

Tree Reform Information

Planning and Land Use Services

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What is Tree Damaging Activity?

Any activity that damages a Regulated or Significant tree is development and requires development approval.

Specifically, development approval is needed for:

- tree removal
- killing or destruction
- branch or limb lopping
- ringbarking or topping
- any substantial damage to the tree, including to its root system.

The Regulated and Significant tree criteria only apply within the area of the Regulated and Significant Tree Overlay within the Planning and Design Code. Outside of this area, it is likely that the Native Vegetation Overlay applies, which protects vegetation that falls within the meaning of native vegetation (in accordance with the *Native Vegetation Act 1991*).

Refer to the [SA Property and Planning Atlas \(SAPPA\)](#) to view these Overlays.

Changes to Tree Legislation

Regulated and Significant Tree criteria in the *Planning, Development and Infrastructure (General) Regulations 2017* ('Regulations') was amended and came into effect on **16 May 2024**.

Table 1 Changes to Regulated and Significant Tree Legislation

	Pre-16 May 2024 Requirement	Post 16 May 2024 Requirement
Definition: Regulated tree	2m circumference Multiple trunks – average circumference of 625mm	1m circumference Multiple trunks – average circumference of 310mm
Definition: Significant tree	3m circumference Multiple trunks – average circumference of 625mm	2m circumference Multiple trunks – average circumference of 625mm
Not included in definition of Regulated or Significant Tree	Tree located within 10m of a dwelling or swimming pool, other than: <ul style="list-style-type: none"> • Agonis flexuosa (Willow Myrtle) • Eucalyptus 	Tree located within 3m of a dwelling or swimming pool, other than: <ul style="list-style-type: none"> • Agonis flexuosa (Willow Myrtle) • Eucalyptus • Angophora • Corymbia
	Tree within the designated species list in the Regulations.	A tree of a species designated by the Minister by notice published on the SA Planning Portal (noting the list in the Regulations has been removed).
	Tree within 20m of a dwelling in Medium or High Bushfire Risk area within a Hazards (Bushfire Protection) Overlay under the Planning and Design Code.	Tree within 20m of a dwelling in Medium or High Bushfire Risk area within a Hazards (Bushfire) Overlay under the Planning and Design Code.
	A tree which is dead.	A tree which is dead.
Tree damaging activity – pruning	Pruning removes no more than 30% of the crown of the tree – no time limit	Pruning removes no more than 30% of the crown of the tree – every 5 years
Exclusions from definition of development – general	The tree is within one of the following species: <ul style="list-style-type: none"> • Prickly-leaved Paperbark • Norfolk Island Hibiscus 	The tree is within one of the following species: <ul style="list-style-type: none"> • Weeping Willow • Prickly-leaved paperbark • Norfolk Island hibiscus

Which species are listed in the Minister's declared exemption list?

The species listed in the Minister's declaration are primarily limited to exotic species, trees considered to have a medium to high risk for limb failure and infrastructure damage, and common trees planted in urban areas. The list can be changed from time to time by the Minister.

The current list as at 16 May 2024 includes a tree within one 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* (Morton Bay Fig) located more than 15 metres from a dwelling
- *Fraxinus angustifolia* (Narrow-leaved Ash)
- *Fraxinus angustifolia* ssp. *Oxycarpa* (Desert Ash)
- *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)
- *Melaleuca styphelioides* (Prickly-leaved Paperbark)
- *Lagunaria patersonia* (Norfolk Island Hibiscus).

Transitional Provisions

Transitional provisions were included in the amendments to the Regulations that essentially mean the new Regulations do not 'turn on' for lodged or existing development approvals (subject to some exceptions) until **16 May 2025**.

The Transitional Provisions are as follows:

1-Transitional provision

The amendments effected by these regulations do not apply in relation to any activity that is—

- (a) undertaken for the purposes of a development that is the subject of—
 - (i) an application for development authorisation under the Planning, Development and Infrastructure Act 2016 lodged before the commencement of this clause; or*
 - (ii) a development authorisation under the Planning, Development and Infrastructure Act 2016 granted before the commencement of this clause, if the activity is undertaken after development authorisation is granted and before the day falling 12 months after the commencement of this clause; or**
- (b) undertaken by or on behalf of the South Australian Housing Trust for the purposes of a development, or in connection with the demolition of a dwelling or residential flat building, before 1 January 2027 (regardless of whether the application for development authorisation is lodged, or development authorisation is granted, in respect of the development before or after the commencement of this clause).*

Meaning of 'lodged'

For the purposes of the transitional provisions, an application for development authorisation will be taken to have been lodged before the commencement of the new tree protections on 16 May 2024 if the application was submitted in the SA planning portal. This is on the basis that regulation 29 of the Regulations refers to applications being lodged electronically via the SA planning portal or at the principal office of a relevant authority. In these circumstances, applications have not been verified in the SA planning portal and fees may not have been paid.

It must be noted that an application is not considered to have been made for the purposes of section 132 of the Planning, Development and Infrastructure Act 2016 until the application has been verified and fees have been paid.



Scenarios

What do the Transitional Provisions mean for submitted and approved applications?

Scenario 1 – Dwelling approved before 16 May 2024 + variation

- Development approval was granted for a dwelling prior to 16 May 2024.
- In order to act on the development approval, a tree with a circumference of 1.5 metres measured at 1 metre above natural ground level requires removal as it is within the footprint of the proposed building.
- The removal of the tree is not contemplated by the existing development approval as the tree was not a 'Regulated' tree at the time the application was assessed.
- The tree may be removed prior to **16 May 2025** to enable construction of the dwelling.

Variation

- If the applicant wishes to vary the approved plans (not a minor variation) or vary a condition of consent, a new development application would need to be submitted and would be subject to the new Regulations.
- Assessment of a variation is limited to the aspects of the proposal that are sought to be varied, for example:
 - If the variation seeks to change the height of the proposed dwelling, the assessment of the variation will be limited to assessing the building height. As the tree sits within the proposed dwelling footprint and impact on the tree does not change as a result of the variation, the tree cannot be considered as part of the variation.
 - If the variation seeks to vary a condition of approval that does not relate to the tree, then assessment of the variation would be limited to considering the proposed changes to conditions.

Scenario 2 – Dwelling application submitted before 16 May 2024

- A development application for a dwelling was submitted prior to 16 May 2024 and is currently under assessment.
- There is an existing tree on the site with a trunk circumference of 1.8 metres measured at 1 metre above natural ground level.
- The tree will require removal in order for the proposed dwelling to be built, as the tree is within the footprint of the proposed dwelling.
- The tree is not a 'Regulated' tree because at the time the application was submitted, it was not considered Regulated.
- If the application is approved, the tree may be removed prior to **16 May 2025**.

Scenario 3 – Dwelling addition approved before 16 May 2024

- Development approval was granted for a dwelling addition prior to 16 May 2024.
- There is an existing tree, a corymbia species, with a trunk circumference of 2.8 metres measured at 1 metre above natural ground level that is 9.6 metres from the existing dwelling.
- The tree will be 4 metres from the proposed dwelling addition.
- The proposal plans identified the tree and noted that it would be removed to facilitate the proposed addition.
- The tree may be removed prior to **16 May 2025** to enable the construction of the dwelling addition.

If the tree was not identified on the plans

- If the plans did not include the tree and did not identify that it should be removed, then the tree would be a 'Significant' tree and must be retained.
- Further advice should be sought from the local council about progressing the dwelling addition, as its construction may result in tree damaging activity.

Scenario 4 – Dwelling and tree damaging activity approved before 16 May 2024

- Development approval was granted for a dwelling and tree damaging activity prior to 16 May 2024.
- The approved tree damaging activity is for the removal of a 'Regulated' tree with a trunk circumference of 2.8 metres measured at 1 metre above natural ground level.
- The tree may be removed prior to **16 May 2025**.
- After 16 May 2025, the tree will be classed as a 'Significant' tree and a new development application for tree damaging activity will need to be submitted and assessed against the Planning and Design Code.

Scenario 5 – Dwelling application submitted before 16 May 2024 but not lodged

- A development application for a dwelling was submitted prior to 16 May 2024.
- The proposed dwelling will require removal of a tree with a trunk circumference of 1.9 metres measured at 1 metre above natural ground level.
- The application has been verified but no application fees have been paid.
- The application will not need to be amended to include tree damaging activity as it was submitted before 16 May 2024.

Scenarios

Scenario 6 – Shed approved before 16 May 2024 + minor variation

- Development approval was granted for a shed prior to 16 May 2024.
- A tree requires removal in order to act on the development approval, as the tree is located in the footprint of the proposed shed.
- The tree has a trunk circumference of 2.5 metres measured at 1 metre above natural ground level.
- The removal of the tree was not assessed as part of the development application, as the tree was exempt from requiring approval due to it being within 10 metres of the existing dwelling and not being a Eucalyptus or Agonis flexuosa (Willow Myrtle).
- The tree may be removed prior to **16 May 2025** to enable construction of the shed.

Minor Variation

- If a minor variation to the development approval is sought, the tree will remain an exempt tree for the purposes of assessing the minor variation.

Scenario 7 – Land Division submitted before 16 May 2024

- A large scale 100 allotment land division was submitted prior to 16 May 2024.
- Within the site for the proposed land division, there are 15 trees that have a trunk circumference of between 1 metre and 2 metres measured 1 metre above natural ground level.
- The proposal plans for the land division identify that these 15 trees are proposed for removal.
- The 15 trees that have a trunk circumference of between 1 to 2 metres are not 'Regulated' trees for the purposes of the land division assessment.
- Should the land division be approved, the trees may be removed prior to **16 May 2025** to facilitate the land division.
- From 16 May 2025, the removal of any trees with a trunk circumference of 1 metre or greater measured 1 metre above natural ground level will constitute tree damaging activity and will require development approval.

Scenario 8 – Land Division approved before 16 May 2024

- Development approval was granted to a land division proposing the creation of one additional allotment (one allotment into two) prior to 16 May 2024.
- On the site of the land division, there is one tree in the rear of one allotment with a trunk circumference of between 1 metre and 2 metres measured 1 metre above natural ground level.
- The plan of division did not identify that the tree would be removed.
- The tree is now a 'Regulated' tree and must be retained or a development application must be submitted for tree damaging activity (to remove the tree), which will be assessed against the provisions in the Planning and Design Code.

Scenario 9 – Tree damaging activity approved before 16 May 2024

- An application to remove a tree which has a trunk circumference of 2.5 metres measured at 1 metre above natural ground level was granted development approval prior to 16 May 2024.
- The tree was assessed as a 'Regulated' tree and not a 'Significant' tree.
- The tree may be removed prior to **16 May 2025** in accordance with the approved development application.
- If the tree is not removed by 16 May 2025, a new development application for tree damaging activity (tree removal) must be submitted and the tree will be assessed as a 'Significant' tree.

Scenario 10 – Tree damaging activity submitted before 16 May 2024

- An application was submitted prior to 16 May 2024 for a development which involves removal of a tree with a trunk circumference of 2.5 metres measured at 1 metre above natural ground level.
- For the purposes of assessing the application, the tree will be assessed as a 'Regulated' tree and not a 'Significant' tree.
- If approval for the application is granted, the tree must be removed prior to **16 May 2025**.
- If it is not removed prior to 16 May 2025, a new development application must be submitted for tree damaging activity (removal) and the tree will be assessed as a 'Significant' tree.

Scenarios

Scenario 11 – Development application for bulky goods outlet submitted before 16 May 2024

- An application for a bulky goods outlet was submitted prior to 16 May 2024.
- The proposed development will require the removal of 10 trees with a trunk circumference of between 1 and 2 metres measured at 1 metre above natural ground level.
- A request for information is received from the relevant authority and the applicant requests for the application to be placed on hold.
- A number of delays occur and the application is not determined by 16 May 2025.
- The trees on the land where the development is to occur are now recognised as 'Regulated' trees and the application will need to be varied to include tree damaging activity.

Scenario 12 – Development application for warehouse approved before 16 May 2024 + changes to Essential Safety Provisions

- Development approval for a warehouse was granted before 16 May 2024.
- The approved development will require the removal of two trees with a trunk circumference of 1.5 metres measured at 1 metre above natural ground level.
- The trees may be removed prior to **16 May 2025** to enable construction of the warehouse.

Changes to Essential Safety Provisions (ESPs)

- The ESPs for the warehouse require amendment after 16 May 2025.
- The changes to the ESP require lodgement of a variation application.
- The variation will be assessed against current legislation including the new Regulations. However, the assessment of a variation will be limited to assessing the ESPs.
- If the requirements for the ESPs do not result in any tree damaging activity, then this will not be assessed as part of the variation.

Scenario 13 – Community housing provider acting on behalf of SAHT

- A community housing provider acting on behalf of the South Australian Housing Trust proposes to lodge an application for a residential flat building, however, the application is not yet submitted.
- The development will require the removal of 6 trees with a trunk circumference of between 1 and 2 metres measured at 1 metre above natural ground level.
- The community housing provider has until 1 January 2027 to remove the trees without the need for development approval.

Scenario 14 – Pergola application approved before 16 May 2024 – Accepted Development

- A development application for a pergola was submitted prior to 16 May 2024.
- The application did not require planning consent, as it was an 'Accepted Development'.
- The application is still awaiting Building Consent and Development Approval.
- To construct the pergola, a tree with a trunk circumference of 2.4 metres measured at 1 metre above natural ground level requires removal.
- The tree is an Angophora and is 7 metres from the existing dwelling.
- The tree's removal was not contemplated when the Relevant Authority deemed the application 'Accepted Development', as the tree was exempt from being a 'Regulated' tree and its removal did not constitute tree damaging activity.
- The tree may be removed prior to **16 May 2025** in order to build the pergola.



Removal of Regulated and Significant Trees

Where an applicant proposes to remove a regulated or significant tree, they must either plant replacement trees or pay the appropriate fee.

Planting Replacement Trees

If replacement plantings are proposed, the following rates for new tree plantings apply:

- 2 replacement trees for removal of one regulated tree
- 3 replacement trees for the removal of one significant tree

Replacement trees must:

- not be a species listed in the Minister's exempt species list; and
- not be planted within 3 metres of an existing dwelling or an existing in-ground swimming pool

Payment of Fee

Where replacement trees are not or cannot be proposed as part of a tree removal application, payment of \$500 per replacement tree not planted must be made into either:

- A Urban Tree Fund established by the relevant local council; or
- The State Government's Planning and Development Fund if no Urban Tree Fund has been established by the relevant local council.

In essence, this means that fees for the removal of Regulated and Significant trees has increased as follows:

Table 1 Fee for Removal of Regulated or Significant Tree

	Fee before 16 May 2024	Fee from 16 May 2024
Regulated tree	\$326	\$1,000 (two replacement trees)
Significant tree	\$489	\$1,500 (three replacement trees)

Any application for tree removal submitted after 16 May 2024 will attract the increased removal fees applicable from 16 May 2024.

Any applications for tree removal submitted before 16 May 2024 will attract the lower removal fees applicable before 16 May 2024.

Payment into the applicable fund will not be required where replacement trees are proposed.

Urban Tree Canopy Offset Scheme

The Urban Tree Canopy Offset Scheme (the Scheme) is an offset contribution scheme established under section 197 of the Act and which has been established to support the Urban Tree Canopy Overlay in the Code.

The Scheme specifies that payment may be made in lieu of planting a tree or trees in accordance with the Urban Tree Canopy Overlay.

Where trees cannot be feasibly planted in new infill areas (due to limited setbacks or reactive soil types), the Scheme exists to fund council investment in new tree planting and parks.

Amendments to the Urban Tree Canopy Offset Scheme have been made to increase the required contributions when trees are not planted alongside the construction of a new dwelling.

	Fee before 16 May 2024	Fee from 16 May 2024
Small Tree	\$300	\$500
Medium Tree	\$600	\$1,000
Large Tree	\$1,200	\$1,500

Further Investigations

To support the changes to the Regulations, the State Government is undertaking the following further investigations:

By the State Planning Commission

- Preparation of a design standard to provide minimum urban tree planting and maintenance requirements for public areas in greenfield developments.
- Amending the Planning and Design Code to strengthen and extend tree protection policies relating to a tree's urban canopy contribution and promoting design innovation to retain large trees.
- Appropriate assessment pathway for trees within 3–10 metres of a dwelling or swimming pool where offset fees are paid.
- Extend the urban tree canopy requirements to greenfield developments in 'Master Planned Neighbourhood Zones' and townships.
- Extend regulated and significant tree protections in townships, capturing areas beyond metropolitan Adelaide.

Environment, Resources and Development Committee

- Provide advice on further tree protections relating to canopy size, tree height and modifications to the exempt species list as part of finalising their Inquiry into the Urban Forest.