



**CONSERVATION  
COUNCIL** ACT REGION

# Submission to the Conservator of Flora and Fauna: Draft Action Plan to Prevent the Loss of Mature Native Trees

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May 2022

The Conservation Council ACT Region is the peak non-government environment organisation for the Canberra region. Since 1981, we have spoken up for a healthy environment and a sustainable future for our region. We harness the collective energy, expertise and experience of our more than 40 member groups to promote sound policy and action on the environment.

We campaign for a safe climate, to protect biodiversity in our urban and natural areas, to protect and enhance our waterways, reduce waste, and promote sustainable transport and planning for our city. Working in the ACT and region to influence governments and build widespread support within the community and business, we put forward evidence-based solutions and innovative ideas for how we can live sustainably.

At a time when we need to reimagine a better future, we understand that the changes we need will only happen with the collective support of our community.

## **For further information please contact:**

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## Introduction

The Conservation Council ACT Region welcomes the opportunity to provide feedback to the Conservator of Flora and Fauna on the Draft Action Plan to Prevent the Loss of Mature Native Trees (Draft Plan) and the proactive approach to the protection of mature native trees outlined.

Mature native trees provide for the landscape in many ways, for example, by:<sup>1</sup>

- Providing nesting habitat and materials.
- Creating “Islands” or “stepping stones” across the landscape to facilitate connectivity.
- Contributing to soil conservation and stability, water quality, air quality, nutrient cycling and carbon sequestration.
- Promoting pest management by providing habitat for insectivores such as bats and birds.
- Providing foraging and shelter sites for ground-dwelling animals.
- Supporting heritage and cultural values.
- Supporting numerous and diverse invertebrate populations.
- Contributing to socio-economic wellbeing by improving mental health for residents in cities, providing shade, mitigating ‘heat island effect’, and increasing residential property prices.

The Conservation Council, in partnership with member groups: Friends of Grasslands, Australian Native Plant Society Canberra Region, Canberra Ornithologists Group, and Field Naturalists Association of Canberra, nominated the loss of native hollow-bearing trees in the ACT as a Key Threatening Process (KTP) in 2017. This nomination was accepted by the Scientific Committee and the loss of mature native trees was added to the list of KTPs in 2018.

In 2019 the Council made a submission to the Review of the Tree Protection Act (2005). The following recommendations were made in direct reference to mature native trees.

- Amendments should consider the newly listed KTP of removal of hollow trees.
- KTPs and heritage considerations should be integrated into the Tree Protection Act decision-making processes.

The submission also discussed landscape connectivity, the preservation of naturally treeless habitats, protection of small trees, canopy targets, and issues relating to tree offsetting. These concepts remain relevant. A copy can be provided upon request.

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<sup>1</sup> Victorian Department of Sustainability and Environment, undated. Loss of hollow-bearing trees from Victorian native forests and woodlands. Action Statement No 192 under the Flora and Fauna Guarantee Act 1988; NSW National Parks & Wildlife Service, 1999. Natural tree hollows essential for wildlife factsheet. Conservation Management Note; Le Roux D.S., Ikin K., Lindenmayer D.B., Manning A.D., Gibbons P., 2014. The Future of Large Old Trees in the Urban Landscape. Plos ONE 9(6); Gibbons P. and Lindenmayer D.B., 2002. Tree hollows and wildlife conservation in Australia. CSIRO Publishing, Victoria, Australia.

## Objectives and actions

The Conservation Council supports the four objectives outlined in the Draft Plan and agrees that the protection of existing mature native trees is a high priority. In general terms, the majority of the 30 actions identified are worthwhile and will be beneficial to the protection of mature native trees across urban and non-urban landscapes.

The first part of this submission will address key concerns with the action plan:

- Measure to protect mature native trees in new development areas
- Criteria for tree registration
- Data
- Timelines, resourcing, and compliance

In the table following, additional comments about specific actions are provided. Actions that haven't been mentioned are supported.

## Mature tree loss in the ACT

The results of the LiDAR analysis as described in the Draft Plan are of significant concern. The loss of 6.2% of Canberra's mature trees in only 5 years is a devastating reflection on the lack of clear and effective policy in this space, and demonstrates the importance of strong government action.

It can take up to 100 years before the unique features of mature native trees are developed, and their contribution continues to increase with age. Therefore, the ecological value of mature native trees cannot meaningfully be offset as there is a lag until trees grow to maturity. As such, the priority for the government is to ensure that mature tree loss is halted across both urban and non-urban areas.

As identified in the Draft Plan, the bulk of mature tree loss has been as a result of new urban development.<sup>2</sup> Perhaps not unexpectedly, new development areas in Molonglo and Gunghalin were where mature tree loss was at its highest across in the urban area: Coombs (22%), Denman Prospect (12.5%), Throsby (35%), Taylor (31%), Wright (42%) and Whitlam (23%).

As the ACT Government considers further greenfield development, mechanisms must be put in place to protect mature native trees otherwise risk losing key habitat and biodiversity value across the landscape. Yet the Draft Plan is not specific about the legislative mechanism that will need to be put in place to protect mature trees either via the tree protection regime or the planning regime. The Conservation Council is of the view that while the actions outlined in the Draft Plan are worthwhile, they won't be enough to stem the tide of mature tree loss without the new Urban Forest Bill and the Planning and Development Act strengthening the commitment to mature native tree protection.

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<sup>2</sup> Draft Action Plan to Prevent the Loss of Mature Native Trees (2022), p15.

## Measures to protect mature native trees in new development areas

The regulation of trees across urban and future urban areas is currently regulated by the *Tree Protection Act 2005*, expected to be superseded by the *Urban Forest Bill 2022*. In addition the *Planning and Development Act 2007* is also expected to be superseded by the *Planning Bill 2022* which is as yet still out for consultation. As such, the current Draft Plan points to the Tree Protection Act, but identifies some of the changes that will likely be implemented in the Urban Forest Bill, for example, the size of regulated trees and the addition of dead native trees into the regulated tree category.

More difficult to map are the relationships between the advice of the Conservator in regards to mature native trees, and in particular with regard to new developments on greenfield sites. In the *Planning Bill 2022*, s184 and 185 indicate where development approvals can be granted even if they are inconsistent with the Conservator's advice on protected trees. The proposed provisions vary depending on whether trees are regulated or registered, and whether the development proposal has Territory Priority Project (TPP) status.

Most developments on new greenfield sites would be likely to trigger the preparation of an Environmental Impact Statement. The consideration of the loss of mature native trees as a Key Threatening Process under the Nature Conservation Act, and the policy direction outlined in this Draft Plan, should ensure assessment of mature native trees are included in scope and addressed in the EIS. Under planning law, Estate Development Plans must also meet the Estate Development Code (EDC), another mechanism where regulation for the protection of mature trees could be implemented. The current Estate Development Code will also be reviewed in the wider review of the Territory Plan in late 2022. Caution around using this mechanism to regulate may be needed should the EDC be overly discretionary or "outcomes based" in regards to mature native trees.

Irrespective of the mechanism, the following objectives should be regulated to ensure protection of mature trees in new urban areas:

- Early identification and mapping of mature native trees in new development areas, prior to estate planning commencing.
- Requirements to retain mature native trees in new development areas, and only remove trees as a last resort.
- Tree retention and recruitment plans for new development areas prior to submitting the development application (as flagged in the Urban Forest Bill) - including the use of urban reserves to provide connectivity and ecological protection for mature native trees.
- Mandatory percentage targets for the retention of trees in greenfield developments.

## Criteria for registration of trees

Criteria for mature native trees should consider protection of trees based on their ecological value and differ depending on species. Revised criteria for registration of trees should explicitly include a reference to mature native trees.

Not every ecologically significant tree will necessarily fulfil certain criteria such as those outlined in the draft *Urban Forest Bill 2022*. Similarly, not every tree that does fulfil the criteria will be ecologically significant. For example Blue Gums, whilst native, carry a high fire risk and can invade native remnants owing to their fast regeneration rates, making them not ideal for protection. Meanwhile, as recognised in the Scientific Committee’s Conservation Advice as quoted in the Draft Plan, some trees grow slowly such that they may be relatively small but still significant to the ecosystem function by providing for hollows or connectivity.<sup>3</sup> As such, consideration should be given to registering smaller native trees (for example with 50cm DBH) as an acknowledgement of their ecological value, and their importance in continuing the cycle of mature trees across the landscape.

Current criteria for tree registration under the Tree Protection Act (DA2018-50) only applies to trees that are in “built-up urban areas”. Trees outside built up urban areas would need to be protected via the mechanisms outlined above. Registration of mature native trees across the urban landscape should be a priority.

## Data

The Conservation Council supports the Draft Plan’s commitment to further research on mature native trees. Specifically, the Draft Plan provides for:

- LiDAR analysis that maps the trajectory of mature tree loss over time in the ACT (Action 4).<sup>4</sup>
- Identifying and evaluating isolated public urban trees of high value (Action 5).
- Research into the ecology of key fauna species and their habitat use in the urban context, including identifying species at risk from loss of mature native trees; and developing models to evaluate connectivity for taxonomic groups other than birds. (Action 8).
- Research into the effects of prescribed burns and fires on mature native trees (Actions 23 and 24).
- Research into the effects of deer on mature native trees (Action 26).
- Analysis of Eucalyptus die back (Action 27).
- Research into the effects of Climate Change on mature native trees (Action 28).

Research and data should be made publicly available. Publishing results of research projects enables the community to evaluate the findings and provide feedback, and provides a method for other researchers and citizen scientists to build upon ideas and confirm results.

The research opportunities outlined in the Draft Plan have a particular emphasis on urban contexts (for example see actions 4, 5, and 8). It is recommended that research on all of the above mentioned issues should be carried out across all landscape contexts, including rural areas, reserves, and national parks; as well as urban environments.

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<sup>3</sup> Draft Action Plan to Prevent the Loss of Mature Native Trees (2022), p8.

<sup>4</sup> Draft Action Plan to Prevent the Loss of Mature Native Trees (2022), p14.

## Timelines, resourcing and compliance

The Draft Plan lacks timelines and a clear priority or sequences of action. It would be helpful for the Plan to identify when commitments will be met, to provide some accountability to the community. This is particularly important given the ongoing loss of mature native trees that has occurred over the 5 year period from 2015-2020. Assigning timelines is something that is done in other government policy documents, such as the ACT Urban Forest Strategy which provides indicators with each action point such as “immediate”, “medium” and “ongoing”. The ACT Climate Strategy goes further, aligning goals with particular dates and directorate.

Many of the actions will also require resourcing, and the prioritisation of actions may depend on the resourcing available.

Resourcing of community education and compliance in the action plan and implementation of the Urban Forest Strategy will be crucial to its success. Consideration could be given to establishing a specialised team that is resourced with compliance officers, community engagement staff, ecologists and arborists. A designated team could provide a central touch point (similar to the current biosecurity task force) to ensure that each action of the Plan cooperates to achieve its objectives.

## Key Recommendations

1. Regulation for the protection of mature native trees in new urban areas should include:
  - a. Early identification and mapping of mature native trees in new development areas, prior to estate planning commencing.
  - b. Requirements to retain mature native trees in new development areas, and only remove trees as a last resort.
  - c. Tree retention and recruitment plans for new development areas prior to submitting the development application (as flagged in the Urban Forest Bill) - including the use of urban reserves to provide connectivity and ecological protection for mature native trees.
  - d. Mandatory percentage targets for the retention of trees in greenfield developments.
2. Criteria for mature native trees should be strengthened to consider protection of trees based on their ecological value and differ depending on species. Revised criteria for registration of trees should explicitly include a reference to mature native trees.
3. All research and data should be made publicly available.
4. Research should be carried out across all landscape contexts, including rural areas, reserves, and national parks; as well as urban environments.
5. Actions should be prioritised and timelined.
6. Consideration should be given to establishing a multi-disciplinary team to support the implementation of this Plan and the Urban Forest Strategy.

<b>No</b>	<b>Action</b>	<b>Comments and Recommendations</b>
1.	Develop consistent tree management policy for ACT Government employees and contractors in the urban context.	<p>Supported.</p> <p>Ensure that definitions and policy guidelines are species and context specific to provide for all trees of value.</p> <p>Consider an audit mechanism to ensure that policy is fully implemented by ACT Government employees and contractors.</p>
2.	Review and revise regulated tree criteria.	<p>Supported.</p> <p>The intention of ensuring that the legal definition of “regulated tree” is consistent with ecological data is welcome. Ensure that the definition of regulated tree is context and species specific, considering a range of biodiversity factors such as connectivity, and presence of hollows.</p>
3.	Define an ‘exceptional’ tree using quantitative criteria.	Supported. See above.
4.	Use technologies to determine the extent of mature native trees in Canberra.	<p>Supported.</p> <p>The production of this data on the ACT Government’s Open Data Geospatial Catalogue is welcome. Data should continue to be made publicly available. LiDar and modelling should be extended to map trees in non-urban areas.</p>

5.	Develop policy for identifying and evaluating isolated public urban trees of high ecological priority for retention and protection.	<p>Supported, however, mapping should occur across all areas, not just urban.</p> <p>It is unclear how this will be implemented in a timely way to build the knowledge base about trees of high ecological value across the urban landscape. Relying on the public and ad hoc engagement by contractors is unlikely to suffice.</p> <p>Consideration should be given to a specific team tasked with the job of identifying and evaluating trees of high ecological value.</p>
6.	Community education.	<p>Supported.</p> <p>Partnerships with local community organisations should be created to enhance the outcome of community education efforts.</p>
7.	Increase compliance and monitoring.	<p>Supported.</p> <p>The implementation of this action is non-committal in the Draft Plan. A commitment should be made to dedicated compliance positions within the TCCS Tree Protection Unit. Additional resourcing for compliance is consistent with the objectives in the Urban Forest Bill, and given the scale of the government's commitment to planting new trees across the city, should be a priority to ensure that existing and replacement trees are protected. The scale of the commitment and the requirement to manage, research, monitor, ensure compliance and report points to the need for a dedicated team.</p>
8.	Research into key fauna reliant on mature native trees in the urban context.	<p>Supported. Research should be undertaken across all areas, not just urban.</p>



		<p>The world is currently experiencing an extinction crisis.<sup>5</sup> The ACT is not immune to this, as exemplified by the recent endangered listing of our faunal emblem, the Gang-gang Cockatoo.<sup>6</sup> As outlined in the Draft Plan, mature native trees support many threatened native species, making their protection critically important to the welfare of the ACT’s biodiversity.<sup>7</sup> Considering this, researching the role that mature native trees play in supporting the biodiversity network is commended. In order for this research to be successful, it should utilise the work that local community groups are already undertaking across Canberra, notably the Canberra Ornithologists Group, Friends of Grasslands, and Landcare ACT.</p> <p>It is recommended that the ACT Government partner with local community groups to undertake research, in a model that is similar to the current Gang-gang Cockatoo working group.</p> <p>All research should be made publicly available.</p>
11.	Support for recruitment of mature native trees in greenfield development areas.	<p>Requires strengthening.</p> <p>Recruitment plans for new development should be a requirement under the Urban Forest Act and the Planning and Development Act as outlined above. “Encouraging” developers is unlikely to deliver the changed outcomes that are required to meet this objective.</p> <p>It is strongly recommended that as a part of the development application process, developers are required to:</p>

<sup>5</sup> De Vos et al, Estimating the normal background rate of species extinction, 2015; Chapman, Numbers of Living Species in Australia and the World, 2009.

<sup>6</sup> See Species Profile and Threats Database, Callocephalon fimbriatum — Gang-gang Cockatoo.

<sup>7</sup> Draft Action Plan to Prevent the Loss of Mature Native Trees (2022), p8.

		<ul style="list-style-type: none"> <li>• Provide a comprehensive tree risk assessment and rehabilitation plan to demonstrate how MNT recruitment will be nurtured.</li> <li>• Demonstrate how they will support the ecological outcomes and recruit a healthy understory through the inclusion of urban conservation parks / reserves.</li> </ul>
12.	Plant trees in urban spaces.	<p>Supported, however, reframing is recommended.</p> <p>Planting trees in urban spaces is a positive action for many reasons as outlined in the Draft Plan.<sup>8</sup> Considerations in addition to selecting native trees and climate appropriate species, should extend to issues of connectivity, altitude, the need to support populations of local species, and existing ecosystems (For example, not every habitat is supposed to have trees, eg. A unique feature of Natural Temperate Grasslands, a critically endangered ecosystem in the ACT, is the absence of trees.)</p> <p>Providing advice in planting documents is welcome, however, current ACT planting guides are not always an appropriate baseline. For example, ACT planting guides currently recommend many invasive species that are inappropriate for the ACT environment such as Cabbage Tree (<i>Cordyline australis</i>), Chinese Elm (<i>Ulmus parvifolia</i>), and Snowy River Wattle (<i>Acacia boormanii</i>).</p> <p>The Conservation Council maintains that ACT planting guides require review. A planting guide should be designed that contains specific advice for a diverse range of ecosystems.</p>
13.	Landscape for the protection of small trees.	Supported.

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<sup>8</sup> Draft Action Plan to Prevent the Loss of Mature Native Trees (2022), p9.

		It is noted that in the 2019 draft release of the Mature Tree Action Plan included an action on “mini reserves” that has now been removed. It is recommended that this action be reinstated under Action 13 and Action 11. Urban reserves play an important role in supporting and protecting groups of mature native trees with appropriate understory
<b>14.</b>	Protection of existing mature native trees through Land Management Agreements.	Supported. Provide practical assistance and incentives to lessees and land managers.
<b>15.</b>	Protection of existing of mature native trees at broadacre sites	See above.
<b>16.</b>	Grant funding for expert support on understory retention in the agricultural context.	Supported. Provide practical assistance and incentives to lessees and land managers.