

# COUNCIL POLICY



## DEVELOPMENT APPLICATIONS INVOLVING REGULATED TREE(S) - PROCEDURES & DELEGATIONS

<b>Policy Number:</b>	DEV-08
<b>Responsible Department(s):</b>	Development & Compliance
<b>Relevant Delegations:</b>	As outlined in this Policy
<b>Other Relevant Policies:</b>	None
<b>Relevant Procedure(s):</b>	None
<b>Relevant Legislation</b>	None
<b>Policies and Procedures Superseded by this policy on its Adoption:</b>	Significant Trees Procedures – 2 June 2009, 10.13, 190 Development Applications Involving Regulated Tree(s) - Procedures & Delegations – 23 June 2015, 12.4, 23
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## DEVELOPMENT APPLICATIONS INVOLVING REGULATED TREE(S) - PROCEDURES & DELEGATIONS

### 1. BACKGROUND & INTRODUCTION

The significant tree legislation which came into effect in April 2000 was amended by the *Development (Regulated Trees) Variation Regulations, 2011* which came into effect on 17 November 2011. These regulations implemented the Regulated Trees provisions of the *Development Act, 1993*.

A regulated tree is any tree in metropolitan Adelaide (including Hills Face Zone), Adelaide Hills Council townships (including the Country Living Zone) and 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, regulated trees are those with trunks having 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 significant tree is a regulated tree in metropolitan Adelaide (including Hills Face Zone), Adelaide Hills Council townships (including the Country Living Zone) and 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, significant trees are those with trunks having a total circumference of 3.0 metres or more and an average circumference of 625 millimetres or more (measured at a point 1.0 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 or their species. 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 (except eucalyptus species and willow myrtles). All dead trees are also exempt.

The legislation also changed the circumstances in which the Council can request an arborist report in relation to tree damaging activity to a regulated tree. This change stated the relevant authority should not request the applicant to provide an expert or technical report relating to the tree where:

- The relevant authority seeks to assess whether the tree is a significant tree; or
- The regulated tree is not a significant tree

unless special circumstances as outlined in Section 2.3 of this Policy apply.

The Council has a separate policy in relation to the definition of special circumstances which are detailed in Section 2.3 of the procedures below.

## **2. PROCEDURES**

### **2.1 General**

Staff are to assess all development applications involving regulated trees in accordance with the principles and objectives as outlined in the Council's Development Plan, the relevant legislation and any legal precedents as set by the Environment Resources and Development Court.

### **2.2 Land Divisions**

When considering land division applications (including boundary realignments), staff are to consider the possible impacts of the proposed application on any existing healthy regulated trees, including those on Council's road verges, as a result of the proposed land division layout design and/or access points. In some instances staff may require an applicant to identify the building envelopes and associated driveway locations and Council may request a Land Management Agreement be entered into in order to protect regulated tree(s) worthy of retention.

### **2.3 Special Circumstances Policy**

A qualified arborist's report may be required when a development application is lodged to either remove or prune a regulated tree (which is not a significant tree) in a manner which is more than maintenance pruning which meets one or more of the following criteria:

- it is in good health; and/or,
- it poses no obvious risk to persons or property; and/or,
- it is threatened by a proposed development on adjoining land; and/or
- it makes an important contribution to the character or amenity of the local area; and/or,
- it is a tree on the National Trust of South Australia's Register of Significant Trees; and/or,
- it 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,
- it represents an important habitat for native fauna; and/or,
- it is part of a wildlife corridor of a remnant area of native vegetation; and/or
- it is important to the maintenance of biodiversity in the local environment; and/or
- it forms a notable visual element to the landscape of the local area; and/or,
- there is reasonable doubt regarding the species of the tree,

### **2.4 Second Opinions**

If the Development Assessment Panel or planning staff members consider that a tree meets the above criteria and the arborist's report provided by the applicant is not conclusive and further justification is required to assist in the assessment of the application, then staff shall obtain a second opinion from an independent arborist. The Council shall bear the cost of this report.

## **2.5 Trees Outside of Township Boundaries**

Trees outside township boundaries and the Hills Face Zone are exempt from the regulated tree legislation. Such trees are subject to the requirements of *The Native Vegetation Act 1991 and Regulations 2003*.

## **2.6 Urban Tree Fund**

The Council established an Urban Tree Fund in 2012 which allows applicants the option of paying a contribution per tree removed, into an "Urban Tree Fund". Monies paid into this fund are used by the Council to maintain or plant trees, or purchase land to plant such trees in designated areas. The fee per tree is set by legislation annually. The contribution per tree is also reduced by 66.6% for pensioners.

## **3. DELEGATIONS**

Development applications which involve the removal of regulated trees in the following circumstances will be referred to the Council's Development Assessment Panel for determination:

All development applications which involve the removal of regulated or significant trees on the same property where separate approval for the removal of significant or regulated tree(s) has already been granted in the 12 months preceding lodgement of the current application, and staff are recommending removal of the subject tree(s) EXCEPT in one or more of the following circumstances:

1. It is demonstrated that the tree(s) represents an unacceptable risk to public or private safety, and there are no reasonable measures that would be effective to reduce the risk;
2. It is demonstrated that the tree(s) is shown to be causing or threatening to cause substantial damage to a substantial building or structure of value as supported by a qualified engineer's report, and there are no reasonable measures that would be effective to reduce the risk;
3. The tree(s) is not a notable visual element in the landscape of the locality;
4. The tree(s) is diseased and dying and has a demonstrated life expectancy of ten years or less.

Staff have delegated authority of Council to consider all other applications involving regulated trees.