

# Development Fees Variation Policy



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Record number	D21/70249
Responsible Manager	Manager City Development
Other key internal stakeholders	Director Community & Cultural Development
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Adoption reference	Council
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Legal requirement	NA
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## 1. PURPOSE

This policy sets out the key circumstances where Council supports the waiving of Development fees and delegates these responsibilities to staff to implement.

## 2. POLICY

Council supports the waiving of Development fees in the following key circumstances.

### 2.1 Development Applications by Community Groups on Council Owned or Controlled Land

Where the Assessment Manager or Council Assessment Panel (CAP) are the assessing and approving authority, all development application fees payable to Council (including assessment and public notification) will be waived when a development application is lodged by a local community based not-for-profit group.

### 2.2 Development Applications for works relating to Regulated Trees

The Act provides a financial concession for applications involving the removal or pruning of regulated trees, where the applicant is a designated person. In such instances, payments made into Council's Urban Trees Fund by the applicant will be discounted by 66.6% of the statutory amount.

Section 119(8) of the Planning, Development Infrastructure Act 2016 provides an additional concession for all applicant's proposing the removal of a regulated tree (that is not a significant tree) by requiring Council to assess an application without requesting the applicant to provide an expert or technical report relating to the tree. Where such a report is required to assist Council staff with the assessment of the application, such a report must be sourced at Council's expense.

### 2.3 Discretionary waiving of planning fees

The planning assessment fee for an application, including the removal/pruning of a regulated tree (whether or not significant) will be waived where the below detailed eligibility criteria is satisfied.

#### 2.3.1 Discretionary waiving requirement to supply an expert or technical report for significant tree applications

To assist with the assessment of an application for the removal or pruning of a significant tree, Council staff may request an applicant to provide an expert or technical report. Such reports can be expensive and it is common for Council to receive requests from applicants for assistance in funding the creation of such reports.

Where the eligibility criteria listed below is satisfied, Council will not require an applicant to provide a technical report. Instead, Council will fund the creation of the report.

Where the applicant is, or is acting on behalf of a person who satisfies the eligibility criteria listed below, such a request must also be made in writing and the applicant will be required to explain the reasons why the tree removal or tree pruning is required.

This concession may also apply to other members of the community who can sufficiently demonstrate their financial hardship.

### 2.3.2 Eligibility Criteria

To be eligible for the above discretionary benefits the application must be lodged by, or on behalf of:

- a. A designated person
- b. A ratepayer who receives a pension concession on their rates
- c. A person who is the holder of a health care card and documentary evidence of this concession is supplied

and the following conditions must be met:

- a. The application relating to the tree damaging activity must not be part of, or relate to a broader property development application
- b. The tree must be on the applicant's land
- c. Where the tree is not located on the applicant's land, the applicant will need to supply written evidence of the tree owners consent to the removal or pruning of the tree. In relation to tree pruning, this consent will only be required where the pruning work extends beyond the property boundary of the applicant's site.

## 2.4 Extraordinary Circumstances

Under extraordinary circumstances delegated officers may waive or refund a part payment of any fees or charges in relation to an application.

## 3. DEFINITIONS

For the purposes of this policy the following definitions apply:

### Act

*Development Act 1993.*

### PDI

*Planning Infrastructure and Development Act 2016*

### Advertising fee

Refers to the additional fee (as determined by Council) for publically notified applications that must be paid to cover the cost of placing a sign on the land, as required by Section 107 of the Planning Infrastructure and Development Act 2016. .

### Designated person

Means a person:

- a. who is an owner and occupier of the land where the relevant tree is situated; and

- b. who –
- (i) is the holder of a current Pensioner Concession Card issued by the Commonwealth Government and is in receipt of a full Commonwealth pension in connection with that card; or
  - (ii) falls within a class of person prescribed by the
  - (iii) Planning, Development and Infrastructure (General) Regulations 2017. for the purposes of this definition.

#### Public notification fee

Refers to the set fee prescribed within Councils Fees and Charges Register.

#### Regulations

Planning, Development and Infrastructure (General) Regulations 2017.

#### Regulated Tree

According to the Planning Development and Infrastructure Act 2016 this means trees within a designated area as prescribed within Regulation 3F and that have a trunk with a circumference of 2 metres or more or, in the case of trees with multiple trunks, that have trunks with a total circumference of 2 metres or more and an average circumference of 625 millimetres or more, measured at a point one(1) metre above natural ground level, but does not apply to those trees listed within Regulation 3F(4) of the Development Regulations.

#### Significant Tree

Planning, Development and Infrastructure Act 2016 Part 1, clause 3(1) definition of Significant Tree:

significant tree means—

- (a) a tree declared to be a significant tree, or a tree within a stand of trees declared to be significant trees, under the Planning and Design Code (whether or not the tree is also declared to be a regulated tree, or also falls within a class of trees declared to be regulated trees, by the regulations); or
- (b) a tree declared to be a regulated tree by the regulations, or a tree within a class of trees declared to be regulated trees by the regulations that, by virtue of the application of prescribed criteria, is to be taken to be a significant tree for the purposes of this Act;

## 4. LEGISLATIVE FRAMEWORK

There is no legislative requirement for Council to have a policy relating to this area.

The Planning Infrastructure and Development Act 2016 allows for the waiving of development fees. It is recognised as good governance for Council to establish when these fees may be waived.

The following legislation applies to this policy:

Planning Infrastructure and Development Act 2016

Section 119(3) of the Act enables Council to request an applicant to provide such additional documents or information as the relevant authority may reasonably require to assess the

application. In the case of significant trees, this information usually includes the provision of an arborist report. The requirements of Section 119(3) of the Act do not extend to applications involving the assessment of regulated trees.

Section 119(9) (c) of this Act enables Council to waive the assessment fees.

Where an application involves the removal of a regulated or significant tree, Section 127 of the Act requires Council to condition the planting of replacement trees at a rate of 2 replacement trees per regulated tree and 3 replacement trees per significant tree.

In lieu of providing replacement trees, Section 200 enables an applicant to apply to pay into Council’s Urban Trees Fund. Money paid into this fund may be used by Council to: -

- a. maintain or plant trees which are or will (when fully grown) constitute significant trees under the Act; or
- b. purchase land within the designated area in order to maintain or plant trees which are or will (when fully grown) constitute significant trees under the Act.

## 4.1 Other references

Council’s document including:

- a. Planning and Design Code - Planning and Design Code may assign a development to be public notified. In such instances, a development application would ordinarily attract a public notification fee, as prescribed in the Fees and Charges Register.
- b. Regulated Tree Applications Procedure – when an application may be accepted without an Arborist Report or Engineers Report (internal document).
- c. Development Information Guides are available for the public, and are available on Council’s website [www.teatreegully.sa.gov.au](http://www.teatreegully.sa.gov.au)

## 5. STRATEGIC PLAN/POLICY

### 5.1 Strategic Plan

The following strategic objectives in Council’s Strategic Plan 2025 are the most relevant to this report:

Objective	Comments
<b>Leadership</b>	
<i>Customer service provides a positive experience for people and is based on honesty and transparency</i>	Council supports the waiving of Development fees when the community is eligible.
<i>Decision making is informed, based on evidence and is consistent</i>	Council supports the waiving of Development fees in accordance with the PDI Act and Regulations.

## 5.2 Organisation Plan

Our Strategic Plan is supported by an Organisation Plan which focuses on four key themes of organisational excellence. The themes most relevant to this report are: Customer Care; Learning & Growth; Future Capability; Sustainable Operations.

## 6. POLICY IMPLEMENTATION

This Policy will be implemented by the Chief Executive Officer or relevant portfolio director and managed in accordance with Council's scheme of delegations.