

Tree Protection (Criteria for Registration and Cancellation of Registration) Determination 2018

Disallowable instrument DI2018-50

made under the

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

EXPLANATORY STATEMENT

This determination replaces the *Tree Protection (Criteria for Registration and Cancellation of Registration) Determination 2006* DI 2006-56 by revoking it.

This determination makes only one change to the 2006 determination. It corrects an error at Paragraph 4. Clause 4(2) incorrectly states that clause 4(1)(a) is subject to an exception however the exception should be applied only to clause 4(1)(b) and 4(1)(c).

The 2006 Explanatory Statement remains relevant and is included as follows:

Trees being considered for inclusion onto the Tree Register would be assessed against Criteria to register a tree or groups of trees. These criteria are based on the following three values:

- Natural/cultural heritage value;
- Landscape and aesthetic value; or
- Scientific value.

Each of these values are covered by criteria against which the Conservator will make a decision about the registration of a tree.

Formal Clauses

Paragraph 1 establishes the values and criteria that the Conservator may use to include a tree on the Tree Register. The paragraph provides a statement about the object of each value and a series of criteria.

Natural or Cultural heritage value

The object of this value is to identify trees that are of particular importance to the community due to their intrinsic heritage values. This may include Aboriginal scar trees or a tree that is closely associated with person or event of historic importance.

Landscape and aesthetic value

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. It is anticipated that a majority of trees included on the Tree Register will fall into this category.

It should be noted that for a tree to be considered to be of landscape and aesthetic value, the Conservator must be satisfied that it is situated in a prominent location when viewed from a public place.

Scientific Value

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.

Criterion 2 enables the Conservator to consider a tree for the Tree Register on the basis of its value when in the context of a group of trees. This criterion would be applied when several trees are nominated due to the group having particular value to the community. Whilst each individual tree may not meet the criteria in its own right, it may be considered an important component of a group of trees that do meet the criteria when considered as a whole.

Paragraph 3 requires that the Conservator considers whether the tree would meet the criteria for cancellation of registration. This is intended to ensure that a tree that would, upon registration, qualify for cancellation of registration.

Paragraph 4 provides criteria that the Conservator may use when considering a request to cancel the registration of a tree. The conservator may cancel the registration if, for some reason or another, it no longer meets any of the criteria for registration in paragraph 1. The Conservator may also consider cancelling a registration if the tree has become dangerous or is causing substantial damage to a substantial building, structure or service. This latter criterion is qualified by the requirement that the damage will necessitate ongoing and extensive remediation measures.

Criterion 5 provides a criterion that enables the Conservator to 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.

Paragraph 6 provides a criterion that enables the Conservator to consider the relative value of the tree, as assessed against the criteria in paragraphs 1 and 2, when considering whether criterion 5 is met.

Paragraphs 7 & 8 provide examples of reasonable remedial treatments and risk mitigation measures to clarify the sorts of activities that may be considered under paragraph 1.