

South Australia

Planning, Development and Infrastructure (General) (Regulated and Significant Trees) Amendment Regulations 2024

under the *Planning, Development and Infrastructure Act 2016*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Planning, Development and Infrastructure (General) (Regulated and Significant Trees) Amendment Regulations 2024*.

2—Commencement

These regulations come into operation on the day on which they are made.

Part 2—Amendment of *Planning, Development and Infrastructure (General) Regulations 2017*

3—Amendment of regulation 3F—Regulated and significant trees

- (1) Regulation 3F(1)—delete "2 m" wherever occurring and substitute in each case:

1 m

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Part 2—Amendment of *Planning, Development and Infrastructure (General) Regulations 2017*

- (2) Regulation 3F(1)—delete "625 mm" and substitute:
310 mm
- (3) Regulation 3F(2)(a)—delete "3 m" wherever occurring and substitute in each case:
2 m
- (4) Regulation 3F(4)(a)—delete "10 m" and substitute:
3 m
- (5) Regulation 3F(4)(a)—after the entry relating to "*Agonis flexuosa* (Willow Myrtle)" insert:
Angophora (any tree of the genus)
Corymbia (any tree of the genus)
- (6) Regulation 3F(4)(b)—delete paragraph (b) and substitute:
(b) to a tree of a species designated (from time to time) by the Minister by notice published on the SA planning portal; or
- (7) Regulation 3F—after subregulation (4) insert:
(4a) A notice under subregulation (4)(b) designating a species of tree—
(a) may be of general or limited application; and
(b) without limiting paragraph (a), may make different provision in relation to a species of tree according to the location of the tree, the circumstances or any other specified factor.
- (8) Regulation 3F(6)—after paragraph (b) insert:
and
(c) that is undertaken at least 5 years after pruning of a kind referred to in this subregulation was last undertaken in relation to the tree,

4—Insertion of regulation 18A

Before regulation 19 insert:

18A—Planning and Design Code—significant trees

For the purposes of section 68(1)(a)(iv) and (b)(iv) of the Act, a prescribed criterion is that the significant tree or stand of trees (as the case requires) makes a significant contribution to the urban tree canopy of the local area.

5—Amendment of regulation 59—Regulated and significant trees

- (1) Regulation 59(2)(a)—delete "specified under regulation 3F(4)(b)" and substitute:
designated under regulation 3F(4)(b) (insofar as the designation of that species of tree applies to the location of the development)
- (2) Regulation 59(2)(b)—delete "10 m" and substitute:
3 m

6—Amendment of Schedule 4—Exclusions from definition of development—general

- (1) Schedule 4, clause 18(1)(a)—delete paragraph (a) and substitute:
 - (a) subject to this clause, the tree is on land on which development for the purposes of the provision of social infrastructure is being, or is to be, carried out by or on behalf of the relevant Minister (the *relevant land*); or
- (2) Schedule 4, clause 18—after subclause (1) insert:
 - (1a) The following conditions are prescribed in respect of the exclusion under subclause (1)(a) insofar as the tree-damaging activity constitutes the killing, destruction or removal of a regulated tree:
 - (a) the relevant Minister must—
 - (i) ensure the prescribed number of trees are planted and maintained on the relevant land, or on adjacent land or other land within the area of the council in which the relevant land is situated, to replace the regulated tree (with the cost of planting to be the responsibility of the relevant Minister and the cost of maintenance to be the responsibility of the owner of the land); or
 - (ii) if the relevant Minister considers that it is not practicable for replacement trees to be planted in accordance with subparagraph (i)—ensure an amount calculated in accordance with a fee notice made for the purposes of the Act is made into the relevant fund in lieu of planting 1 or more replacement trees under subparagraph (i);
 - (b) any replacement trees must satisfy the following criteria:
 - (i) the trees are not trees within a species designated under regulation 3F(4)(b) (insofar as the designation of that species of tree applies to the location of the tree-damaging activity);
 - (ii) the trees are not planted within 3 m of an existing dwelling or an existing in-ground swimming pool.
 - (1b) For the purposes of subclause (1a)(a)(i), the prescribed number of trees is—
 - (a) if the tree-damaging activity is in relation to a regulated tree—2 trees to replace the regulated tree; or
 - (b) if the tree-damaging activity is in relation to a significant tree—3 trees to replace the significant tree.
- (3) Schedule 4, clause 18(2)—after "subclause (1)(b)" insert:

and (1a)(b)(ii)

- (4) Schedule 4, clause 18(2)—after "dwelling" wherever occurring insert:
or swimming pool
- (5) Schedule 4, clause 18—after subclause (2) insert:
- (3) In this clause—
- relevant fund** has the same meaning as in section 127(7) of the Act;
- relevant Minister** means the Minister responsible for the administration of the *Highways Act 1926*;
- social infrastructure** means buildings or areas that facilitate the delivery of social services by a government or other service provider (whether a fee is charged for the service or not);
- social services** includes health services, disability services, aged care, childcare, education, justice and emergency services, arts and culture, sport and recreation, social housing and any other service provided for community benefit.

7—Amendment of Schedule 13—State agency development exempt from approval

Schedule 13, clause 2(1)(w)(ii)—delete subparagraph (ii) and substitute:

- (ii) that—
- (A) is on any land on which a road is located or is proposed to be built or widened; and
- (B) is undertaken by or with the written authority of the Commissioner for Highways; or

Schedule 1—Transitional provision

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).

Editorial note—

As required by section 10AA(2) of the *Legislative Instruments Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 16 May 2024

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