

Tree Protection (Criteria for Registration and Cancellation of Registration) Determination 2006

Disallowable instrument DI2006—56

made under the

Tree Protection Act 2005 s45 (Criteria for Registration and Cancellation of Registration)

1 Name of instrument

This instrument is the *Tree Protection (Criteria for Registration and Cancellation of Registration) Determination 2006*.

2 Commencement

This instrument commences on the day after notification.

3 Determination

I determine that the criteria for tree registration and cancellation of registration are as set out in Schedule 1.

Jon Stanhope MLA
Minister for the Environment

27 March 2006

Schedule 1

Criteria for registration and cancellation of registration for the purposes of the
Tree Protection Bill 2005.

Tree registration

1 Criteria for registration

The Conservator of Flora and Fauna (the Conservator) may include a tree on the register under section 52 of the Act if it is located on built-up urban area and it can be demonstrated that it significantly contributes to one or more of the following values:

(1) Natural or cultural heritage value

Object: The object of this value is to identify trees that are of particular importance to the community due to their intrinsic heritage values.

A tree may be considered to be of natural or cultural heritage value when it is:

- (a) associated with a significant public figure or important historical event; or
- (b) of high cultural heritage value to the community or cultural group, including trees associated with aboriginal heritage and culture; or
- (c) associated with a heritage nominated place and representative of that same historic period.

(2) Landscape and aesthetic value

Object: The object of this value is to identify trees that are of particular importance to the community due to their substantial contribution to the surrounding landscape.

A tree may be considered to be of landscape and aesthetic value if it is situated in a prominent location when viewed from a public place and it:

- (a) contributes significantly to the surrounding landscape based on its overall form, structure, vigour and aesthetic values; or
- (b) represents an outstanding example of the species, including age, size or habit; or
- (c) is an exceptional example of a locally native species that reached maturity prior to urban development in its immediate vicinity.

(3) Scientific value

Object: The object of this value is to identify trees that are of particular importance to the community due to values associated with their ecological, genetic or botanical significance or ability to substantially contribute to the scientific body of knowledge and understanding.

A tree may be considered to be of scientific value when it:

- (a) is evidence of the former range limits or extent of the species or an ecological community; or

- (b) is endangered or vulnerable species that is endemic to the Territory or local region now reduced in range or abundance; or
- (c) demonstrates a likelihood of providing information which will contribute significantly to a wider understanding of natural history by virtue of its use as a research site, teaching site, type locality or benchmark site; or
- (d) is of botanical or genetic value and is not well represented elsewhere in the Territory; or
- (e) is a significant habitat element for a threatened native species.

2 Value of an individual tree as part of a group

The Conservator may include a tree on the register under section 52 of the Act if it is located on built-up urban area and it can be demonstrated that it contributes to one or more of the values above when considered in the context of, and included with, other trees in its immediate vicinity.

3 Consideration of criteria for cancellation

The Conservator may not consider a tree for registration if it meets the criteria for cancellation.

Cancellation of tree registration

4 Criteria for cancellation of registration

- (1) The Conservator may cancel the registration of a tree if:
 - (a) the tree does not meet any of the values in paragraph 1; or
 - (b) the tree represents an unacceptable risk to public or private safety; or
 - (c) the tree is shown to be causing substantial damage to a substantial building, structure or service that will require ongoing and extensive remediation measures.
- (2) The Conservator may only cancel the registration of a tree under clause 4(1)(a) if all reasonable remedial treatments and risk mitigation measures to avoid or minimise the risk presented or damage caused by the tree have been determined to be ineffective.

5 Consideration of broader planning objectives

The Conservator may cancel the registration of a tree if, on advice from the ACT Planning and Land Authority; the registration of the tree will significantly compromise the broader strategic planning objectives of the Territory Plan.

6 Consideration of the value of the tree

When deciding whether the criterion in paragraph 5 is met, the Conservator may consider the value of the tree as assessed against the criteria in paragraphs 1 and 2.

7 Examples of reasonable remedial treatments

Examples of reasonable remedial treatments are:

- (1) Thinning, selective pruning or reduction pruning of trees to lessen wind resistance, to reduce weight of limbs every three years.
- (2) General pruning to remove dead, diseased, dying, defective and conflicting branches or foreign matter deemed to be dangerous or detrimental to the tree every two years.
- (3) Selective pruning to remove identified branches that are causing a problem or to reduce encroachment on utilities or buildings every two years.
- (4) Crown lifting for pedestrian or vehicular access every two years.
- (5) Annual inspection by a qualified arboriculturist to undertake risk and hazard assessment.

8 Reasonable risk mitigation measures

Examples of reasonable risk mitigation measures are:

- (1) The erection of fences to prevent access under the tree or an area of risk;
- (2) Landscaping to discourage access under the tree or an area of risk;
- (3) Placement of signage warning of possible risk; or
- (4) Undertaking appropriate arboricultural techniques such as cable bracing or pruning.

The list of examples set out in paragraphs 7 and 8 do not limit the matters that the Conservator may consider.