and scale of the proposed road network, open space, and drainage design), on the verge and on neighbouring lots;
  - b) The identification of management measures to protect trees worthy of retention during development and subdivision works, including but not limited to the identification of Tree Protection Zones;
  - c) The identification of measures to improve tree canopy or to offset reduction of tree canopy from pre-development site condition;
  - d) Tree planting requirements (refer Section 0) under the provisions of this Policy have been addressed; and
  - e) The provision of adequate deep soil areas of sufficient volume to sustain healthy plant and tree growth.
5. Where an Asset Protection Zone is required for bushfire risk management under an approved Bushfire Management Statement or Plan, or under the City Firebreak and Fuel Load Notice, trees worthy of retention should be protected and/ or trees planted. The Asset Protection Zone should achieve a canopy cover of 15% (at maturity) where compliance with Schedule 1 of the Guidelines for Planning in Bushfire Prone Areas can be achieved.
  6. The City may request development, and/ or lot reconfiguration, to facilitate retention of a tree, or trees, worthy of retention and may impose development conditions requiring the protection of trees worthy of retention in accordance with Clause 68(2) of the Planning and Development (Local Planning Schemes) Regulations 2015.
  7. Any tree, or areas of trees worthy of retention, identified to be retained as part of an approved plan or as a condition of approval shall be clearly tagged (see Appendix 4 – Tree Label) prior to commencement of works and a physical barrier maintained throughout construction to prevent damage to the tree in accordance with AS4970-2009, including trees on neighbouring properties that may be affected by works (see Appendix 1 –Plan example).
  8. Any proposed relocation of an existing tree worthy of retention to a separate location on the same site may be supported and may replace additional replanting requirements, where the viability of the tree is not compromised. The City may request a report, prepared by a suitably qualified Arborist, to support the relocation of a tree worthy of retention.
  9. Arborist Report - Where there is disagreement or uncertainty regarding the viability of a tree worthy of retention, and the City is unable to verify the viability of retaining





a tree, the City may request the preparation of an arborist report, at the cost of the applicant, to substantiate the health of one or more trees worthy of retention;

### Strategic Planning Proposals

10. Local Planning Scheme (LPS) amendments and Structure Plan proposals shall identify environmental features, including trees worthy of retention and should outline mechanisms and measures to protect environmental features during subsequent stages of the planning framework, in accordance with this policy.
11. Where possible, Concept Plans supporting LPS amendment applications and Structure Plans shall position public open space (POS) and configure the public road network to retain key environmental values, including trees worthy of retention.
12. Lot levels shall be sympathetic to the retention of established trees worthy of retention, where possible.
13. Strategic planning proposals shall be supported by technical information<sup>4</sup> which demonstrates that the protection of trees worthy of retention has been prioritised where possible.

### Subdivision

14. The City will provide the WAPC with recommended conditions and advice notes, in conjunction with a copy of the proposed site plan identifying which trees are recommended to be retained or removed, to be used for reference if a relevant tree retention condition is applied. The City may request that the WAPC not exempt subdivision works (such as fill or retaining) under the subdivision approval to enable consideration of trees worthy of retention and subdivision works at the development or building application stage.
15. Where a relevant tree retention subdivision condition has been applied by the WAPC, all applications for subdivision clearance to the City must include a site plan showing the existing trees on-site required to be retained, removed, or planted in accordance with Table 2 of this Policy, as applicable.

## 9. Tree Planting Requirements

1. The minimum tree planting requirements in Table 2 apply to the various LPS 3 Zones, including strategic planning proposals:

*Table 2. Minimum tree planting requirements*

LPS 3 Zone	Minimum tree planting requirements
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<sup>4</sup> Environmental Assessments, District and Local Water Management Strategies and Landscaping Strategies



<b>Residential, Residential Bushland and Urban Development, Private Clubs and Institutions</b>	In addition to the tree planting requirements in Table 1.1 of this Policy, a minimum of two additional trees are required to be planted for every tree worthy of retention removed that is not exempt under the provisions of this Policy.
<b>Special Rural, Rural Composite, Rural Agriculture, Rural Landscape Interest and Rural Conservation</b>	A minimum of two trees shall be planted for every tree worthy of retention removed that is not exempt under the provisions of this Policy.
<b>Light Industry, General Industry, Industrial Development and Service Station</b>	A minimum 10% tree canopy cover.
<b>Centre, District Centre, Mixed Use</b>	Unless otherwise provided in an approved Activity Centre Plan or design guidelines, a minimum of 20% canopy cover.

2. A minimum of 1 tree for every 4 uncovered car parking bays shall be provided, noting that trees retained or planted in car parking areas can contribute to achieving the requirements outlined in Table 2.
3. Applications in other categories that are not described in Table 2 will be assessed against the criteria considered most applicable to the land use.
4. Tree planting on private land should incorporate a minimum 90 litre advanced pot size and is required to be reticulated and maintained by the owner or occupant for a minimum of two summers until established.
5. Where it can be demonstrated there are insufficient suitable locations for retention or planting onsite to achieve the requirements of this Policy, the City may consider a \$600 payment per tree worthy of retention (required to be planted), to go to a fund for planting an offset tree either on the immediately adjacent verge or within the locality of the development.

## 10. Street Trees

1. Street Trees - Street Trees are to be retained at all times, wherever possible. A minimum setback of 1m to a crossover/driveway from any street tree on the verge is required, to keep trees in a sound condition and reduce the impact on the root



- system. Excavation for any new crossover should not exceed more than 150mm below natural ground level to protect the tree roots.
2. Street trees worthy of retention should be retained and protected onsite in accordance with AS4970-2009, unless approved to be removed.
  3. Street tree plantings should be a minimum 90L pot size, at least 2 metres in height, at least 2 years of age, and of a species that is approved by the City.
  4. Where unavoidable subdivision or development circumstances apply, and the City agrees in writing to the removal of a street tree, the applicant will be responsible for the cost of removal and shall provide an offset payment to the City. The offset payment shall be calculated using the City’s adopted tree value methodology. Offset payments for street trees will be used to fund street tree planting within the same locality as the development.
  5. Street trees required to be removed due to subdivision or development approvals do not initiate the requirements of the City’s Police Service 8 – City Tree Management.

## 11. Unauthorised Clearing of Trees Worthy of Retention

1. Where a tree worthy of retention, that does not qualify for an exemption under the LPS 3 and the provisions of this Policy, is removed without a valid development approval, or in breach of an existing development approval, these actions will constitute a contravention of LPS 3 and compliance action may be taken where such a contravention has occurred.

<b>Legislation</b>	
<b>Adopted</b>	
<b>Reviewed</b>	
<b>Next Review Date</b>	

## Appendix 1 – Indicative Tree Retention Plan Example

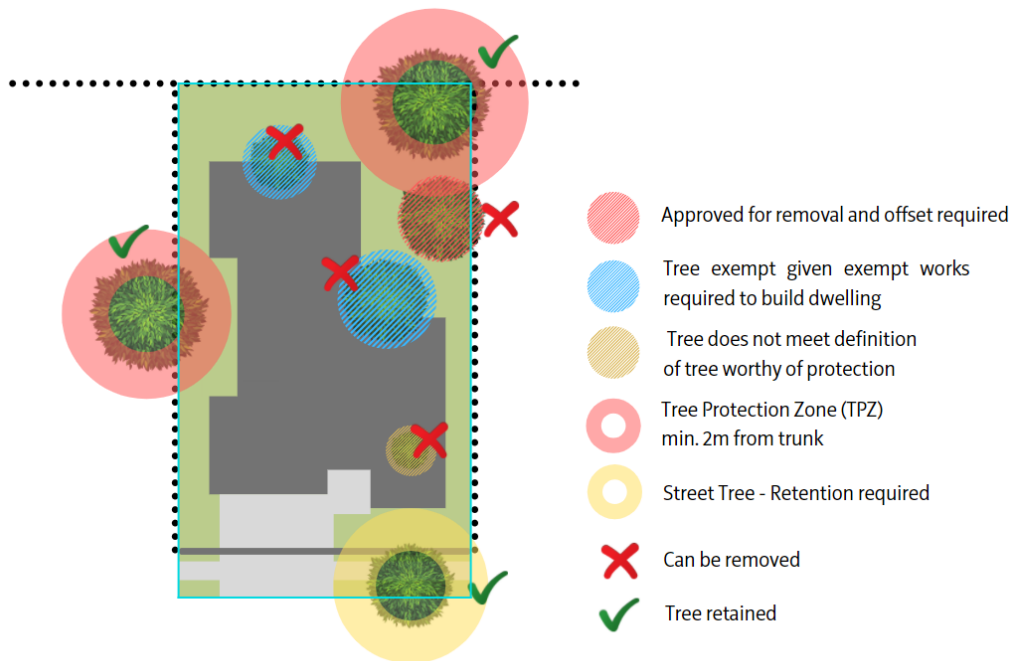


Figure 1. Tree Protection Zones for retained trees during construction.



## Appendix 2 - City of Kalamunda Tree Value Methodology

The City's tree valuation methodology is consistent with the approach utilised by the City of Melbourne. This includes a fee calculation with consideration of the following factors:

- a) Removal cost.
- b) Amenity values (basic value plus species, aesthetic, locality, and condition values).
- c) Ecological services value (using the i-Tree valuation tool).
- d) Reinstatement costs.

Further details on the calculation methodology are outlined at the below URL: <https://www.melbourne.vic.gov.au/community/greening-the-city/tree-protection-management/Pages/tree-protection-policy.aspx>



## Appendix 3 - Definitions

**Canopy Cover** – refers to the area covered by trees over 3m in height measured from natural ground level. For the purpose of calculating proposed canopy cover the size of the tree at maturity will be considered eg; if a tree grows over 3m in height and has a canopy of 1.5m length x 1.5m width then the canopy cover would be 2.25m<sup>2</sup> at maturity.

**Clearing** - the removal of a significant tree or vegetation. Includes ringbarking, cutting down, topping, removal, injuring or wilful destruction of native vegetation. It can also include keeping of horses or livestock in native vegetation without prior approval and includes excessive or unnecessary clearing for fire mitigation.

**Development** – As per *Planning and Development Act 2005* development means the development or use of any land, including —

- (a) any demolition, erection, construction, alteration of or addition to any building or structure on the land;
- (b) The carrying out on the land of any excavation or other works;
- (c) In the case of a place to which a Conservation Order made under section 59 of the *Heritage of Western Australia Act 1990* applies, any act or thing that –
  - (i) is likely to change the character of that place or the external appearance of any building; or
  - (ii) would constitute an irreversible alteration to the fabric of any building.

Tree removal is considered works and therefore development as it irreversibly alters the land and may affect the land use or future land use potential. Development may include but is not limited to built structures, subdivision, land use, change of use, and clearing.

**Exempt works** - Exempt works are works that do not require development approval under, and subject to meeting the applicable conditions contained in, CI 61 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. This includes:

- The erection of, or alterations or additions to, a single house on a lot (R-Codes apply),
- The erection or installation of, or alterations or additions to, any of the following on the same lot as a single house or grouped dwelling (R-Codes apply); an ancillary dwelling; an outbuilding; an external fixture; a boundary wall or fence; a patio; a pergola; a verandah; a deck; a garage; a carport; a swimming pool; shade sails,
- The erection or installation of signage/ advertisements; a cubbyhouse; a flagpole,
- The installation of a water tank; solar panels.

Refer to Clause 61 of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the complete list of exempt works and associated conditions.



**Incidental Development** – development which is associated with or attached to an existing dwelling and incidental to its main residential functions as defined in the R-Codes eg; outbuilding, swimming pool, patio or carport.

**Tree Protection Zone (TPZ)** – an area calculated by a combination of the root area and crown area to remain free of construction disturbance to retain the health and viability of a tree. The TPZ is calculated by multiplying the diameter at breast height by twelve (DBH x 12 = TPZ). A TPZ should be a minimum 2m and no more than 15m.

**Tree Worthy of Retention** –

Trees which meet the following criteria are considered a tree worthy of retention:

- a) Healthy specimens with ongoing viability AND;
- b) Species is not included on a State or local weed register AND;
- c) Height of at least 4m AND/OR;
- d) Trunk diameter of at least 160mm, measured 1m from the ground AND/OR;
- e) Average canopy diameter of at least 4m.

**Street tree** – any tree or vegetation intentionally planted or approved by the City on the verge within a road reserve. Street tree plantings should be a minimum 90L or greater pot size.



## Appendix 4 – Tree Label

**PROTECTED TREE**

This tree has been identified by the City of Kalamunda for retention and protection as a condition of development approval granted under authority of the *Planning and Development Act 2005*.

Application No: \_\_\_\_\_

This tree provides important ecological, habitat, public health and amenity value to the community and is to be protected throughout construction.

**DO NOT REMOVE THIS TREE**

Contravention of the Local Planning Scheme may include a penalty of up to \$200,000 and daily penalty of up to \$25,000.

