

# Plant Diseases (Phylloxera) Prohibition 2010 No 1

## Disallowable Instrument DI2010—265

made under the

*Plant Diseases Act 2002*, section 8 (Prohibition of introduction etc of plants, insects, diseases and pests)

### EXPLANATORY STATEMENT

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The *Plant Diseases Act 2002* (the Act) is an Act for the control of diseases and pests affecting plants. The purpose of the Act is to protect the ACT's land resources from threats from diseases and pests. The Act promotes a strategic approach to disease and pests management.

The disallowable instrument prohibits the introduction into or transport within or through the ACT of Phylloxera. Section 8 of the Act authorises the Minister to prohibit the introduction or transport of a plant, insect, disease or pest that is likely to increase the risk of a disease or pest becoming established, or spreading, in the ACT.

Phylloxera is an insect pest that affects grapevines and grapevine material. It survives only on *Vitis* genus vines (grapevines and ornamental vines). As such, its spread can have an impact on the viticultural industry. Given the threat of Phylloxera, it is understood that the ACT's vineyards have voluntarily implemented procedures to manage the threat.

All of Australia's grapegrowing regions have been classified into zones under a National Phylloxera Management Protocol developed by the National Vine Health Steering Committee (NVHSC). The ACT is in the Phylloxera Exclusion Zone (PEZ). This zone is an area recognised by the NVHSC as being free of Phylloxera. The Protocol identifies the risk vectors that are required to be managed when moving winegrapes, grapevine material or samples, vineyard equipment and vehicles to prevent Phylloxera entering vineyards. The declaration is required to assist the maintenance of the Territory's PEZ status.

A permit may be obtained from the chief executive under section 6 to move prohibited items in or through the ACT subject to conditions. The conditions are specified in schedules 1 to 3 according to whether the items that are being moved are from a Phylloxera Infected Zone, a Phylloxera Risk Zone or Phylloxera Exclusion Zone. The chief executive must have regard to National

Phylloxera Management Protocol and may not issue the permit if it will have an impact on the Territory's status as a Phylloxera Exclusion Zone.

The potential exists for some of the procedures in the Protocol to interfere with an individual's right to enter, leave and move freely within the ACT, protected by section 13 of the *Human Rights Act 2004*. The preventative measures outlined in the Protocol are specific to the management of Phylloxera. The measures have been agreed to at the national level and are aimed at securing a legitimate aim – preventing the spread of Phylloxera in the ACT. The measures to be taken are reasonably proportionate and will assist in safeguarding Australia's grape growing and winemaking industries.