

Introduction

Trees, particularly mature trees, have significant benefit for the area, including shade, cooling, biodiversity, habitat, air quality and natural beauty.

Legal protections exist for large trees that are considered regulated or significant. These protections apply to trees on both public and private land.

What is a regulated tree?

A regulated tree is one that has:

- A single trunk with a circumference of 1 metre or more, when measured 1 metre above the ground.
- Multiple trunks with a combined circumference of 1 metre or more, and an average circumference of 310 millimetres or more, when measured 1 metre above the ground.

What is a significant tree?

A significant tree is one that has:

- A single trunk with a circumference of 2 metres or more, when measured 1 metre above the ground.
- Multiple trunks with a combined circumference of 2 metres or more, and an average circumference of 625 millimetres or more, measured 1 metre above the ground.

What trees are exempt from regulated tree controls?

Some trees can be exempt from regulated tree controls, either due to their location or their species. These are as follows

- trees identified as exempt species by the Minister – see the [list of exempt species here](#); or
- a tree that is dead; or
- trees within 3 metres of an existing dwelling or in-ground swimming pool, unless they are *Agonis flexuosa* (Willow Myrtle), *Eucalyptus*, *Angophora* or *Corymbia* species as these do not have any exemptions based on location; or
- trees within 20 metres of an existing dwelling where they are located within a Medium or High Bushfire Risk Area within a Hazards (Bushfire) Overlay within the Planning and Design Code.

If your tree is not classified as a regulated or significant tree, you don't need development approval to prune or remove it. However, it's recommended to notify the Council of your plans to confirm no approval is needed.

Note: It is an offence to damage a regulated or significant tree without prior approval.

What needs approval?

Under the Planning, Development and Infrastructure Act, 1996, any 'tree-damaging activity' requires approval. Tree damaging activities include:

- the killing or destruction of a tree; or
- the removal of a tree; or
- severing of branches, limbs, stems or trunk of a tree; or
- ringbarking, topping or lopping of a tree; or
- any other substantive damage to the tree, including to its root system. This will include earthworks or construction within a Structural Root Zone or Tree Protection Zone of a tree.

What about maintenance pruning?

Maintenance pruning of a regulated or significant tree does not require approval; provided the pruning:

- removes no more 30% of the crown of the tree; and
- does not impact on the general health or appearance of the tree; and
- no pruning has occurred to the tree for a 5-year period prior.

If you are unsure whether your pruning works qualify, you are encouraged to check with Council first, before undertaking any works.

What if urgent work is required?

In an emergency, work involving a regulated or significant tree can be carried out prior to receiving a development approval. This work is usually done by the State Emergency Services or Council to make the tree safe – for example following a storm where there has been limb failure.

If a tree has not yet failed but has been inspected by a qualified Arborist and is found to be dangerous and needs to be either lopped or removed to protect any person or building, then removal can occur before an approval is issued.

However, this must only be used:

- following receipt of the advice of a qualified arborist, and
- the works (in the form of lopping), must minimise the damage done to the tree; and
- Council must be notified of the works being undertaken, before the works are undertaken

Note that in both circumstances, the owner of the tree must still lodge a development application as soon as possible following the works and obtain a retrospective approval.

For this reason, Council recommends that:

- you take as many photos of the tree and the specific issue creating the risk and urgency to provide clarity and evidence of the urgency;
- you seek formal reporting on the urgency and tree condition by the arborist (which can then support the future development application).

Failure to comply with above criteria and undertaking tree damaging activity illegally is an offence with a maximum penalty of \$60000.

Therefore, if you are uncertain, Council encourages you to contact Council and seek feedback and advice before undertaking any works.

What if my neighbour's tree is encroaching on my land?

The same rules apply in relation to Regulated and Significant Trees, regardless of where they are positioned on land. So, maintenance pruning can occur without approval, provided you can achieve all the relevant criteria listed within this fact sheet.

If you can't then a development approval is needed before works can be done.

How do I gain approval?

If approval is required you will need to [lodge a development application](#), which incurs a fee and requires details of the tree in question, including the species, its location on the land, and the works that are proposed (if lopping or pruning).

The planning authority will assess your application based on the rules for regulated and significant trees within the Planning and Design Code.

The authority will then either approve, approve with conditions, or refuse your application.

Do I need expert advice?

You are encouraged to gain expert advice before undertaking works to a tree, not just to make sure you don't need approval first, but also to ensure the works are in the best interests of the long-term health and stability of the tree.

For development applications affecting a regulated tree:

- You must describe the proposed work.
- There is no requirement to provide expert or technical reports with your application.
- However, it is recommended to include information from an arborist or structural engineer in support of your application and the reasons for the pruning or removal.
- The council might get independent advice to assess your application.

For development applications affecting a significant tree:

- You are required to provide an arborist report and/or an engineer's report in support of the application.
- The council might also get independent advice to help assess your application.

You will need to replace the trees

The Planning, Development and Infrastructure Act, 2016 requires the replacement of any regulated or significant trees.

A condition will be placed on your approval that requires either:

- replacement trees are planted on the land as follows
 - 2 for regulated trees
 - 3 for significant trees
- if replacement planting is not feasible on the land, then money (\$500 per replacement tree) can be paid into the Urban Tree Fund.

What if I carry out work without appropriate approval?

Council takes actions such as these seriously and will pursue prosecution or civil action against persons responsible.

Fines of up to \$120,000 may apply if a person undertakes work on a regulated or significant tree without approval.

Further advice

This factsheet is just a guide to help you understand the main points of the topic. It's not a replacement for reading the actual laws or Planning and Design Code.

If you would like to seek preliminary advice from Council either email planning@marion.sa.gov.au or call us on (08) 8375 6600.