



**ACT**  
Government

# DRAFT Urban Forest Approval Criteria

Made under the

*Urban Forest Act 2023, section 20 (Criteria for approval of activities)*

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# Schedule 1

Prescribes criteria for approving an activity that would or may damage a protected tree or be prohibited groundwork in the protection zone for a protected tree or a declared site is outlined in Schedule 1.

## Application

This schedule outlines the approval criteria for approving an activity that would or may damage a protected tree, including prohibited groundworks in the protection zone for a protected tree or a declared site.

Protected trees include registered trees, regulated trees, trees on public unleased land (public trees), and registered trees or remnant trees located on land in a future urban area or an area that is the subject of a subdivision design application outside the built-up urban area within the meaning of section 9 of the Urban Forest Act 2023 (the Act).

This schedule must be considered when processing applications made under section 21 of the Act, including during the assessment of the tree and before a decision-maker makes a decision. Tree protection is important to achieve the objectives of the Urban Forest Strategy 2021-2045 (as in force from time to time) and the objects of the Act. Decisions need to be fair, proportionate and consistent with human rights outlined in the Human Rights Act 2004. Accordingly, tree protection must be balanced carefully with the health and safety of individuals or animals, and the protection of infrastructure and property.

## Criteria 1 – Regulated Trees

### Major pruning or lopping

- (1) The Decision-Maker may approve major pruning on a regulated tree under section 28 of the Act if:
  - (a) the work is required:
    - (i) as a remedial treatment; or
    - (ii) in the general interests of the health of the tree; or
    - (iii) to reduce an unacceptable risk to public or private safety; or
    - (iv) to reduce the risk of damage or prevent further damage to a building, or substantial structure, including if the tree has a history of dropping limbs or has large branches overhanging dwellings; or
    - (v) to reduce the risk of damage or interference, or prevent further damage or interference, to public infrastructure or essential services; or
    - (vi) for vehicles, machinery or equipment to access a construction site, or other land to undertake construction works, if all other practical alternatives have been considered and determined to be ineffective and the decision-maker is satisfied that the access is required at the location and that the activity won't pose an unacceptable impact to soil compaction within the protection zone of a protected tree.
  - (b) the tree is substantially affecting solar access to the lessee's residence, or neighbouring residence, during winter between the hours of 9am to 3pm and minor pruning is not sufficient to remedy this (excluding remnant eucalypts).
- (2) The approval of lopping should only be considered when criteria 2 (1) is met and the retention of the tree is considered necessary.

**Example:** Where the retention of the tree is necessary to maintain habitat or heritage values.

### **Damage (including removal)**

- (3) If all other reasonable remedial treatments and risk mitigation measures have been determined to be ineffective, the Decision-Maker may approve an activity to damage a regulated tree under section 28 if:
- (a) the tree is in decline and its life expectancy is short; or
  - (b) the tree represents an intolerable or unacceptable risk to the health or safety of people or animals; or
  - (c) the tree is damaging, or threatening to damage a building, service, or substantial structure; or
  - (d) the tree has a history of dropping limbs and has large branches overhanging dwellings and there is a moderate or higher risk to the health or safety of people or animals of branch failure; or
  - (e) the tree has a history of dropping limbs and has large branches overhanging dwellings and the tree is damaging, or branch failure would damage dwellings or private property; or
  - (f) the location of the tree is inappropriate given its potential size and growth habit (excluding remnant eucalypts); or
  - (g) the tree is causing excessive shading to the lessee's residence, or neighbouring residence, during winter between the hours of 9am to 3pm and pruning is not sufficient to remedy this (excluding remnant eucalypts); or
  - (h) the tree has poor form or low vigour and is of low amenity or ecological value to the surrounding landscape or canopy cover; or
  - (i) 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; or
  - (j) the activity is required in accordance with a Bushfire Operational Plan that has been approved by the ACT Emergency Services Commissioner under section 78 of the *Emergencies Act 2004*; or
  - (k) the activity is required to provide essential access to land or to provide for essential accessibility requirements.

### **Decision-making considerations**

- (4) When deciding whether the above criteria 1 (3) are met, the Decision-Maker must consider:
- (a) any exceptional circumstances that have been raised by the applicant;
  - (b) any advice from the Tree Advisory Panel;
  - (c) the importance of the tree in the surrounding landscape;
  - (d) if the tree is a species listed in schedule 3, whether the tree has ecological importance to the local environment; and
  - (e) for subsections (b) or (c), whether the removal of the tree is urgently required in accordance with section 32 of the Act.

## Prohibited groundwork

- (5) The Decision-Maker may give an approval under section 28 of the Act to carry out groundwork within the tree protection zone of a regulated tree where the groundwork will have an **acceptable impact** on the tree, if the activity complies with the conditions stated in the approval.

## Criteria 2 – Public Trees

### Pruning and removal

- (1) If all other reasonable remedial treatments and risk mitigation measures have been determined to be ineffective, the Decision-Maker may give an approval to damage a public tree under section 28 when it meets subsections (2) or (3).
- (2) The Decision-Maker may approve the activity if it would otherwise be undertaken by an administrative unit approved under section 19 of the Act within a reasonable timeframe, and the tree:
  - (a) is in decline and its life expectancy is short; or
  - (b) is damaging, or threatening to damage, a building, service, or substantial structure; or**
  - (c) has poor form or low vigour and is of low amenity or ecological value to the surrounding landscape or canopy cover; or
  - (d) is part of a close planting of a number of trees, and the removal of the tree will allow the other trees to develop; or
  - (e) the tree is a pest species; or
  - (f) the tree is dead; or
  - (g) the tree is an inappropriate species for the location, considered against the strategic objectives of the Urban Forest Strategy 2021-2045 (as in force from time to time); or
  - (h) the pruning would reduce the impact of excessive shading to a primary residence during winter between the hours of 9am to 3pm; or
  - (i) the pruning will contribute to public safety outcomes by improving line of sight of, or public access to public space, services or structures; or
  - (j) the pruning will contribute to an improved arboriculture or ecological outcome.
- (3) The Decision-Maker may also give an approval under section 28 of the Act for an activity if satisfied that the:
  - (a) the activity is required in accordance with a Bushfire Operational Plan that has been approved by the ACT Emergency Services Commissioner under section 78 of the *Emergencies Act 2004*; or**
  - (b) removal is required and tree is a **juvenile tree**; or
  - (c) activity is required to provide essential access to land, to comply with relevant Australian Standards or Municipal Infrastructure Standards or to provide for essential accessibility requirements; or
  - (d) pruning is required because the tree has a history of dropping limbs and has large branches overhanging dwellings, where the tree is damaging, or branch failure would damage dwellings or private property; or**

- (e) pruning is required for vehicles, machinery or equipment to access leased or unleased land to undertake construction or maintenance works, if all other practical alternatives have been considered and determined to be ineffective and the decision maker is satisfied that the access is required at this location.

## Prohibited groundwork

- (4) The Decision-Maker may give an approval under section 28 of the Act to carry out groundwork within the tree protection zone of a public tree where the groundwork will have an acceptable impact on the tree if the activity complies with the conditions stated in the approval.

## Decision-Maker considerations

- (5) When deciding whether the above criteria 2, sections (2) and (3) are met, the Decision-Maker must consider:
  - (a) whether the proposed activity will result in the decline and death or necessitate the removal or destruction of the tree;
  - (b) whether the proposed activity will cause the tree to become unstable;
  - (c) the reason for the applicant undertaking the activity and location of the tree(s);
  - (d) any exceptional circumstances that have been raised by the applicant;
  - (e) if the tree is a species listed in schedule 3, whether the tree has ecological importance to the local environment; and
  - (f) whether the removal of the tree is urgently required in accordance with section 32 of the Act.

## Criteria 3 – Remnant Trees

### Pruning

- (1) The Decision-Maker may give an approval for pruning of a Remnant tree located on land in a future urban area or an area that is the subject of a subdivision design application outside of the built-up urban area under section 28 of the Act if the work is required:
  - (a) to maintain the health and structure of the tree; or
  - (b) to maintain clearance from services, or planned installation of services, if satisfied that all other reasonable locations of planned services have been exhausted; or
  - (c) as a remedial treatment.
- (2) The Decision-Maker may give an approval for major pruning of a Remnant Tree located on land in a future urban area or an area that is the subject of a subdivision design application under the above criteria in paragraph (1) if the work is considered necessary and will not:
  - (a) be likely to cause it to die; or
  - (b) significantly reduce its life expectancy; or
  - (c) significantly and adversely affects its health or stability.

### Damage (including removal)

- (3) The Decision-Maker may give an approval to damage a Remnant Tree located on land in a future urban area or an area that is the subject of a subdivision design application and outside the built-up urban area if:

- (a) if the activity would otherwise be undertaken by an administrative unit approved under section 19 of the Act if the tree was located within the built-up urban area; or
- (b) the tree has poor form or low vigour and is of low amenity or ecological value to the surrounding landscape or canopy cover; or
- (c) the tree is in decline and its life expectancy is short; or
- (d) the tree poses an unacceptable risk to public or private safety; or
- (e) the tree is shown to be causing or threatening to cause substantial damage to a substantial building, structure or service.

### **Groundwork**

- (4) The Decision-Maker may give an approval under section 28 of the Act to carry out groundwork within the tree protection zone of a remnant tree when satisfied that effective tree-sensitive groundwork methods can be observed and implemented, and the proposed methods will protect the tree's health and structural integrity.

## **Criteria 4 – Registered Trees**

### **Pruning**

- (1) The Decision-Maker may give an approval for major or minor pruning of a Registered Tree under section 28 of the Act if the work is required:
  - (a) to maintain the health and structure of the tree; or
  - (b) to maintain clearance from services; or
  - (c) as a remedial treatment.
- (2) The Decision-Maker may only give an approval for major pruning of a Registered Tree under the above criteria in 5 (1) if the work is considered necessary and:
  - (a) is not likely to cause it to die; or
  - (b) significantly reduce its life expectancy; or
  - (c) significantly and adversely affects its health or stability; or
  - (d) substantially alter the tree's shape and form.

### **Groundwork**

- (3) The Decision-Maker may give an approval under section 28 of the Act to carry out groundwork within the tree protection zone of a registered tree where the groundwork will have minimal impact on the tree if the activity complies with the conditions stated in the approval.

## **Criteria 5 – Declared Sites**

### **Groundwork**

- (1) The Decision-Maker may give approval under section 28 of the Act to carry out prohibited groundwork within a declared site if satisfied that the area of the site affected by the prohibited groundwork, and any other prohibited groundwork done with or without approval in the past 12 months, would be less than 10%.

- (2) The Decision-Maker may approve prohibited groundwork within a declared site if, on advice from the territory planning authority, the groundwork is necessary to achieve broader strategic planning objectives of the Territory Plan.

## Schedule 2

Provides examples for different terms outlined in Schedule 1, including examples of reasonable remedial treatments or measures, reasonable risk mitigation measures and damaging activities that may be approved (major pruning and tree removal).

### Examples of reasonable remedial treatments or measures

Examples of reasonable remedial treatments or measures for a regulated tree are:

- (1) crown 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, undertaken every three years; or
- (2) general pruning to remove dead, diseased, dying, or defective and conflicting branches deemed to be an unacceptable risk or detrimental to the tree, undertaken every two years; or
- (3) selective or formative pruning, to remove identified branches that are encroaching on utilities or buildings, undertaken every two years; or
- (4) crown lifting for pedestrian or vehicular access undertaken every two years; or
- (5) thinning, selective pruning or reduction pruning on trees to provide solar access and property alignment to private dwellings undertaken every two years; or
- (6) annual inspection by a qualified arboriculturist to undertake risk and hazard assessment.

### Examples of reasonable risk mitigation measures

Examples of reasonable risk mitigation measures for a regulated tree are:

- (1) the erection of fences to prevent access under the tree or an area of risk; or
- (2) landscaping to discourage access under the tree or an area of risk; or
- (3) the erection of signage warning of possible risk.

### Examples of damaging activities that may be approved for a regulated tree

Examples of the kinds of activities for which an approval for damaging activity on a regulated tree may be granted are:

- (1) removal of unsuitable or hazardous trees; or
- (2) pollarding on deciduous trees grown for horticultural amenity or on native trees to retain habitat values; or
- (3) remedial pruning to prolong the useful life expectancy of damaged trees; or
- (4) root pruning to ameliorate damage to built or natural structures; or

- (5) major pruning for fruit production; or
- (6) removal is required to provide essential access to meet Disability Standards prescribed under the *Disability Discrimination Act 1992* or requirements in the National Construction Code as adopted in the ACT.

## Examples of damaging activities that may be approved for a public tree

Examples of the kinds of activities for which an approval for damaging activity on a public tree (at applicants' own cost) may be granted are:

- (1) pruning to facilitate line of sight or movement on public land; or
- (2) pruning or prohibited groundworks for pedestrian and vehicle access, traffic safety, stormwater management, service upgrades or maintenance; or
- (3) removal, prohibited groundwork or pruning in response to a tree damage claim; or
- (4) removal of a declared pest plant; or
- (5) removal of trees in native grassland regions to facilitate restoration; or
- (6) removal where the tree was self-sown and/or is in an inappropriate location or is an inappropriate species for the location; or
- (7) prohibited groundwork to allow installation of bollards to prevent vehicle access to the verge; or
- (8) prohibited groundwork to allow for water sensitive urban design, such as tree pit infrastructure and permeable paving.

The list of examples set out in Schedule 2 do not limit the matters that the Decision-Maker may consider.

## Schedule 3

Provides a list of local ecologically beneficial tree species for the purposes of Schedule 1 and 2.

### Beneficial tree species

Botanical Name	Common Name
<i>Acacia melanoxylon</i>	Blackwood
<i>Allocasuarina verticillata</i>	Drooping She-oak
<i>Casuarina cunninghamiana</i>	River oak
<i>Eucalyptus blakelyi</i>	Blakely's red gum
<i>Eucalyptus bridgesiana</i>	Apple box
<i>Eucalyptus dives</i>	Broad leaf peppermint
<i>Eucalyptus goniocalyx</i>	Bundy
<i>Eucalyptus mannifera</i>	Red spotted gum
<i>Eucalyptus nortonii</i>	Silver bundy
<i>Eucalyptus pauciflora</i>	Snow gum
<i>Eucalyptus polyanthemus</i>	Red box
<i>Eucalyptus radiata</i>	Narrow-leaved Peppermint
<i>Eucalyptus rossii</i>	Scribbly gum
<i>Eucalyptus rubida</i>	Candle bark
<i>Eucalyptus melliodora</i>	Yellow box