

Australian Capital Territory

Tree Protection (Interim Scheme) Determination of Criteria 2002

Disallowable instrument DI 2003 - 5

made under the

Tree Protection (Interim Scheme) Act 2001, s 12(1) (Criteria for Approval)

I determine that the criteria for approving an activity that would damage, or is likely to damage, a significant tree are as set out in Schedule 1.

Bill Wood MLA
Minister for Urban Services
20 December 2002

Schedule 1

Determination of Criteria for the Purposes of Subsection 12(1) of the *Tree Protection (Interim Scheme) Act 2001*.

(1) The Conservator of Flora and Fauna (the Conservator) may give an approval with under subsection 15(1) of the *Tree Protection (Interim Scheme) Act 2001* to remove a tree when:

- (a) the tree is in decline and its life expectancy is short; or
- (b) the tree represents an unacceptable risk to public or private safety; or
- (c) the tree is shown to be causing or threatening to cause substantial damage to a substantial building, structure or service; or
- (d) the location of the tree is inappropriate given its potential size and growth habit (excluding remnant eucalypts); or
- (e) the tree represents a serious plant disease threat; or
- (f) the tree is substantially affecting solar access to the lessees lease, or neighbouring lease, during winter between the hours of 9am to 3pm and pruning is not sufficient to remedy this; or
- (g) the tree is causing an allergic reaction to an occupant of the block and the claim can be supported by certification from a medical specialist; or
- (h) where the tree is part of a close planting of a number of trees, the removal of the tree will allow the other trees to develop fully; and

all other reasonable remedial treatments and measures have been determined to be ineffective.

(2) The Conservator may also give an approval under subsection 15(1) of the *Tree Protection (Interim Scheme) Act 2001* to remove a tree if the tree is located on a block of less than or equal to 1200m² and is a species listed in Schedule 2.

(3) The Conservator of Flora and Fauna (the Conservator) may give an approval under subsection 15(1) of the *Tree Protection (Interim Scheme) Act 2001* to tree damaging activities other than removal of a tree when:

- (a) the work will have minimal adverse impact on the health of the tree; or
 - (b) the work is required for the removal of dead wood, treatment of disease; or is in the general interests of the health of the tree; or
 - (c) the work is required due to an unacceptable risk to public or private safety;
- or

- (d) the tree is shown to be causing or threatening to cause damage to a substantial building, structure or service; or
- (e) the location of the tree is inappropriate given its potential size and growth habit (excluding remnant eucalypts); or
- (f) the tree is substantially affecting solar access to the lessees lease, or neighbouring lease, during winter between the hours of 9am to 3pm and pruning is not sufficient to remedy this.

(4) When deciding whether the criteria in paragraph 1,2 or 3 are met, the Conservator may consider the importance of the tree in the surrounding landscape.

(5) In addition to the matters set out in clause 1,2 and 3, the Conservator may give an approval under subsection 15(1) of the *Tree Protection (Interim Scheme) Act 2001* to carry out any tree damaging activity if-

it is demonstrated to the ACT Planning Authority, having regard to the broader strategic planning objectives of the Territory Plan and associated urban planning by the Authority , that all reasonable development options and design solutions have been considered to avoid or minimise the requirement for tree damaging activity

(6) In addition to the matters set out in clause 3, the Conservator may give an approval under subsection 15(1) of the *Tree Protection (Interim Scheme) Act 2001* to carry out groundwork within the tree protection zone where-

the groundwork will have minimal impact on the tree if the groundwork complies with the conditions stated in the approval.

(7) Examples of the kinds of activities for which an approval to undertake a tree damaging activity may be given are:

- (a) Removal of unsuitable or hazardous trees subject to replacement plantings being undertaken where necessary.
- (b) Pollarding on deciduous trees grown for horticultural amenity.
- (c) Remedial pruning to prolong the useful life expectancy of damaged trees.
- (d) Root pruning to ameliorate damage to built or natural structures.

(8) Examples of reasonable remedial treatments or measures are:

- (a) Thinning, selective pruning or reduction pruning of trees to lessen wind resistance, to reduce weight of limbs, to reduce competition, to increase light penetration and air circulation through the crown every three years.
- (b) 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.
- (c) Selective or formative pruning to remove identified branches that are causing a problem or to reduce encroachment on utilities or buildings every two years.
- (d) Crown lifting for pedestrian or vehicular access every two years.
- (e) Thinning, selective pruning or reduction pruning on trees to provide solar access and property alignment to private dwellings every two years.
- (f) Annual inspection by a qualified arboriculturist to undertake risk and hazard assessment.

The list of examples set out in paragraphs (6) and (8) do not limit the circumstances in which an approval may be given.

Schedule 2

List of Problematic Tree Species for the Purposes of Subsection 12(1) of the *Tree Protection (Interim Scheme) Act 2001*.

Botanical Name	Common Name
<i>Cupressus arizonica</i>	Arizona Cypress
<i>Cupressus glabra</i>	Smooth Arizona Cypress
<i>Cupressus macrocarpa</i>	Monterey Cypress
<i>Cupressus macrocarpa 'Horizontalis Aurea'</i>	Lambert's Cypress
<i>Eucalyptus bicostata</i>	Eurabbie or Southern Blue Gum
<i>Eucalyptus globulus</i>	Tasmanian Blue Gum
<i>Eucalyptus nicholii</i>	Narrow Leaf Peppermint
<i>Eucalyptus pseudoglobulus</i>	Bastard Eurabbie
<i>Eucalyptus viminalis</i>	Rough Barked Manna Gum
<i>Gleditzia triacanthos</i>	Honey Locust
<i>Pinus radiata</i>	Monterey Pine
<i>Populus alba</i>	White Poplar or Cotton Wood
<i>Populus tremuloides</i>	Trembling Aspen
<i>Robinia pseudoacacia</i>	False Acacia
<i>Salix babylonica</i>	Weeping Willow