

This practice direction is issued by the State Planning Commission under section 42 of the *Planning, Development and Infrastructure Act 2016*.

Introduction

Section 42 of the *Planning, Development and Infrastructure Act 2016* (the Act) allows the State Planning Commission (the Commission) to issue practice directions for the purposes of the Act. Generally, practice directions specify procedural requirements or steps in connection with a matter arising under the Act. In certain cases, the Act requires a particular matter to be addressed or dealt with by a practice direction.

This practice direction is being made by the Commission to support the operation of section 197, of the Act with respect to the operation of the Urban Tree Canopy Off-set Scheme established by the Minister.

Practice direction

Part 1 – Preliminary

1 – Citation

This practice direction may be cited as the *State Planning Commission Practice Direction 16 (Urban Tree Canopy Off-set Scheme) 2021*.

2 – Commencement of operation

This practice direction will come into operation on the day on which it is published on the SA Planning Portal.

3 – Object of practice direction

The object of this practice direction is to specify certain procedural matters required for the effective operation of the Urban Tree Canopy Off-set Scheme.

4 – Interpretation

In this practice direction, unless the contrary intention appears –

Act means the *Planning, Development and Infrastructure Act 2016*.

Commission means the State Planning Commission.

Council means a council constituted under the *Local Government Act 1999*.

Council Fund means an urban trees fund established by a council under section 200 of the Act (which includes an urban trees fund established under section 50B of the *Development Act 1993*

which continues in operation pursuant to Schedule 8 (Transitional Provisions) section 33(3) of the Act).

Council Fund Designated Area means the designated area of a Council Fund as provided under section 200(1) of the Act.

Designated Soil Type means a designated soil type as that term is defined in the Scheme.

DTS/DPF Policy means the deemed-to-satisfy criteria and the designated performance feature 1.1, as provided for in the Overlay.

Fund means the Urban Tree Canopy Off-set Fund established under the Scheme.

Overlay means the Urban Tree Canopy Overlay in the Planning and Design Code.

Regulations means the *Planning, Development and Infrastructure (General) Regulations 2017*.

Scheme means the Urban Tree Canopy Off-set Scheme established by the Minister for Planning and Local Government under section 197 of the Act.

Note: Section 14 of the *Acts Interpretation Act 1915* provides that an expression used in an instrument made under an Act has, unless the contrary intention appears, the same meaning as in the Act under which the instrument was made.

Part 2 – Payments to the Fund

5 – Information required for development applications

A development application which proposes a dwelling within the Overlay must include, when lodged for planning consent under section 102(1)(a) of the Act, an election from the applicant to:

- (1) make payment into the Fund as required under the Scheme; or
- (2) plant a tree (or trees) as provided in the DTS/DPF Policy in the Overlay; or
- (3) reserve consideration of the DTS/DPF Policy in the Overlay, as provided for in the Code and under section 102(4) of the Act.

6 – Reserved Matter

Where an applicant has elected to reserve consideration of the DTS/DPF Policy in the Overlay, as provided for in the Code and under section 102(4) of the Act, in order to satisfy the reserved matter, and at any time prior to granting of development authorisation, the applicant may:

- (1) make an election to plant a tree (or trees) as provided in the DTS/DPF Policy in the Overlay; or
- (2) if required, provide documents which are considered by the relevant authority as sufficient to confirm whether the relevant development site includes a Designated Soil Type; and
- (3) make an election to make payment into the Fund as required under the Scheme.

7 – Process for payments to the Fund

Where an applicant has elected to make a payment into the Fund, in lieu of planting a tree (or trees) as provided in the DTS/DPF Policy in the Overlay, the payment will:

- (1) be made via the Development Application Processing (DAP) system on the SA Planning Portal at <http://plan.sa.gov.au>; and
- (2) be verified by the relevant authority as being correct in accordance with the Scheme, prior to the granting of development authorisation under the Act.

Part 3 – Application of Council Funds

8 – Development within Council Fund Designated Areas

Where a development application relates to a site which is located both within a Council Fund Designated Area and within the Overlay:

- (1) Where an applicant has elected to make a payment into the Fund, in lieu of planting a tree (or trees) as provided in the DTS/DPF Policy in the Overlay, such payment will be made into the Fund, as opposed to into a Council Fund; and/or
- (2) Except as provided in clause 8(3), where an applicant has elected to plant a tree (or trees) as provided in the DTS/DPF Policy in the Overlay, the relevant authority must not impose a condition on a development authorisation under the Act which requires payment into a Council Fund; and/or
- (3) Where the development application includes the killing, destruction or removal of a regulated or significant tree, the relevant authority may impose a condition requiring payment into a Council Fund, irrespective of an election by the applicant to plant a tree or make a payment into the Fund as provided under the Scheme.

Versions

Version 1: Commenced operation on 25 March 2021