

Protecting Significant Trees

This Information Sheet provides a brief overview of the controls in place to protect significant urban trees in metropolitan Adelaide and some Adelaide Hills areas.

What is a Significant Tree?

The Development Act and Regulations provide that a 'significant tree' is:

- Any tree in Metropolitan Adelaide and/or townships in the Adelaide Hills Council or parts of the Mount Barker Council with a trunk circumference of 2.0m 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 2.0m 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 Development Plan of the City of Adelaide, City of Burnside, City of Prospect or City of Unley.

What activities affecting Significant Trees are controlled?

The *Development Act 1993* provides that any activity that damages a 'significant tree' is 'development', and as such requires a 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 significant tree, including to its root system.

Maintenance pruning that is not likely to affect the health or appearance of the tree is not controlled.

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*.



What if my neighbour's Significant Tree is encroaching on my land?

Pruning back a significant tree that is encroaching on your property – either branches or roots – does not require development consent unless it is likely to affect the health and appearance of the tree.

Where cutting back the tree would result in damage to the tree (including root damage) you will be required to seek a Development Approval from the Council for any works on your side of the common property boundary. However Council cannot charge an application fee in this situation.

Exactly where do the controls apply?

The controls apply to all parts of Metropolitan Adelaide (see map opposite) and the urban and township areas of the Adelaide Hills and Mount Barker Councils.

It should be noted that some parts of Metropolitan Adelaide are also currently covered by the Native Vegetation Act, which provides protection to native tree species. In these areas, significant trees that are not protected by the Native Vegetation Act will be protected by the Development Act controls.

Country areas will continue to be protected by the Native Vegetation Act. Country Councils may request Development Act controls to apply in cities and towns, and these requests will be considered by the Minister for Urban Development and Planning in consultation with the Minister for Environment.

Who assesses an application regarding a significant tree?

The relevant Local Council is responsible for assessing a development application with respect to a significant tree. In rare instances where Council has a commercial interest in the removal of a tree, the Development Assessment Commission is responsible for the assessment.

What are the fees?

Most development applications involving a significant tree or trees will incur a fee. Fees are set out in Schedule 6 of the Development Regulations, and are updated annually.

How are applications assessed?

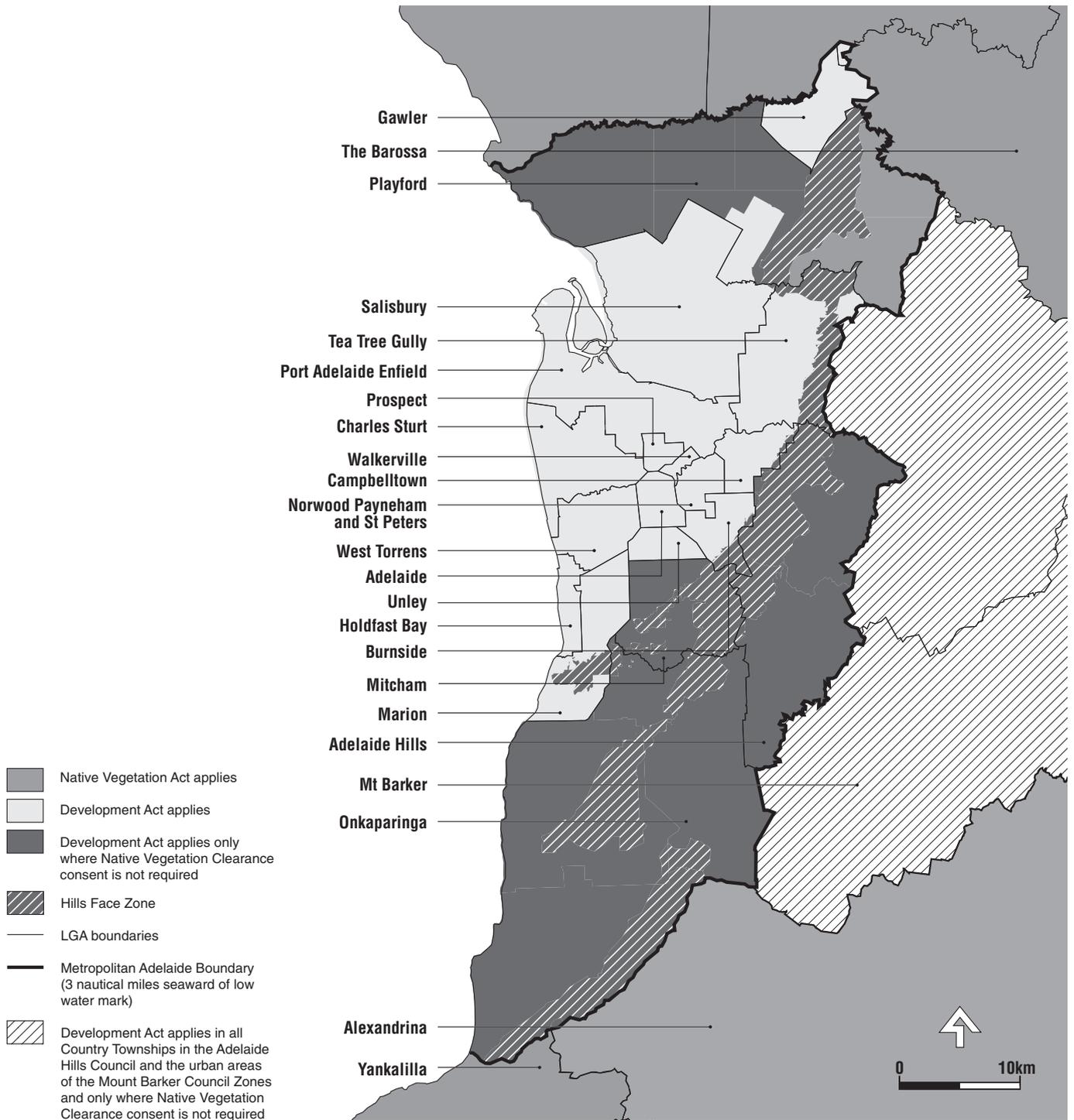
A development application involving a significant tree must be lodged with the Council within which the tree is located. The application is assessed against the relevant provisions of the Council area Development Plan. Planning policies have been inserted into the relevant Development Plans to enable Councils to make appropriate balanced decisions when considering applications for tree removal.

Once the assessment is made the relevant authority can approve, approve with conditions, or refuse the proposed 'development' relating to the significant tree.

Applications involving a significant tree are Category 1 for public notification purposes (i.e. no notice required). The exception is for significant trees on Council land, where Council is the planning authority. In this case, Category 2 notification is required (i.e. written notice to neighbours and option of being heard by Council).



Assessment Rules applying to Significant Urban Trees



What if a land owner objects to a Council decision?

An applicant has the right to appeal to the Environment Resources and Development Court against a decision made, or a condition attached to an approval, by the planning authority. Such an appeal must be lodged with the Court within two months of the application decision being made.

What if urgent work is needed to make a tree safe?

In an emergency situation, work involving a 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 significant tree must lodge a development application with the Council for the work undertaken.

What are the penalties and remedies for non-compliance?

Breaches of the provisions relating to significant trees will be enforced using existing provisions under the Development Act that apply to all other types of development. Under the existing provisions, the person who undertakes the work to the significant tree will be the person responsible for the breach. Fines of up to \$30,000 operate if breaches are proven.

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