


# *Council Policy*

## Development Applications Involving Regulated Trees



# COUNCIL POLICY

 <p><b>Adelaide Hills</b> COUNCIL</p>	<b>DEVELOPMENT APPLICATIONS INVOLVING REGULATED TREES</b>
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<b>Policy Number:</b>	DEV-08
<b>Responsible Department(s):</b>	Development & Regulatory Services
<b>Relevant Delegations:</b>	As per the Delegations Register and as detailed in this Policy
<b>Other Relevant Policies:</b>	Nil
<b>Relevant Procedure(s):</b>	Nil
<b>Relevant Legislation:</b>	<i>Planning, Development &amp; Infrastructure Act 2016</i> <i>Planning, Development &amp; Infrastructure (General) Regulations 2017</i>
<b>Policies and Procedures Superseded by this policy on its Adoption:</b>	Policy DEV-08 Adopted 25 June 2019
<b>Adoption Authority:</b>	Council
<b>Date of Adoption:</b>	26 October 2021
<b>Effective From:</b>	09 November 2021
<b>Minute Reference for Adoption:</b>	Item 222/21
<b>Next Review:</b>	No later than October 2024 or as required by legislation or changed circumstances



## DEVELOPMENT APPLICATIONS INVOLVING REGULATED TREES POLICY

### 1. INTRODUCTION

The significant tree legislation came into effect in April 2000 and was amended by the *Development (Regulated Trees) Variation Regulations, 2011* on 17 November 2011. Under the *Planning, Development & Infrastructure Act 2016* (the Act) & *Planning, Development & Infrastructure (General) Regulations 2017* (the Regulations) implemented on 19 March 2021, tree damaging activity in relation to a regulated or significant tree is considered an act of development that requires development approval.

A regulated tree is any tree in metropolitan Adelaide (including Hills Face Zone), Adelaide Hills Council townships (including the Rural Neighborhood Zone) and parts of the Mount Barker Council which is within a designated regulated tree overlay identified in the Planning and Design Code. In accordance with Section 3(1) of the Act the definition of a regulated tree is a tree with a circumference of 2 metres (measured at a point 1 metre above natural ground level). In the case of trees with multiple trunks, regulated trees are those trees with trunks having a total circumference of 2 metres or more and an average trunk circumference of 625 millimetres or more (measured at a point 1 metre above natural ground level).

A significant tree is a regulated tree in metropolitan Adelaide (including Hills Face Zone), Adelaide Hills Council townships (including the Rural Neighborhood Zone) and parts of the Mount Barker Council with a trunk circumference of 3 metres or more (measured at a point 1 metre above natural ground level). In the case of trees with multiple trunks, significant trees are those with trunks having a total circumference of 3 metres or more and an average trunk circumference of 625 millimetres or more (measured at a point 1 metre above natural ground level).

Some trees are exempt from regulated and significant tree controls because of their location within a bushfire prone area, distance to a building and their species or a combination of these reasons. For example trees within 20 metres of a dwelling in a bushfire prone area are exempt from the controls as are trees within 10 metres of a swimming pool or dwelling (with the exception of eucalyptus species and willow myrtles). All dead trees are also exempt from the tree controls.

Section 119 of the Act encourages the assessment of development applications involving regulated trees or significant trees without an expert or technical tree assessment report unless special circumstances apply. This Policy outlines the circumstances where an expert assessment report may be requested in relation to a regulated or significant tree.

## 2. OBJECTIVES

### 2.1 The objectives of this policy are:

2.1.1 To detail the special circumstances where the applicant may be requested to provide an expert tree assessment report to support their development application involving tree damaging activity or where the potential for tree damaging activity exists; and

2.1.2 To treat all parties involved fairly and equitably

## 3. DEFINITIONS

**“Designated Regulated Tree Overlay”** means an overlay identified under the Planning and Design Code as a designated regulated tree overlay.

**“Regulated Tree”** means:

- (a) a tree, or a tree within a class of trees, declared to be regulated by the Regulations (whether or not the tree also constitutes a significant tree under the Regulations); or
- (b) Regulation 3F states the following are declared to constitute classes of regulated trees for the purposes of paragraph (a) of the definition of regulated tree, namely trees within a designated regulated tree overlay that have a trunk with a circumference of 2 metres or more or, in the case of trees that have multiple trunks, that have trunks with a total circumference of 2 metres or more and an average circumference of 625 mm or more, measured at a point 1 metre above natural ground level.

**“Significant Tree”** means:

- (a) a tree declared to be a significant tree, or a tree within a stand of trees declared to be significant trees, under the Planning and Design Code (whether or not the tree is also declared to be a regulated tree, or also falls within a class of trees declared to be regulated trees, by the Regulations); or

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- (b) a tree declared to be a regulated tree by the Regulations, or a tree within a class of trees declared to be regulated trees by the Regulations that, by virtue of the application of prescribed criteria, is to be taken to be a significant tree for the purposes of this Act; and
  - (c) a prescribed criterion for the purposes of paragraph (b) is a regulated tree which has a trunk with a circumference of 3 metres or more or, in the case of a tree with multiple trunks, has trunks with a total circumference of 3 metres or more and an average circumference of 625 mm or more, measured at a point 1 metre above natural ground level.

**“Tree-damaging Activity”** means:

- (a) the killing or destruction of a tree; or
- (b) the removal of a tree; or
- (c) the severing of branches, limbs, stems or trunk of a tree; or
- (d) the ringbarking, topping or lopping of a tree; or
- (e) any other substantial damage to a tree (including damage to the root system), and includes any other act or activity that causes any of the foregoing to occur but does not include maintenance pruning that is not likely to affect adversely the general health and appearance of a tree or that is excluded by regulation from the ambit of this definition.

**“To undertake Development”** means to commence or proceed with development or to cause, suffer or permit development to be commenced or to proceed.

#### **4. POLICY STATEMENT**

The special circumstances where an applicant may be requested to provide an expert tree assessment report to support a development application involving tree damaging activity or, potential tree damaging activity are detailed in paragraph 4.1.

**4.1** A qualified arborist’s report may be required when a development application is lodged to either remove or prune a regulated tree or a significant tree where one or more of the following criteria are met:

4.1.1 The tree(s) is in good health; and/or

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- 4.1.2 The tree(s) poses no obvious risk to persons or property and/or
  - 4.1.3 The tree(s) is threatened by a proposed development on adjoining land and/or
  - 4.1.4 The tree(s) makes an important contribution to the character or amenity of the local area and/or
  - 4.1.5 The tree(s) is a tree on the National Trust of South Australia's Register of Significant Trees and/or
  - 4.1.6 The tree(s) is indigenous to the local area and its species is listed under the National Parks and Wildlife Act 1972 as a rare or endangered native species and/or
  - 4.1.7 The trees(s) represents an important habitat for native fauna and/or
  - 4.1.8 The tree(s) is part of a wildlife corridor of a remnant area of native vegetation and/or
  - 4.1.9 The tree(s) is important to the maintenance of biodiversity in the local environment and/or
  - 4.1.10 The tree(s) forms a notable visual element to the landscape of the local area and/or
  - 4.1.11 There is reasonable doubt regarding the species of the tree

## **4.2 Second Opinions**

If the Council Assessment Panel or planning staff consider that a regulated tree meets one or more of the above criteria and the arborist's report provided by the applicant is not conclusive then staff may obtain a second opinion from an arborist to assist in the assessment of the application. The Council bears the cost of this report in such circumstances.

## **4.3 Land Divisions**

When considering land division applications planning staff consider the possible impacts of the proposed allotment design and access points on any regulated trees, including those on Council's road verges. In some instances the applicant may be required to identify building envelopes and

associated driveway locations on a plan of division where development has potential to impact on the Tree Protection Zone (TPZ) of a regulated tree.

#### **4.4 Urban Tree Fund**

The Council established an Urban Tree Fund in 2012 which continues to allow applicants the option of paying a contribution into the Fund in lieu of undertaking replacement planting where the removal of regulated trees is approved.

### **5. DELEGATION**

**5.1** The Chief Executive Officer has the delegation to:

- 5.1.1 Approve, amend and review any procedures that shall be consistent with this Policy; and
- 5.1.2 Make any formatting, nomenclature or other minor changes to the Policy during the period of its currency.

### **6. AVAILABILITY OF THE POLICY**

**6.1** This Policy will be available for inspection at the Council's Offices during ordinary business hours and via the Council's website [www.ahc.sa.gov.au](http://www.ahc.sa.gov.au). Copies will also be provided to the public upon request, and upon payment of a fee in accordance with the Council's Schedule of Fees and Charges.