

Frequently Asked Questions



Protecting Regulated and Significant Trees

A brief overview of the legislative controls in place to protect trees in metropolitan Adelaide and some Adelaide Hills areas

Q – What is a regulated tree?

A – The *Planning, Development and Infrastructure Act 2016* and Regulations provide that a 'regulated tree' 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 2.0 metres or more measured at a point 1.0 metre above natural ground level (in the case of trees with multiple trunks, it is those with trunks with a total circumference of 2.0 metres or more and an average circumference of 625 millimetres or more measured at a point 1.0 metre 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.

Q – What is a significant tree?

A – 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 3.0 metres or more measured at a point 1.0 metre above natural ground level (in the case of trees with multiple trunks, it is those with trunks with a total circumference of 3.0 metres or more and an average circumference of 625mm or more measured at a point 1.0 metres above natural ground level).

OR

- Any tree identified as a significant tree in Part 10 of the Planning and Design Code.

Q – What activities affecting regulated and significant trees are controlled?

A – The *Planning, Development and Infrastructure Act 2016* provides that any activity that damages 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 other than maintenance pruning.

Q – What is maintenance pruning?

A – Maintenance pruning of less than 30% of a tree 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).

Q – Is my tree exempt from the controls?

A – The Planning, Development and Infrastructure (General) Regulations 2017 (the Regulations) list a range of tree species as “exempt” from regulated tree controls. The trees listed are:

- limited to exotic species
- trees considered to have a medium-high or high risk for limb failure and infrastructure damage
- common trees planted in urban areas.

A guide to the tree species that are exempt is contained at the end of this information sheet. If you are uncertain if your tree is an exempt species you should seek your own professional advice to confirm the tree species and whether it is exempt from these controls.

In addition the Regulations also exempt the need for an applicant to seek approval to:

- remove a regulated or significant tree that is dead
 - remove a regulated or significant tree within 20 metres of a dwelling in Medium or High Risk Bushfire Hazard areas.
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Q – What if my neighbour’s regulated or significant tree is encroaching on my land?

A – 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 for any works on your side of the common property boundary.

A development application fee will not apply in this situation.

Q – When is approval required for pruning?

A – 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.
 - Where the pruning of roots would affect the health and appearance of the tree.
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Q – Do I need a report from an arborist to support my application to remove a regulated or significant tree?

A – A relevant authority cannot request an applicant to provide an expert or technical report for a regulated tree unless they consider that special circumstances apply.

Q – Do I need to plant replacement trees if I remove a regulated or significant tree?

A – If your application to remove a regulated or significant tree is approved, a condition will apply requiring that replacement trees are planted or that money be paid into a fund. You can elect which option you wish to undertake.

Replacement trees should not be planted within 10 metres of an existing dwelling or in-ground swimming pool, and should not be any of the following species:

- *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) 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).
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Q – Do I need approval to remove a regulated or significant tree that is dead?

A – No approval is required to remove a dead tree.

Q – Exactly where do the controls apply?

A – The controls apply to all parts of metropolitan Adelaide (see map overleaf) and the urban and township areas of the Adelaide Hills and Mount Barker Councils.

It should be noted that some parts of metropolitan Adelaide are also currently covered by the *Native Vegetation Act 1991*, which provides protection to native tree species. In these areas, regulated trees that are not protected by the *Native Vegetation Act 1991* will be protected by the Planning, Development and Infrastructure Act 2016 controls. Country areas will continue to be protected by the *Native Vegetation Act 1991*.

Q – Who assesses an application regarding a regulated or significant tree?

A – The Assessment Manager of the relevant council is usually responsible for assessing a development application with respect to regulated and significant trees.

Q – What are the fees?

A – Most development applications involving a regulated tree or trees will incur a fee. Fees are set out in the Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019, and are updated annually.

Q – How are applications assessed?

A – A development application involving a regulated or significant tree must be lodged on the PlanSA portal, or at the principal office of the relevant authority (usually the council within which the tree is located). The application is assessed against the relevant provisions of the Planning and Design Code.

Planning policies have been inserted into the Planning and Design Code to enable authorities to make appropriate balanced decisions when considering applications for tree removal. Once the assessment is made the relevant authority can approve, approve with conditions, or refuse the proposed 'development' relating to the regulated/significant tree.

Q – What if a land owner objects to a decision?

A – An applicant has the right to appeal to the Environment Resources and Development Court against a decision made, or a condition attached to an approval, by the planning authority. Such an appeal must be lodged with the Court within two months of the application decision being made.

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

A – In an emergency situation, work involving a regulated or significant tree can be undertaken without first having received a development approval (in most cases this work will be done by the State Emergency Service or Council). As soon as practicable after the emergency work is undertaken, the owner of the regulated or significant tree must lodge a development application for the work undertaken.

Q – What are the penalties and remedies for non-compliance?

A – Breaches of the provisions relating to regulated/significant 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/significant tree will be the person responsible for the breach. Fines of up to \$120,000 operate if breaches are proven.

Q – List of specific tree species exemptions

A – All trees located within 10 metres of an existing dwelling or existing inground- swimming pool are exempt from regulated/significant tree controls, 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) 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 Paperback)

- *Pinus Radiata* (Radiata Pine / Monterey Pine)
 - *Platanus x acerifolia* (London Plane)
 - *Populus alba* (White poplar)
 - *Populus nigra var. italica* (Lombardy Poplar)
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 - *Salix babylonica* (Weeping Willow)
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 - *Schinus areira* (Peppercorn Tree)
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Area affected map

