

Regulated and Significant Trees

What is a Regulated tree?

The *Development Act 1993* and *Development Regulations 2008* define a 'regulated tree' as:

- Any tree in metropolitan Adelaide and/ or townships in the Adelaide Hills Council or parts of the Mount Barker Council, with a trunk circumference of 2.0m or more, measured at a point 1.0m above natural ground level (in the case of trees with multiple trunks, it is those with trunks with a total circumference of 2.0m or more and an average circumference of 625mm or more, measured at a point 1.0m above natural ground level).

A number of tree species are exempt from regulated tree controls, either through their location or their species. These are detailed at the end of this information sheet.

What is a significant tree?

A 'significant tree' is a regulated tree that is:

- Any tree in metropolitan Adelaide and/ or townships in the Adelaide Hills Council or parts of the Mount Barker Council, with a trunk circumference of 3.0m or more measured at a point 1.0m above natural ground level (in the case of trees with multiple trunks, it is those with trunks with a total circumference of 3.0m or more and an average circumference of 625mm or more, measured at a point 1.0m above natural ground level).

What activities affecting Regulated and Significant Trees are controlled?

The Development Act 1993 provides that tree damaging activity in relation to a 'regulated tree' is 'development' and as such, requires a development approval. Specifically, development approval is required for removal, killing or destruction, branch or limb lopping, ringbarking or topping, or any other substantial damage to a regulated tree, including to its root system, with the exception of maintenance pruning.

Do I need approval to remove a Regulated or Significant tree that is dead?

No approval is required to remove a dead tree.

What is maintenance pruning?

Maintenance pruning of less than 30% of a tree's crown is not controlled where the pruning is required to remove dead or diseased wood or to remove branches that pose a material risk to buildings or areas frequently used by people. An exemption has been given from these controls for activities under Part 5 of the Electricity Act 1996, relating to the cutting and trimming of trees around powerlines. An exemption has also been given to trees planted as part of woodlots, orchards or other plantations created for the purposes of harvesting the trees or any produce and any tree that has been specified under Chapter 8, Part 1 of the Natural Resources Management Act 2004 (declared pest plants).

What are the penalties and remedies for Non Compliance?

Breaches of the provisions relating to regulated trees will be enforced using existing provisions under the Development Act 1993 that apply to all other types of development. Under the existing provisions, the person who undertakes the work to the regulated tree will be the person responsible for the breach. Fines of up to \$120,000 operate if breaches are proven.

Do I need a report from an Arborist to support my Application to remove a Regulated or Significant tree?

The council cannot request an Applicant to provide an expert or technical report for a regulated tree, unless the Council considers that special circumstances apply. A report may be requested by the Council in relation to a significant tree.

Do I need to plant replacement trees if I remove a Regulated or Significant tree?

The Council is required to place a condition on any Application for the removal of a regulated tree, that replacement trees are planted. The Council may allow you to pay money into its Urban Tree Fund in lieu of planting trees, upon application. The Regulations can also prohibit certain trees from being



planted as replacement trees. You have a right to appeal either condition and you should check with the Council to confirm requirements for planting replacement trees

What if my neighbour's Regulated or Significant tree is encroaching on my land?

Pruning back a tree branch or branches that are encroaching on your property can occur without seeking approval, provided it meets the pruning requirements above. Pruning a neighbouring tree root(s) does not require development consent provided it is maintenance pruning that is not likely to affect the health and appearance of the tree. Where cutting back the tree would exceed the maintenance pruning requirements above or would result in root damage likely to affect the health and appearance of the tree, you will be required to seek a Development Approval from the Council for any works on your side of the common property boundary. However the Council does not charge an Application fee in this situation.

When is approval required for pruning?

Approval would be required in the following cases:

- Where the pruning would remove more than 30% of the tree crown (and is also required to remove dead or diseased wood or to remove branches that pose a material risk to buildings or areas frequently used by people);
- Where the pruning is to remove branches that are not dead or diseased or to remove branches that do not pose a material risk to buildings or areas frequently used by people; and
- Where the pruning of roots would affect the health and appearance of the tree.

What if urgent work is needed to make a tree safe?

In an emergency situation, work involving a regulated or significant tree can be undertaken without first having received a development approval. As soon as practicable after the emergency work is undertaken, the owner of the regulated or significant tree must lodge a Development Application with the Council for the work undertaken.

List of specific tree species exemptions

All trees located within 10 metres of an existing dwelling or existing inground swimming pool

(measured from the trunk of the tree), unless it is one of the two following species of trees:

- *Agonis flexuosa* (Willow Myrtle)
- *Eucalyptus* (any tree of the species)

Any of the following 24 listed tree species are also excluded from the controls:

- *Acer negundo* (Box Elder)
- *Acer saccharinum* (Silver Maple)
- *Ailanthus altissima* (Tree of heaven)
- *Alnus acuminata* subsp. *Glabrata* (Evergreen Alder)
- *Celtis australis* (European Nettle Tree)
- *Celtis sinensis* (Chinese Nettle Tree)
- *Cinnamomum camphora* (Camphor Laurel)
- *Cupressus macrocarpa* (Monterey Cypress)
- *Ficus* spp. (Figs), other than *Ficus macrophylla* (Moreton bay fig) except where it is located more than 15 metres from a dwelling
- *Fraxinus angustifolia* (Narrow-leaved Ash)
- *Fraxinus angustifolia* ssp. *Oxycarpa* (desert ash)
- *Lagunaria patersonia* (Norfolk Island Hibiscus)
- *Melaleuca styphelioides* (Prickly-leaved Paperbark)
- *Pinus Radiata* (Radiata Pine / Monterey Pine)
- *Platanus x acerifolia* (London Plane)
- *Populus alba* (White poplar)
- *Populus nigra* var. *italica* (Lombardy Poplar)
- *Robinia pseudoacacia* (Black Locust)
- *Salix babylonica* (Weeping Willow)
- *Salix chilensis* 'Fastigiata' (Chilean Willow, Evergreen Willow, Pencil Willow)
- *Salix fragilis* (Crack Willow)
- *Salix X rubens* (White Crack Willow, Basket Willow)
- *Salix X sepulcralis* var. *chrysocoma* (Golden Weeping Willow)
- *Schinus areira* (Peppercorn Tree)

The information provided in this Development Fact Sheet is intended as a general guide only and readers are encouraged to refer to the Norwood Payneham & St Peters (City) Development Plan and to seek professional planning advice if necessary. This information is subject to frequent updates and this version was last updated in June 2016. The latest version can be downloaded via the Council's website at www.npsp.sa.gov.au. For further information, please contact the Council's Urban Planning & Environment Department on 8366 4530