

Australian Capital Territory

## **Tree Protection (Guidelines for Tree Management Plans) Determination 2007\***

*Notifiable Instrument NI2007-422*

made under the

*Tree Protection Act 2005* part 4 s31 (Guidelines for tree management plans)

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### **1 Name of Instrument**

This instrument is called the *Tree Protection (Guidelines for Tree Management Plans) Determination 2007*.

### **2 Commencement**

This instrument commences the day after notification.

### **3 Determination**

I declare the guidelines for tree management plans to be as shown in Schedule 1.

Jon Stanhope  
Minister for the Environment, Water and Climate Change  
23 November 2007

\*Name amended under Legislation Act, s 60

# Schedule 1

## Guidelines for Tree Management Plans for the purposes of Part 4 of the *Tree Protection Act 2005*

### Introduction

The *Tree Protection Act 2005* (the Act) provides for the protection of Canberra's urban forest and individual trees of importance. Part 4 of the Act provides for the Conservator of Flora and Fauna (the Conservator) to approve a Tree Management Plan (TMP) based on guidelines prepared under section 31 of the Act. An approved TMP is a form of approval to undertake tree damaging activities, enhancements or *Groundwork* in relation to a *Protected Tree*. The primary purpose of a TMP is to protect trees by incorporating existing trees into development design where possible and minimising the impact of development upon retained trees.

A *Protected Tree* is either:

- ❖ A *Regulated Tree* – a tree on leased land in an area declared as a *Tree Management Precinct* that is: greater than 12m tall; has a trunk circumference of 1.5m or more at one metre above the ground; or a canopy spread of 12m or more; or
- ❖ A *Registered Tree* – a tree that has been included on the ACT Tree Register.

A TMP must describe a *Protected Tree* or *Protected Trees* in terms of current state of health and safety, set out constraints and conditions on approved activities and make recommendations for its management.

### Objectives

- i. a guide to assist professionals in the development industry to incorporate tree protection requirements in the early stages of the development process.
- ii. Provides a lessee with certainty with regard to *Protected Trees* on their lease.
- iii. Provides pre-approval for ongoing management requirements that would otherwise require approval, e.g. regular pruning to clear branches from powerlines.
- iv. Acts as a guide to the management of *Registered Trees*.
- v. Provides management recommendations to enhance or maintain the health and safety of *Protected Trees*.

### Approval criteria

When considering the approval of a TMP, the Conservator has regard to the following matters:

- 1.1 The intended use of the TMP;
- 1.2 Adequacy and accuracy of the information presented. The information must be sufficient to make an informed decision given the intended use of the TMP;

- 1.3 Whether the proposed activities are considered **Minor Works** or **Urgent Circumstances** under section 29 of the Act;
- 1.4 Whether the proposed activities are in accordance with the Tree Protection Approval Criteria;
- 1.5 Whether the proposed conditions protect retained trees from damage, including the roots, during development that may occur on the site;
- 1.6 Whether the removal of a regulated tree will clearly enhance the environmental value of the site.

## Mandatory Requirements

### Tree Survey including tree health and risk assessment

A TMP shall include a tree survey with the following information for any *Protected Tree* included in the TMP:

- 2.1 Unique and sequential identification number;
- 2.2 Botanical name;
- 2.3 Height (m);
- 2.4 Trunk circumference (mm) at 1 metre above natural ground level of each *Protected Tree*. Where more than one trunk exists, the number of trunks and the sum of circumferences;
- 2.5 Canopy radius at the furthest point from the trunk (m) (additional measurements of the canopy radius may be provided in order to give a more accurate description of canopy dimensions).
- 2.6 The general health and vigour of the *Protected Tree/s*;
- 2.7 Any structural defects or evidence of internal decay;
- 2.8 Any evidence of past damage to the tree or disturbance within the root zone;
- 2.9 Any evidence of past or present disease or insect infestation;
- 2.10 Current growth stage (e.g. juvenile, semi-mature, mature or over mature).
- 2.11 **Tree quality classification** Trees are to be classified as being of Poor (P), Medium (M), High (H) or Exceptional (E) quality.
- 2.12 Risk Assessment of the tree in relation to proposed development and personal safety.

**NOTE:** A qualified arborist must undertake the tree health and risk assessment unless otherwise agreed by the Conservator. A qualified arborist must have a certificate in arboriculture. The acceptable tolerance for measurements of tree height and canopy spread is +/- 5%. It is recommended that a photograph of each *Protected Tree* be included to assist with the assessment of the TMP.

### Tree Protection Requirements

- 3.1 A TMP shall include the following information relating to the tree protection requirements of the tree:
- 3.2 Protection status of the tree/s covered by the plan (i.e. registered or regulated);
- 3.3 An accurate and scaled plan of the site showing:

- the location of every *Protected Tree* on the site and adjacent the site where the TPZ us within the site;
  - TPZ for each *Protected Tree*;
  - each tree proposed for removal marked with an X;
  - each tree numbered with reference to a key;
  - site access points;
  - location of protective fencing (in case of construction activity);
  - scale bar and north arrow.
- 3.4 Proposed activities for which approval is being sought through the TMP, such as:
- proposed tree removal;
  - proposed tree damaging activities (other than removal);
  - construction activity occurring on the site;
  - *Groundwork* activities within the TPZ (if required a cross section plan indicating works in relation to tree trunk).
- 3.5 **Standard conditions** (as provided at Appendix A) that apply to all *Protected Trees* unless the specific conditions state otherwise; and
- 3.6 **Specific conditions** for individual trees or activities that are particular to the site.

### Possible Risk Mitigation Measures

Where a tree assessment identifies a hazard, it may be possible to reduce the risk to an acceptable level by implementing *Risk Mitigation Measures* and thereby avoiding the necessity to remove the tree. This may be particularly relevant when assessing risk associated with a *Registered Tree* if the tree is considered to be of exceptional value.

Examples of reasonable *Risk Mitigation Measures* include:

- ❖ Regular arborist inspections;
- ❖ Possible arboricultural practices such as pruning or cable bracing;
- ❖ Landscaping to discourage pedestrian access under the tree canopy;
- ❖ The placement of appropriate signage to discourage pedestrian access under the tree canopy;  
or
- ❖ The erection of fences to prevent pedestrian access under the tree or into an area of risk.

### *Tree management recommendations*

It is suggested that a TMP include recommendations that will maintain or improve the health and safety of the tree. These are recommendations only and should be considered as being in the lessee or site managers best interest to undertake in order to maintain the health and safety of the tree or trees.

Examples of tree management recommendations may include:

- ❖ *Remedial Treatments*;
- ❖ Inspection and maintenance regime;

- ❖ Fertilising;
- ❖ Watering;
- ❖ Permanent fencing or protective bollards;
- ❖ Activities required to meet any obligations under other legislation – e.g. clearance of trees from powerlines; or
- ❖ Pest control measures.

## **Additional requirements**

### ***Major developments***

In general, a TMP that is to be included with a DA for a ***Major Development*** project will require more detailed information and a greater level of detail.

The following additional information is required if the TMP is to be submitted as part of a DA for a ***Major Development*** project:

- ❖ A photograph of each ***Protected Tree***; and
- ❖ Classification of each tree as poor, medium, high or exceptional quality as assessed by a qualified arboriculturist.

### ***Registered Trees and Declared Sites***

In addition to the above information, TMPs that relate to a ***Registered Tree*** and on a ***Declared Site*** shall include the Tree registration number and a copy of the citation from the Tree Register. A copy of the citation may be obtained from Environment Protection and Heritage.

## Glossary

The *Conservator of Flora and Fauna* (the Conservator) is a statutory position created under the *Nature Conservation Act 1980*. The Conservator is the statutory decision maker for a majority of the functions under the *Tree Protection Act 2005*.

A *Declared Site* is an area of land that was once the TPZ of a *Registered Tree* and approval is required to undertake activities in a *Declared Site*.

The Conservator may approve *Groundwork* in a *Declared Site* if satisfied that the proposed activity, and any other prohibited *Groundwork* done with or without approval in the past 12 months, would be less than 10% of the total area of the *Declared Site*.

**Groundwork** In relation to the protection zone for a *Protected Tree*, *prohibited groundwork* in the protection zone is:

- ❖ contaminating the soil in the protection zone with something that is poisonous to trees; or
  - ❖ cutting any of the tree's roots in the protection zone that have a diameter greater than 50mm; or
  - ❖ undertaking either of the following activities in the protection zone, other than in cultivating the soil for horticultural purposes:
    - excavates to a depth greater than 10cm over an area 4m<sup>2</sup> or larger;
- raises the soil level by more than 10cm above the natural soil level over an area 4m<sup>2</sup> or larger.

**Major Development** For the purposes of these guidelines, a *Major Development* project is defined as:

- ❖ Dual occupancy or single residential (except alterations or outbuildings) where *Regulated Trees* are either located on the site or have any part of their TPZ on the site;
- ❖ Any Multi-unit or non-residential development; or
- ❖ Any development with a *Registered Tree* on the site or where any part of the TPZ of a *Registered Tree* is included on the site.

**Minor Development** For the purposes of these guidelines, a *Minor Development* project is defined as the following activity in relation to a single residential building:

- ❖ Addition/alteration to an existing building;
- ❖ Demolition/rebuild; or
- ❖ Outbuildings (Such as carports, garages & pergolas)

**Minor Works** In relation to **Protected Trees** under section 29 of the *Tree Protection Act 2005* **Minor Works** is defined as an activity that will have little or no adverse impact on the health or stability of the tree. Approval is required for all minor works.

A *Protected Tree* is a tree that is provided protection under the *Tree Protection Act 2005*. The Act defines two types of *Protected Tree*: *Regulated Trees* and *Registered Trees*.

A **Registered Tree** is a tree that has been identified as being exceptional for its:

- ❖ natural or cultural heritage value;
- ❖ landscape and aesthetic value; and
- ❖ scientific or ecological value.

A **Regulated Tree** is a tree that is located on leased Territory land in an area declared as a **Tree Management Precinct** and is either:

- ❖ 12 m or more in height; or
- ❖ greater than 1.5 m in circumference (approx. 0.5 m in diameter) or more at 1 m above natural ground level; or
- ❖ with two or more trunks and the total circumference of all the trunks, 1 m above natural ground level, is 1.5 m or more, or
- ❖ 12 m in crown width or more.

**Remedial Treatments** are activities that are required to address damage or existing defects in a tree (such as pruning or cable bracing) or to ameliorate soil compaction.

**Risk Mitigation Measures** are measures that may be undertaken to reduce the potential impact associated with an identified hazard such as fencing off the area under a hazardous tree, placing signs warning of potential hazards or landscaping under trees to discourage public access under a hazardous tree.

**Tree Damaging Activity** Under the *Tree Protection Act 2005*, a **Tree Damaging Activity** (TDA) is defined as undertaking any of the following activities on a **Protected Tree**:

- ❖ kill or destroy the tree;
- ❖ poison the tree;
- ❖ ringbark the tree (whether partially or completely);
- ❖ fell or remove the tree;
- ❖ cut branches or stems of the tree between branch unions (**lopping**);
- ❖ remove branches of the tree to a previously pruned or lopped point (**pollarding**);
- ❖ major pruning of the tree;
- ❖ anything else done to or in relation to the tree that—
  - causes it to die; or
  - significantly reduces its expected life; or
  - significantly and adversely affects its health, stability or general appearance.

### **Tree Management Precinct**

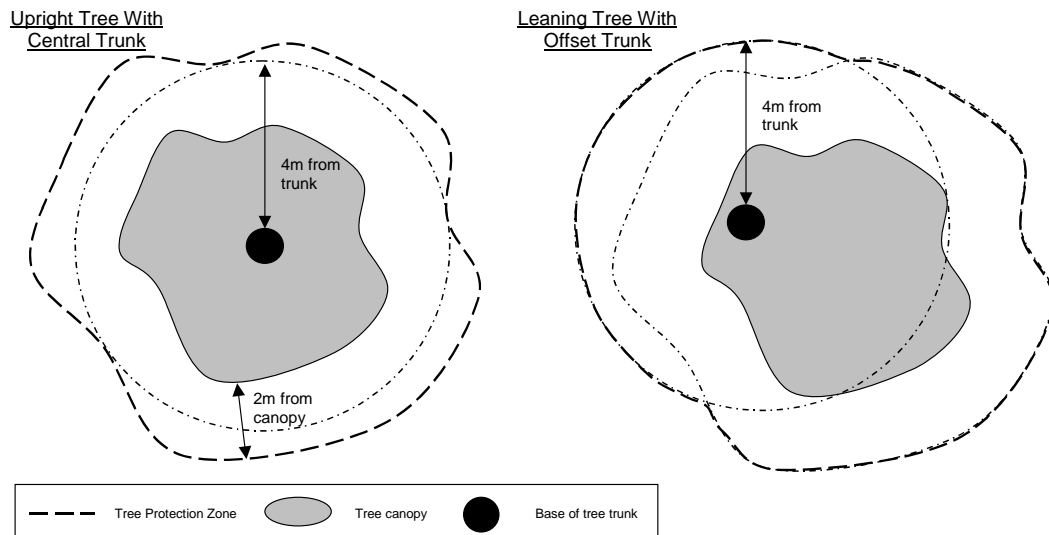
The Minister for the Environment may declare an area to be a **Tree Management Precinct** if the area is:

- ❖ subject to high levels of development activity;
- ❖ entered on the Heritage Register under the *Heritage Act 2004*; or
- ❖ a new estate development that is subject to construction activity.

A **Tree Protection Zone (TPZ)** for a **Protected Tree** is:

- ❖ the area under the canopy of the tree; and
  - ❖ the 2m wide area surrounding the vertical projection of the canopy; and
  - ❖ the 4m wide area surrounding the trunk as measured at 1m above natural ground level.
- However, another protection zone may be defined in an approved TMP for the **Protected Tree**.

### Defining a Tree Protection Zone



| <b>Tree Quality Classification</b> |   |
|------------------------------------|---|
| <b>Excellent (E)</b>               | <p>A tree or group of trees that:</p> <ul style="list-style-type: none"> <li>• has natural or cultural heritage importance; or</li> <li>• has high aesthetic value and will contribute significantly to the surrounding landscape; or</li> <li>• is of outstanding form and condition and is an excellent example of the species; or</li> <li>• has significant scientific value, including ecological importance.</li> </ul> |
| <b>High (H)</b>                    | <p>A tree that:</p> <ul style="list-style-type: none"> <li>• is of good form, structure and health;</li> <li>• is without significant defect; and</li> <li>• presents a low hazard/safety risk.</li> </ul>  |
| <b>Medium (M)</b>                  | <p>A tree that:</p> <ul style="list-style-type: none"> <li>• is of reasonable form, structure and health; and</li> <li>• presents a medium to low hazard/safety risk.</li> </ul>  |
| <b>Poor (P)</b>                    | <p>A tree that:</p> <ul style="list-style-type: none"> <li>• is of poor form, structure or health is in decline; or</li> <li>• presents a high or very high hazard/safety risk.</li> </ul>  |



## **Appendix A – Tree Protection Conditions**

### **Standard Conditions in case of development activity**

The following conditions apply if any development activity occurs on the site:

- A copy of these conditions shall be kept on site from the time that the protective fences are erected to the time that all works are completed on site.

### **Tree removal**

- All protected trees are to be retained unless otherwise stated in Specific Conditions below.

### **Fencing of protected trees**

- All **Regulated Trees**, other than those classified as being of ‘Exceptional’ quality, shall be fenced off by a continuous 1800 mm high chain wire protective fence at the extent of the tree protection zones as identified in the ‘*Tree Protection Act 2005*’.
- All **Registered Trees** and **Regulated Trees** classified as being of ‘Exceptional’ quality shall be fenced off by a continuous 1800 mm high chain wire protective fence 5 metres from the extent of the exiting canopy.
- The protective fences shall be erected prior to the commencement of any earthworks, construction or demolition activity on any part or stage of a development and shall remain in place until all construction works are completed.
- The protective fence shall be maintained in good order for the duration of any construction works.
- A Tree Protection Sign (design to be either provided by, or agreed to, by Environment Protection and Heritage) shall be prominently displayed on any protective fences around Protected Trees.

### **No activities permitted within the fenced off area**

- No activities are permitted in the fenced off area unless otherwise stated in *Specific Conditions* below.

### **Specific Conditions**

The above conditions shall be observed except where the following *Specific Conditions* apply:

**[To include relevant specific conditions drafted by applicant]**