

Regulated & Significant Trees

Who should read this guide?

Anyone undertaking activities that may impact your trees that are considered 'regulated' or 'significant' and gives an overview of the legislative controls in place to protect them.

Regulated Trees

The *Development Act 1993* and *Development Regulations 2008* state that a 'regulated tree' is:

- Any tree with a trunk circumference of 2.0m or more measured at a point 1.0m above the 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.

Significant Trees

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

- Any tree 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.

OR

- Any tree identified as a significant tree in the *Adelaide (City) Development Plan*.

Controlled Activities affecting Regulated and Significant Trees

The *Development Act 1993* provides that any activity that damages a 'regulated tree' (which includes a significant tree) is 'development', and as such requires 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.

Maintenance Pruning

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).

Tree Exemptions

The *Development Regulations 2008* list a range of tree species as "exempt" from regulated tree controls. The trees listed are:

- limited to some exotic species; and
- trees considered to have a medium-high or high risk for limb failure and infrastructure damage; and
- 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.

Regulated & Significant 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 Development Approval from Council for any works on your side of the common property boundary. You will not be charged 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 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 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.

Do I need a report from an arborist to support my application to remove a regulated or significant tree?

You do not need to supply an expert or technical report for a regulated tree unless Council considers that special circumstances apply. You will need to supply an arborist report if you propose to remove a significant tree.

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

Council may place a condition that replacement trees are planted on your property if you are granted approval to remove a regulated or significant tree.

Do I need approval to remove a regulated or significant tree that is dead?

No approval is required to remove a dead tree.

How are applications assessed?

A development application involving a regulated or significant tree must be lodged with Council. The application is assessed against the relevant provisions of the *Adelaide (City) Development Plan* which contains planning policy to enable Council to make appropriate balanced decisions when considering applications for tree removal. Once the assessment is made, Council can approve, approve with conditions, or refuse the proposed 'development' relating to the tree.

Applications involving the removal of a regulated or significant tree are likely to be Category 2 for public notification purposes (requiring notification to adjoining owners) apart from sites located in the Capital City Zone, Institutional (Government House) Zone, Riverbank Zone, or Institutional (University/Hospital) Zone, where the removal of a regulated or significant tree is Category 1 development.

What if a land owner objects to a Council decision?

If you disagree with Council's decision, as the applicant, you have the right to appeal to the Environment Resources and Development Court against a decision made, or a condition attached to an approval. Such an appeal must be lodged with the Court within two months of the application decision being made.

Regulated & Significant Trees

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 (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 with Council for the work undertaken.

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.

List of specific tree species exemptions

All trees located within 10 metres of an existing dwelling or existing in-ground swimming pool, 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 15m from a dwelling. *This means if a Moreton Bay Fig is located more than 15m from an existing dwelling or in-ground swimming pool, consent from Council is required to undertake tree-damaging activity.*
- *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 molle* (Peppercorn Tree)

Development Application Requirements

If you wish to undertake any work to a 'regulated' or 'significant' that requires development approval tree then you must submit a development application.

Lodge your Development Application online at: cityofadelaide.com.au/da with the following:

A Lodgement fee is required at the time of lodging your application online. Council will invoice you for any other required fees.

Site Plan

- Minimum scale 1:200 (1:100 preferred)
- Approximate north point
- Boundaries of the site
- Location of the existing structures and location of the tree

Written Documentation

- You will need to detail the reasons for the removal of the tree which can be supplemented by photographs
- Circumference of the tree measured one metre above ground level
- If you seek to prune/remove limbs of either a 'regulated' or 'significant' tree then you will need to provide an elevation of the tree or clear photographs that shows the extent of limb removal

Arborist Report

- In the case of the removal of a 'significant' tree then an arborists report will need to be submitted
- In special circumstances, Council may request an arborists report if you propose to remove a 'regulated' tree

Further Information

For further information or to discuss your specific requirements, please contact Council's Development Assessment team on **08 8203 7185** or d.planner@cityofadelaide.com.au.