

Urban Trees / Native Vegetation Recommendations for SA Law Reform

Top 10 Priorities from Conservation SA in partnership with TREENET, Australian Institute of Landscape Architects (SA Chapter), National Trust of South Australia, Trees for Life and Nature Conservation Society of South Australia.

The [Planning Review](#) announced by Minister for Planning, Nick Champion, on the 5 August represents a unique opportunity to shape the debate over tree protections in South Australia. It is clear from the terms of reference for this review that community concern over the loss of tree canopy across our suburbs has reached a tipping point; this is reinforced by the overwhelmingly positive community response to recent actions of the State Government such as the [unprecedented purchase of land in Black Forest](#) to save the remaining remnant Grey Box trees the suburb was named after.

Since 2019, Conservation SA has led a group of sector partners seeking to address the significant deficiencies of South Australia's tree protections. It goes without saying that trees bring significant benefits to our suburbs; cooling our streets, cleaning our air, providing significant mental and physical health benefits, providing habitat and food for our fauna and more.

To date, a number of evidence-based reports have been published that have helped to shape the conversation over the urgent need to stop the decline of tree canopy in our urban environment.



What's happening to Adelaide's trees? (2020) is a comprehensive look at how we benefit from trees, where they are disappearing and why. It served as a conversation starter, suggesting possible areas for reform.



Comparison of Australia's Tree Laws (2021) assesses protections of the urban forest in other jurisdictions across Australia and establishes best practice, with a particular focus on areas of similar climate, urbanisation and population density.

This report inspired the State Planning Commission to request a broader review, undertaken by the [University of Adelaide](https://www.adelaide.edu.au/).



A Call to Action: Protecting Adelaide's tree canopy (2021) outlines the top priorities, practical steps and expert recommendations for State Government and local councils to help turn around the devastating tree loss occurring across our city.

This report was compiled with input from arborists, council staff, planners and legal experts.



Comparison of Australia's Capital City Tree Laws (2022) examines tree protections and canopy levels across the City of Adelaide and her interstate counterparts.



**Comparison of Bushfire
Clearance Exemptions**
(2022) - To be published
soon.

This document provides a detailed overview of what we believe are the top 10 priority changes to prevent further, significant canopy loss across metropolitan Adelaide. Based on the above reports, it examines best practice, taking on board input from a range of experts.

Recommendation #1 - Remove exemptions from existing Regulated / Significant Tree Protections and Native Vegetation Regulations

In 2011, a number of exemptions were introduced to the protections for regulated and significant trees substantially weakening their protections and undermining the original intention of tree protections here in South Australia - preventing unnecessary removals without hindering development.

The Native Vegetation Act 1991 (NVA) covers large areas of metropolitan Adelaide, in particular some of our leafiest suburbs. The exemptions contained in the Native Vegetation Regulations 2017 (NVR), whilst making some sense for the rural areas in which the NVA applies, become problematic in the peri-urban environment.

1.1 - 10 Metre Exemption

Planning, Development and Infrastructure (General) Regulations 2017 (SA), Regulation 3F(4)(a)

Currently:	Problem:	Action to Take:
<p>The Planning, Development and Infrastructure (General) Regulations (PDI Regulations) contain a number of provisions which have exacerbated the loss of urban trees across Adelaide.</p> <p>In this instance all trees, with the exception of <i>Agonis flexuosa</i> and any <i>Eucalyptus</i>, located within 10 metres of an existing dwelling or in-ground swimming pool can be removed without approval.</p> <p>The original intention of this exemption in the Regulations was to allow homeowners to create an “asset protection zone” around their house.</p>	<p>The 10 metre exemption is preventing development, with councils unwilling to approve development that might occur within 10 metres of a large tree.</p> <p>This exemption is a primary cause of the wholesale corner to corner block clearing that occurs for development across metropolitan Adelaide.</p> <p>Critically, there are no checks and balances to assess that the tree is causing damage to an asset of value before it is removed.</p> <p>This exemption applies across neighbouring properties, meaning that the tree and the asset need not be on the same property and allowing me, for instance, to use your pool to remove my tree, despite the fact that you might actually quite like the tree and it is not damaging your pool. This can result in a breakdown in relationships between neighbours.</p> <p>The exemption of <i>Agonis flexuosa</i> is illogical as, typically, species of this tree meet none of the requirements for retention if assessed for removal. The City of Mitcham, for instance, has never rejected an application to remove an <i>Agonis flexuosa</i>. Additionally, this species is native to Western Australia.</p> <p>Other common species such as <i>Angophoras</i> and <i>Corymbia</i> aren't protected despite being until relatively recently part of the <i>Eucalypt</i> family.</p>	<p>Remove this exemption.</p>

Planning, Development and Infrastructure (General) Regulations 2017:

(4) Sub-regulations (1) and (2) do not apply—

(a) to a tree located within 10 m of an existing dwelling or an existing in-ground swimming pool, other than a tree within 1 of the following species (or genus) of trees:

Agonis flexuosa (Willow Myrtle)

Eucalyptus (any tree of the genus);

1.2 - 20 Metre Exemption

Planning, Development and Infrastructure (General) Regulations 2017 (SA), Schedule 4, 18(1)(b)

Currently:	Problem:	Action to Take:
<p>The PDI Regulations currently provide that any tree within 20 metres of a dwelling in a Medium / High Bushfire Risk area within a Hazards (Bushfire Protection) Overlay in the Planning and Design Code (the Code) can be removed without approval.</p> <p>The intention of this exemption was to allow homeowners to enact their bushfire action plans.</p>	<p>This exemption is decimating tree canopy in some metropolitan Adelaide's greenest suburbs. While the intention of this exemption is of critical importance, there are no checks and balances to ensure that the tree being removed constitutes a bushfire threat. Like the 10m rule, this exemption also applies across neighbouring properties.</p> <p>Prior to its introduction in 2011, the CFS did not support this exemption being added. This is because large trees typically do not present a bushfire risk.</p> <p>In many cases, the 20 metre exemption has resulted in homeowners increasing bushfire risk by allowing large trees to be removed and consequently enabling homeowners to increase plantings immediately adjacent to their homes. Evidence shows that these large trees can play a role in preventing ember attacks and reducing wind speed.</p> <p>It is a common occurrence to see trees that were around before European settlement being removed for solar panels or because they make a mess. The 20m rule also facilitates higher density development in bushfire risk areas. Developers can take an existing house (or the neighbouring property) and clear anything within 20m, allowing for easier development. This was not the intention of this exemption.</p>	<p>Remove this exemption and replace with: Recommendation #4 - Bushfire Attack Level Based Clearances</p>

Planning, Development and Infrastructure (General) Regulations 2017:

18—Removal of trees in certain cases

(1) A tree-damaging activity in relation to a regulated tree (including a tree that also constitutes a significant tree) if—

(a) the tree is within 1 of the following species of trees:

Melaleuca styphelioides (Prickly-leaved Paperbark)

Lagunaria patersonia (Norfolk Island Hibiscus); or;

(b) the tree is within 20 m of a dwelling in a Medium or High Bushfire Risk area within a Hazards (Bushfire Protection) Overlay under the Planning and Design Code; or

(c) the tree is on land under the care and control of the Minister who has primary responsibility for the environment and conservation in the State; or

(d) the tree is on land under the care and control of the Board of the Botanic Gardens and State Herbarium; or

(e) the tree is dead.

1.3 - Tree Species Exemptions

Planning, Development and Infrastructure (General) Regulations 2017 (SA), Regulation 3F(4)(b)

Currently:

The PDI Regulations currently exempt 24 species of trees from being classified as regulated or significant.

- Acer negundo (Box Elder)
- Acer saccharinum (Silver Maple)
- Ailanthus altissima (Tree of Heaven)
- Alnus acuminate subsp. Glabrata (Evergreen Alder)
- Celtis australis (European Nettle Tree)

Problem:

Many of these are common trees found in suburban backyards and streets and make a significant contribution to the urban tree canopy, cooling our suburbs. Further research is needed on climate resilient species suited to our changing climate.

Action to Take:

Review and modify this to better reflect the South Australian Environment.

<ul style="list-style-type: none"> • <i>Celtis sinensis</i> (Chinese Nettle Tree) • <i>Cinnamomum camphora</i> (Camphor Laurel) • <i>Cupressus macrocarpa</i> (Monterey Cypress) • <i>Ficus</i> spp. (Figs), other than <i>Ficus macrophylla</i> (Moreton Bay Fig) located more than 15 m from a dwelling • <i>Fraxinus angustifolia</i> (Narrow-leaved Ash) • <i>Fraxinus angustifolia</i> ssp. <i>Oxycarpa</i> (Desert Ash) • <i>Pinus radiata</i> (Radiata Pine/Monterey Pine) • <i>Platanus x acerifolia</i> (London Plane) • <i>Populus alba</i> (White Poplar) • <i>Populus nigra</i> var. <i>italica</i> (Lombardy Poplar) • <i>Robinia pseudoacacia</i> (Black Locust) • <i>Salix babylonica</i> (Weeping Willow) • <i>Salix chilensis</i> 'Fastigiata' (Chilean Willow, Evergreen Willow, Pencil Willow) • <i>Salix fragilis</i> (Crack Willow) • <i>Salix x rubens</i> (White Crack Willow, Basket Willow) • <i>Salix x sepulcralis</i> var. <i>chrysocoma</i> (Golden Weeping Willow) • <i>Schinus areira</i> (Peppercorn Tree) 	<p>Where other jurisdictions have exemptions lists, these lists typically only include weed species and pest plants.</p>	<p>Review this list to better protect non-weed species that contribute to our canopy.</p>
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1.4 - Native Vegetation Regulations 10 Metre Exemption

Native Vegetation Regulations 2017 (SA), Schedule 1, Part 1, Division 1, 1(1)

Currently:	Problem:	Action to Take:
<p>The NVR currently allow for the removal of any large tree within 10 metres of a house, farm building, office, shop, warehouse, farm shed, garage, or garden shed.</p> <p>The Native Vegetation Overlay in the Code covers large areas of metropolitan Adelaide.</p>	<p>The interaction between the NVR and the PDI Regulations covering regulated and significant trees not only adds confusion for homeowners, but gives less protection for native vegetation. This is because the Native Vegetation 10 Metre exemption applies to buildings, not just dwellings. Like the 20 Metre Rule (1.2 above), this exemption allows for the indiscriminate removal of large native trees.</p> <p>There are many parts of greater Adelaide that are covered by both regulated tree protections and native vegetation regulations. Despite large native eucalypts being offered protection under the regulated tree laws, these protections are overridden by this exemption in the Native Vegetation Regulations, meaning that native vegetation in this situation is offered less protection.</p> <p>Further, the NVR only applies to vegetation that is endemic (native to the local area) and has not been planted. This adds another level of confusion for homeowners and for the unethical, an opportunity to exploit the exemptions included in the regulated tree regulations to remove a tree. This is particularly apparent with the 20 metre rule commonly being exploited to remove native trees.</p>	<p>Remove this exemption and replace with: Recommendation #4 - Bushfire Attack Level Based Clearances</p>

1.5 - Native Vegetation Regulations Fence Exemption

Native Vegetation Regulations 2017 (SA), Schedule 1, Part 2, Division 1, 17(2)

Currently: The NVR currently allow for the removal of large trees within five metres of a fence line.	Problem: This exemption is intended to allow farmers to maintain fuel breaks around their fences. However, it is being used in metropolitan Adelaide to remove large trees without the need for approval. There are no checks and balances to guarantee that clearance is being undertaken for the intended purpose.	Action to Take: Remove this exemption and replace with: Recommendation #4 - Bushfire Attack Level Based Clearances
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Recommendation #2 - Changing the definition of a regulated tree

While South Australia's tree laws have always focused on protecting individual large trees, interstate attention has turned to protecting the "urban forest".

Planning, Development and Infrastructure Act 2016 (SA) section 3 (1) and Planning, Development and Infrastructure (General) Regulations 2017 (SA), Regulation 3F (1), (2),(3)

Currently: The Planning, Development and Infrastructure Act 2016 (SA) - PDI Act and the PDI Regulations provide that a regulated tree is any tree in metropolitan Adelaide,	Problem: Defining a regulated / significant tree by the circumference of its trunk is a crude way of assessing which trees should be protected under law. This not only results in a loss of individual trees that could be substantial contributors to our future urban forest but also fails to recognise those species that may never	Action to Take: As recommended by the Urban tree protection in Australia report from the University of Adelaide,
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<p>Adelaide Hills Council townships 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).</p> <p>A significant tree is a regulated tree in metropolitan Adelaide, Adelaide Hills Council townships 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).</p>	<p>reach a trunk circumference of 2m or more but which are still ecologically important.</p> <p>Trees that provide substantial canopy can be unnecessarily cut down under the current definitions which do not align with the goals set by State Government / Councils and which are primarily aimed at preserving and expanding tree canopy.</p> <p>Many other jurisdictions across Australia with laws to protect the urban forest, use not only trunk circumference to define a protected tree, but also take height and sometimes canopy size into account.</p>	<p>change the definition of a regulated tree to one that:</p> <ul style="list-style-type: none"> - Has a trunk circumference of 50cm or more measured 1m above the ground - Or has a height of 6m or more - Or has canopy of over 9sqm
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Recommendation #3 - Incorporate Vegetation Overlays into the Planning and Design Code

South Australia has a one-size-fits-all approach to tree protections unlike our interstate counterparts, where Councils are responsible for determining which trees and vegetation are protected.

While the South Australian approach allows for a consistent set of rules across the metropolitan area, it fails to respond to the expectations of the local community, doesn't take into account local tree species and means that areas with less canopy are unable to choose to better safeguard their existing canopy through stronger protections.

The intention of this recommendation is to adopt an approach from Victoria. They have successfully implemented [Vegetation Overlays](#) into their planning code to better respond to community expectations and to provide better planning protection for areas where character is largely dependent on trees and vegetation.

This approach should be considered here for South Australia, with the State Government setting a minimum benchmark for tree protection and then supporting a Code Amendment to enable Councils to apply the most relevant overlays to their local area.

Recommendation #4 - Bushfire Attack Level Clearance Allowances

Bushfire mitigation is an essential element of Australian life but it is abundantly clear that in South Australia, large trees have become easy casualties in its pursuit, even though in a significant majority of situations, they do not contribute to bushfire risk. South Australia's current bushfire clearance allowances are riddled with contradictions, have confusing overlap, and can cause adverse environmental impacts. The result of this allows for Adelaide's greenest suburbs to be denuded of trees. It is hard to imagine this was a deliberate policy intention.

Planning, Development and Infrastructure (General) Regulations 2017 (SA), Schedule 4, 18(1)(b)
Native Vegetation Regulations 2017 (SA), Schedule 1, Part 1, Division 1, 1(1)
Native Vegetation Regulations 2017 (SA), Schedule 1, Part 2, Division 1, 17(2)

<p>Currently:</p> <p>20M PDI Regulations Exemption</p> <p>The PDI Regulations provide that any tree within 20 metres of a dwelling in a Medium / High Bushfire Risk area within a Hazards (Bushfire Protection) Overlay in the Planning and Design Code can be removed without approval.</p> <p>10M NVR Exemption</p> <p>The NVR allow for the removal of any large tree within 10 metres of a building, including a home, shed or any structure that is fixed to the land and cannot be moved without disassembling it.</p> <p>5M NVR Exemption</p> <p>The NVR allow clearance of vegetation that is growing or is situated along an existing fence line to establish or maintain a fuel</p>	<p>Problem:</p> <p>Whilst bringing South Australia's clearance exemptions in line with New South Wales, Victoria and Western Australia would significantly reduce the clearance potential, a clearance allowance of 10m for trees, would still allow for nearly all trees in many peri-urban areas to be removed.</p> <p>Speaking with interstate and local experts, there is little supporting evidence that in the vast majority of situations, removing large trees within 10m of a dwelling / building will assist bushfire mitigation.</p> <p>The current clearance allowances read as a de facto directive to remove trees within this zone. At the very least, they suggest that having trees within this zone is in and of itself dangerous.</p> <p>Furthermore, once large trees are removed, they are often replaced with fine fuels. This results in increased danger initially through the lack of big trees around the house to both reduce and slow the fire and then through the replacement of these big trees with fine fuels which often take the fire right up to the house.</p>	<p>Action to Take:</p> <p>When building in an area subject to a Hazards (Bushfire Protection) Overlay in the Planning and Design Code (PDC), homeowners are required to obtain a Bushfire Attack Level (BAL) rating. The BAL takes into account factors such as Fire Danger Index, the slope of the land and the vegetation around the property. BALs are determined using Australian Standard AS 3959.</p> <p>Clearance allowances should be based on the Bushfire Attack Level of the property.</p> <p>This assessment not only allows for a more evidence-based and holistic approach but also provides a crucial opportunity to educate homeowners about what constitutes a bushfire risk.</p> <p>The use of a BAL Rating Clearance would allow for the removal of the 20M PDI Regulations, 20M NVR, 10M NVR and 5m NVR exemptions.</p>
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break where the total width of the fuel break does not exceed 5 metres.	This is highly problematic: homeowners feel that their house is more secure but it is often more vulnerable.	
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Clearance allowances should be evidence based. When building in an area subject to a Hazards (Bushfire Protection) Overlay in the PDC, homeowners are required to obtain a Bushfire Attack Level (BAL).

The BAL takes into account factors such as Fire Danger Index, the slope of the land and the vegetation around the property. BALs are determined using Australian Standard AS 3959 - Construction of buildings in bushfire-prone areas (AS 3959).

In South Australia, the Ministerial Building Standard MBS 008 - Designated bushfire prone areas - additional requirements, outlines the application of BALs. BALs are determined to apply as follows:

- A. Within areas identified as Bushfire - General Risk in a Hazard Overlay to the PDC – BAL Low.
- B. Within areas identified as Bushfire – Medium Risk in a Hazard Overlay to the PDC – BAL 12.5.
- C. Within areas identified as Bushfire – High Risk in a Hazard Overlay to the PDC relevant BAL for the site identified by a site assessment carried out in accordance with AS 3959.
- D. Within areas identified as Bushfire – Urban Interface in a Hazard Overlay to the PDC that are within 500 m of a high bushfire risk area and no closer than 100m of the high bushfire risk area – BAL Low.
- E. Within areas identified as Bushfire – Urban Interface in a Hazard Overlay to the PDC that are within 100 m of a high bushfire risk area the relevant BAL for the site identified by a site assessment carried out in accordance with AS 3959.

Clearance allowances should be based on the Bushfire Attack Level of the property. This assessment not only allows for a holistic, evidence-based approach but also provides a crucial opportunity to educate homeowners about what does and does not constitute a bushfire risk and to encourage them to draw up a realistic and well-informed bushfire action plan. The BAL rating could also be accompanied by recommendations for modifications that could be made to the dwelling to reduce bushfire impact.

BAL assessments are currently conducted by a qualified member of the CFS. Currently though, the CFS can be sued when providing a BAL assessment for a property – this tends to happen if they classify a property with a high BAL level, resulting in significantly higher construction costs. This should be resolved to give the CFS indemnity. Ideally, the process of manual BAL assessments would continue. Therefore, there are two further options that should be considered when assessing BAL ratings.

Discussions with the CFS highlighted that despite resourcing challenges, their preference is for BAL ratings to be carried out manually. They did however acknowledge that option B as presented below could become a more viable option as the technology progresses. It is worth noting that the fuel load information provided at this stage through LiDAR remains valuable.

A. The introduction of qualified consultants to perform a BAL assessment

This is a practice widely used interstate, with NSW, VIC and WA all allowing homeowners to contract certified practitioners to obtain a BAL rating. Given that substantial sections of our new planning system involve the use of accredited consultants or private certifiers this ties in with existing practices. Fire Protection Association Australia (FPAA) is the national technical and educational fire safety organisation and provides a list of accredited Bushfire Planning and Design (BPAD) consultants for NSW, VIC and WA on their website. Both the NSW RFS and the VicPlan websites encourage the public to use these consultants to obtain their proposed development's BAL rating. Adopting a similar process here in South Australia would limit the resource implications for an already stretched CFS, while helping to create an Australian-wide standard. It would also be likely to speed up assessment times. Legal indemnity should also be considered for accredited consultants.

B. Generate LiDAR-derived Bushfire Attack Level assessments

While researching this report, we consulted with Aerometrix, an Adelaide based geospatial tech company with experience using LiDAR. Aerometrix has developed a way of producing a LiDAR-derived Bushfire Attack Level. This methodology utilises the standard 'Simplified Procedure (Method 1)' procedure as outlined in Australian Standard 3959 "Construction of buildings in bushfire-prone areas". Their process automatically extracts the

building footprint (accounting for roof eaves using a generalised approximation), vegetation extent and topography (slope and effective slope under vegetation).

User defined inputs for Forest Fire Danger Index for the area of interest (FFDI, Table 2.1 AS3959) as well as the Vegetation Type (Table 2.3, AS3959) are required.

While this methodology is not as precise or comprehensive as a manual assessment using the Detailed Method (Method 2) AS 3959, it is easily scalable with limited resources.

The BAL rating assessment should be incorporated into the PlanSA website and South Australian Property and Planning Atlas (SAPPA) map, allowing for residents to see their BAL Rating (useful if the property is sold) and for neighbours to have an idea of the BAL their property might receive if they are to make an application.

BALs should be given an expiry date, at which point the homeowner is required to request a review.

Should homeowners not wish to have a BAL assessment conducted to remove a tree, they can apply to the local council. If the tree is introduced, the council will conduct an assessment of the tree as outlined in the Planning and Design Code. If the tree is native, this application will be passed onto the Native Vegetation Council for assessment - not assessed by the CFS as the current process stands. Critically, with all applications passing through the council, this allows for a level of transparency, assisting with both tracking the loss of tree canopy, numbers of trees removed and compliance related issues.

Recommendation #5 - Pruning Using AS4373

<i>Planning, Development and Infrastructure (General) Regulations 2017 (SA), Regulation 3F(6)</i>

<p>Currently:</p> <p>Currently, the PDI Regulations provide that regulated/significant trees can be pruned up to 30% without requiring Council approval.</p> <p>This is resulting in death by a thousand cuts and Councils footing the bills for expensive legal disputes.</p>	<p>Solution:</p> <p>Remove 30% pruning approval exemption and require Councils to consider applications for any pruning of regulated/significant trees.</p> <p>For some trees, as little as 10% is too much, while others can cope with up to 50%. More important than an arbitrary percentage is that the pruning does not adversely impact the health or the appearance of the tree.</p>	<p>Action to Take:</p> <p>Require all pruning of regulated/significant trees to be carried out according to the Australian Standards AS4373 for Pruning of Amenity Trees.</p> <p>Require lodgement with Councils of a diagram of proposed pruning and the qualifications of the person undertaking the work.</p> <p>The Australian Standard, AS 4373, is used widely throughout the rest of Australia to manage the pruning of trees.</p> <p>Example:</p> <p>The City of Sydney will allow pruning without a permit provided the pruning:</p> <ul style="list-style-type: none"> A. does not remove more than 5% of a tree's canopy; and B. does not damage or affect the health or structural stability of the tree; and C. is undertaken in accordance with the relevant Australian Standard for the Pruning of Amenity Trees, using a qualified Arborist (minimum Australian Qualification Framework (AQF) Level 2 Arboriculture). AS4373
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Recommendation #6 - Streamlined Approvals

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Currently:	Solution:	Action to Take:
<p>Applications to remove a regulated or significant tree currently take too long, leading to the view that the process is covered in red tape.</p> <p>Surprisingly, not all applications to remove regulated trees require an arborist report. Without expert assessment, healthy trees can be removed unnecessarily and delays to assessment times can be considerable while councils assess the tree themselves.</p> <p>For homeowners, taking 2-3 months to hear back from Council about a tree they believe is dangerous is not good enough.</p> <p>Additionally, current assessment times do not align with the Code.</p>	<p>A primary driver behind the changes made to the Regulated and Significant Tree Regulations in 2011 was the slow processing time of applications to remove trees. This created substantial issues with public perception of the process and slowed development.</p> <p>This report recommends undoing many of the changes made in 2011 to better protect our urban forest. If this occurs, improvements must be made to speed up application assessments. With no qualifications required to work as an ‘arborist’, homeowners are often seeking advice from individuals who provide incorrect advice and might not be properly insured. To address both of these issues, Councils could establish a list of 4-5 external qualified arborists available to be contracted by homeowners to assess applications for regulated tree removals.</p> <p>Based on their reports, approval can be granted (or not) without further assessment by Council. This would be similar to a deemed to satisfy application pathway, encouraging homeowners to seek qualified advice regarding their trees, for quicker approvals.</p>	<p>Retain the existing mandate that only Council arborists can assess applications to remove significant trees.</p> <p>Facilitate and encourage homeowners to contract a Council-approved qualified arborist to prepare and lodge requests to remove regulated trees for quicker approval times.</p> <p>In order to reduce conflicts of interest, do not allow the same company or arborist who makes an assessment for a regulated or significant tree removal to undertake the work.</p>

Recommendation #7 - Remove Government Exemptions

<i>Planning, Development and Infrastructure (General) Regulations 2017 (SA), Schedule 13, 2(1)(w) and 5(b)(viii)</i>		
<p>Currently:</p> <p>The Department of Infrastructure and Transport (DIT) and the Department of Education (DECD) are exempt from requiring approval to remove regulated trees on any land used for roads and schools.</p>	<p>Problem:</p> <p>The State Government should lead by example with best practice design and consultation. This exemption is a substantial double standard when compared with the processes that private landowners must go through and sends a message that trees in these locations are inherently dangerous. It undermines Councils and their responsibility to manage canopy cover. It has led to unnecessary tree removals as there is no requirement to design around trees; additionally, the community has no opportunity to propose smarter options.</p>	<p>Action to Take:</p> <p>Remove these exemptions.</p>
<p>Relevant section from the <i>Planning, Development and Infrastructure (General) Regulations 2017</i>:</p> <p>(w) tree-damaging activity in relation to a regulated tree—</p> <p>(i) that is on any land—</p> <p>(A) on which a school, within the meaning of the Education and Early Childhood Services (Registration and Standards) Act 2011, is located or is proposed to be built; and</p> <p>(B) that is under the care, control or management of the Minister responsible for the administration of that Act; or</p> <p>(ii) that is on any land—</p> <p>(A) on which a road is located or is proposed to be built or widened; and</p> <p>(B) that is under the care, control and management of the Commissioner for Highways; or</p> <p>(iii) that—</p> <p>(A) is on railway land as defined in Schedule 4 clause 14(7); or</p> <p>(B) is on land adjacent to railway land and is, in the opinion of the Rail Commissioner, detrimentally affecting the use of, or activities or operations on, the railway land;</p>		

Recommendation #8 - Improve the Planning and Design Code Urban Tree Canopy Overlay and associated Off-set scheme

Currently:	Solution:	Action to Take:
<p>The introduction of an offset scheme to support policy in the Code's Urban Tree Canopy Overlay (the Overlay) incentivises developers to take the easy option of paying, not planting.</p> <p>This will lead to reduced tree canopy and increased urban heat islands. Tree planting obligations are vastly inadequate in the Code, and significantly less than mandated in other states such as NSW.</p> <p>The introduction of this offset was fundamentally opposed by councils, individuals and community groups in the second round of consultation for the Code. It was implemented without proper research being conducted into how much of greater Adelaide was impacted by the three soil types that apply under the offset scheme. Based on archived soil samples, the City of Mitcham estimates that around 75% of their land has one of these soil types. With limited room on public land to plant more trees, this creates a problem.</p>	<p>The Overlay should be amended so that paying the offset amount is not the cheapest and easiest alternative for developers.</p> <p>The offset amount should be increased to reflect the lost community benefit. This was specified as \$3,435 for each tree as outlined in the cost-benefit analysis presented to the State Planning Commission.</p> <p>The Overlay should be expanded to cover renovations / extensions as an additional way to see canopy retained.</p>	<p>Increase the offset scheme fees to match the costs that are consequently passed on to Councils to plant, establish and maintain replacement trees.</p> <p>Increase the number and size of trees required by the Code to be planted in new developments.</p>

<p>The Overlay only applies to new developments and not renovations / extensions despite the fact that these development types make up a significant proportion of work. The “Where will all the trees be?” report published by Greener Places Better Spaces in 2020, identified The Town of Walkerville as having the biggest drop in tree canopy of all metropolitan Adelaide councils since 2016 at 3.5%. This canopy loss was not necessarily due to new developments, “but more likely to views, swimming pools, tennis courts and patios as existing residences are expanded”.</p>		
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Recommendation #9 - Increase the Cost for Removing a Protected Tree

<p><i>Planning, Development and Infrastructure Act 2016 (SA), s127(6)(7) and Planning, Development and Infrastructure (General) Regulations 2017 (SA), Regulation 59 and Planning, Development and Infrastructure (Fee, Charges and Contributions) Regulations 2019 (SA), Schedule 1, Part 5, 27</i></p>		
<p>Currently:</p> <p>If the removal of a regulated / significant tree is approved, homeowners are required to plant 2/3 replacement trees for removal of a regulated/significant tree, respectively, further than 10m from a dwelling.</p>	<p>Solution:</p> <p>The conditions for removal of a tree should accurately reflect the value of the lost tree and/or the cost to Councils for planting, establishing and maintaining replacement trees elsewhere.</p>	<p>Action to Take:</p> <p>Remove the option in the PDI Act to plant replacement trees.</p> <p>Increase the current fees in the Regulations to more realistically match the value of the tree removed. Determine the fee using an agreed method. Ideally an Australian</p>

<p>If the homeowner doesn't want to plant replacement trees, they pay a fee of \$150 per replacement tree not planted.</p> <p>There are two problems with this. The low fees neither act as a deterrent for removal, nor do they accurately value the benefits provided by the tree. There are no checks put in place by Councils to monitor that the required planting happens and those who do not like trees simply ignore this directive or let the trees die.</p> <p>Many Councils have reported they do not have the public space to plant replacement trees. The net result is no tree.</p>		<p>Standard would be introduced to do this, eliminating the need for a council to choose a preferred method of valuation.</p> <p>Fees to be waived if a tree is assessed by a Council arborist to be diseased, beyond recovery or dangerous.</p>
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Recommendation #10 - Prevent the Removal of Trees Before Development Applications are Approved

The removal of trees from land should not be allowed until such time as all relevant approvals have been granted. Back in 2017, Mark Parnell MLC introduced the "[Planning, Development and Infrastructure \(Regulated Trees\) Amendment Bill 2017](#)". The intention of this bill was to only allow for the removal of regulated and significant trees at the time that all approvals associated with the proposed development had been granted.

“If a proposed development involves a component that provides for an activity that constitutes a tree-damaging activity at a site, a development authorisation cannot be granted in relation to the tree-damaging activity unless all components of the proposed development at the site that cannot be undertaken unless the tree-damaging activity occurs are authorised by a development authorisation.”

While this bill was not passed, it was a logical step that doesn't impede future development but puts the emphasis back on preventing the unnecessary loss of large trees. Far too often, approvals to remove regulated and significant trees are granted despite there being no intention to develop the land at that time. This can often result in blocks sitting bare - except for weeds - for years.

Protest forms at Glenside Hospital over plans to fell 'hundred-year-old' trees

By [Loukas Founten](#)

Posted Sat 18 Feb 2017 at 3:41pm



A prime example of this was the approved removal of some 83 trees for the Glenside redevelopment back in 2017. Much of the land where the trees were removed has only been redeveloped in the past year or so, seeing a loss of nearly 5 years worth of environmental benefits from the trees that were removed, as well as significant loss of habitat and amenity over that time.

Making a Submission to the Planning Review

The Panel is now open to receiving general submissions on issues pertaining to the review. The final date for submissions is Friday 16 December 2022.

You can participate in this process and contribute to the Expert Panel's deliberations by providing a submission to the Panel:

Via email: DTI.PlanningReview@sa.gov.au

Via post: Attention: Expert Panel, GPO Box 1815, Adelaide SA 5001

Via phone: 08 7133 3222

Over the course of the review the Panel intends to hold several engagement events which will provide the opportunity for key stakeholders and the community to provide their feedback directly to the members of the Panel on a series of Expert Panel Discussion Papers. Details regarding these events will be made available on the Commission's website.

[Read more about the review here.](#)