



**CONSERVATION
COUNCIL** ACT REGION

Submission to TCCS, ACT Government: *Urban Forest Bill 2022*

June 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:

Helen Oakey, Executive Director, director@conservationcouncil.org.au.

Introduction

The Conservation Council ACT Region welcomes the opportunity to provide feedback to Transport Canberra and City Services on the *draft Urban Forest Bill* (the Bill). Updating the *Tree Protection Act* (the Act) to increase protections for trees, maintain and build the urban forest across our city, support biodiversity outcomes and increase canopy cover is supported. It is recommended that the Bill be revised to:

In the face of the dual climate and extinction crises, trees have an important role to play in climate action and biodiversity conservation.¹ Urban trees can support improved biodiversity outcomes for our city, by providing habitat for native species, and supporting connectivity between habitats across the urban landscape. Trees provide for the landscape in many ways, for example, by:²

- Providing nesting habitat and materials.
- 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.

In 2019 the Council made a submission to the Review of the Tree Protection Act (2005). Recommendations were made in reference to:

- The objects of the Act;
- The consideration of biodiversity throughout the Act;
- Tree protection criteria;
- Implementation of the Act;
- A tree offsetting scheme;
- A tree fund;
- The role of a tree curator;
- Provisions for new plantings;
- Community engagement.

¹ See: Williams, K.J., Ford, A., Rosauer, D.F., Silva, N.D., Mittermeier, R., Bruce, C., Margules, C. 2011. Forests of East Australia: the 35th biodiversity hotspot. In: Keith, D.A. (ed). Biodiversity hotspots, pp 295-310. Springer, Berlin, Heidelberg.

² 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.

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

The Council also recently made a submission to the Draft Action Plan to Prevent the Loss of Mature Native Trees (the Draft Plan). The protection of mature native trees across the ACT's landscape is a high priority because of the high ecological value that they provide. The general direction of the Draft Plan was supported, however the Council's submission highlighted the following concerns:

- The protection of mature native trees in new development areas
- Criteria for tree registration
- Research and data
- Timelines, resourcing, and compliance

Due to the intersectionality of the Draft Plan and the Bill, these recommendations are pertinent. Our submission of the Draft Plan is available [here](#).

Strengthen the objects of the Bill to better support biodiversity

The objects of the *Urban Forest Bill 2022* are a significant improvement on the objects in the *Tree Protection Act 2005*, which focus on individual tree protection through a deficit based approach. Specifically, the Act defends against threats and risks to trees in the urban environment, and does not consider the wider objective of supporting and enhancing the urban forest to deliver on climate and biodiversity objectives.

It is welcome to see in the new objects an acknowledgement of the role that the urban forest can play in climate resilience, and the embedding of the tree canopy targets outlined in the ACT's Living Infrastructure Plan 2019 (clause 6(a)). In addition, it is welcome that the objects now include the enhancement of the urban forest rather than just protection (clause 6(d)).

There is a growing understanding that the urban environment provides a strong opportunity to support biodiversity objectives across the landscape in ways that haven't widely been considered in the past. While Canberra has always heralded itself as 'the Bush Capital', many of our urban areas have traditionally been planted with non-native species, from street trees through to the shrubs, grasses and vines installed on private and public gardens across the urban form. The separation between our urban and non-urban landscape has led to inconsistent land management practices and different cultures across Government.

Awareness of the role that urban nature plays in supporting wider biodiversity outcomes is growing.³ For example, protecting and enhancing connectivity in urban areas provides support for species as they move across the landscape. Planting natives and endemic species within urban areas also limits weed infestations in our reserves by preventing cross contamination.⁴ Furthermore, planting of particular species can support pollination, thereby helping species be more resilient.

³ Richard Blaustein, 'Urban Biodiversity Gains New Converts: Cities around the World Are Conserving Species and Restoring Habitat' (2013) 63(2) *BioScience* 72 ('Urban Biodiversity Gains New Converts').

⁴ n 2.

Cities around the world are starting to consider 'rewilding' opportunities to support endemic species and value-add to urban green landscapes. Sweden is at the forefront of this transition. For example, 43 of Sweden's known mammal species breed in the capital Stockholm and 40% of Stockholm's terrestrial spaces are green spaces that are designed to integrate biodiversity into city life. EkoParken, in Stockholm's centre, has over 800 wildflower species and 100 nesting bird species, despite being in the centre of the country's largest city.⁵

Considering this, the objects of the Bill could be reframed to better prioritise biodiversity. Specifically, clause 6(f) states:

"To uphold the vitality of the urban forest ecosystem, including maintaining and enhancing biodiversity, habitat and resources for wildlife."

The use of the phrase 'vitality of the urban forest ecosystem' is problematic in that it is unclear exactly what 'vitality' or 'urban forest ecosystem' means in this context. If the intention of the Bill is to support wider biodiversity objectives that are articulated in management plans and other legislation, then it would be clearer to include 'biodiversity outcomes' at the heart of the objective. For example:

'To maintain and strengthen biodiversity outcomes across the ACT region by protecting and enhancing ecosystem services provided by the urban forest, such as habitat, food, and landscape connectivity.'

Holistic biodiversity objectives should also be elevated to sit under the climate resilience objectives - improving climate and biodiversity outcomes for the city, as well as meeting the tangible tree canopy targets, are the overarching objectives.

Protection of mature native trees in new urban areas

Of key concern, and identified in the recently released Draft Mature Tree Action Plan, is the protection of mature native trees that have high ecological value, and which are at particular risk of loss in new development areas. Indeed, the MTAP identified that the highest rate of mature tree loss occurred between 2015 and 2020 in the new development areas of Molonglo and Gungahlin.

The *Urban Forest Bill*, unlike its predecessor, extends its remit into future urban areas and areas that are the subject of an estate development plan (clause 9(1)(b)). Trees protected in these areas are registered trees and remnant trees, which are defined as:

'A native tree that is a remnant of, or has regenerated from, the original ecological community, before the land where the tree is located was developed'

Aside from the awkward phrasing of this definition, the concept could more clearly be defined as "native trees that are endemic to the region in the future urban area or the area that is the subject of an estate development plan."

However, both of these definitions risk impacting on trees that may offer ecological value, and that could have been planted as a result of regeneration activities that occurred

⁵ n 3.

previously in the FUA or area subject to the EDP, but may not be endemic species. There may be some of these species that are considered worthwhile to be kept, despite not meeting the criteria for a remnant tree. In the current framework, these trees, not yet able to be registered, would not be protected.

Registration of mature native trees

While mature native trees in future development areas or areas that are the subject of estate development plans are likely to qualify to be registered trees on the basis of their ecological value, to date they have not been able to be registered as the current criteria for registration (DI2018-50) only allows for trees in “built-up urban areas”.

As such many mature native trees in FUA or EDP areas will not be afforded the level of protection of registered trees in the Bill. In the context of the Planning system, this is a significantly lower level of protection, as outlined below (see Intersection with Planning Regime).

Identifying, mapping, and registration of appropriate mature native trees in future urban areas and areas subject to estate development plans should be a high priority, and this should occur at the commencement of any development approval processes, and be required by the developer.

To ensure consistency with the provisions in the Urban Forest Bill, and the definition of a regi(DI2018-50) should be amended to widen the scope of registered trees to include future urban areas and areas subject to an Estate Development Plan.

The Draft Mature Tree Action also recommended that the criteria in regards to the scientific value of trees be expanded and clarified to incorporate up to date criteria for the protection of ecologically important trees.

Protection of ‘remnant trees’ in new development areas

It is a positive step for the Bill to identify “remnant trees” as protected trees and under the remit of the Bill. The ‘future urban forest’ in these areas will be significantly impacted in the short to medium term if mature native trees are lost from the landscape. In addition, the loss of mature native trees has been identified as a Key Threatening Process under the Nature Conservation Act 2014. The removal of species such as Yellow Box (*Eucalyptus melliodora*), Scribbly Gum (*E. rossii*) and Blakely’s Red Gum (*E. blakelyi*) is likely to lead to biodiversity loss, something that would be at odds with the objects of the Bill. However, it remains unclear how this Bill, in conjunction with the existing and proposed planning legislation, will ensure the protection required to stop the loss of mature native trees.

Management of remnant (not registered) trees

It is unclear what protections are afforded remnant trees in future urban areas or estate development areas by the Urban Forest Bill. ‘Remnant trees’ are protected trees, (and in built up urban areas, may also be identified as regulated trees should they meet height / width criteria under the definition of a regulated tree in clause 11.)

As protected trees under the Bill, they will trigger conservator decisions in regards to:

- Application for approval a tree damaging etc activity

- Approval in urgent circumstances or for minor works
- Decision on approval application—canopy contribution agreements
- Tree protection directions
- Contravention of tree protection direction—action by authorised person
- Tree bonds and tree bond agreements
- Internal review notices
- Delegation of decision-maker’s functions

However, the treatment of remnant trees in an estate development or future urban area context under the Urban Forest Bill does not demand the strategic preparation and planning for tree management that would allow maximum retention and protection of mature native trees as new suburbs are developed. Rather, the Urban Forest Bill appears to take a “tree by tree” approach that is not likely to be suitable when planning new suburbs around valuable native trees that are scattered across the landscape, and maximising the outcome of tree retention in this context.

The *Planning and Development Act 2005* does outline that Tree Management Plans may form part of an Estate Development Plan, however there is no mandated requirement to consider tree protection in a holistic way. Estate Development Plans must meet the Estate Development Code (EDC), another mechanism whereby stronger requirements could be regulated for the protection of mature trees.

While the current provision in the Estate Development Code that relates to trees is mandatory, (and it should stay mandatory in any new draft of the Territory Plan) the rule does not require the developer to do anything specific; rather they just ensure the developer refers the development application to the Conservator.

The rules states that: Tree protection

R37 This rule applies to a development that has one or more of the following characteristics:

- a) requires groundwork within the tree protection zone of a protected tree
- b) is likely to cause damage to or removal of any protected trees
- c) is a declared site.

The authority shall refer the development application to the Conservator or Flora and Fauna. Note 1: The authority will consider any advice from the Conservator or Flora and Fauna before determining the application. Note 2: Protected tree and declared site are defined under the Tree Protection Act 2005. This is a mandatory requirement. There is no applicable criteria.

The current Estate Development Code will be reviewed as part of the wider review of the Territory Plan due for public release in late 2022. A new rule under the Estate Development Code in regards to protected trees could be strengthened and include specific provisions

As was outlined in the Council’s [submission on the Draft Mature Tree Action Plan](#) (page 3), 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.

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. With the right requirements in place within the EIS / Planning approvals process, developers could be compelled to identify, map and protect mature native trees, and a plan for the mitigation of tree loss should be approved by the conservator.

However, it remains true that neither the *Urban Forest Bill*, nor the current *Planning and Development Act*, nor the draft *Planning Bill* include a simple, clear and definitive process that will ensure that trees, including mature native trees, are protected as new suburbs are developed.

Conservator's advice should be heeded for protected trees

Referring developments to the Conservator, in itself, depending on the circumstance, does little to protect trees.

Under the *Planning and Development Act 2007* when the conservator's advice is considered in relation to the removal of trees, a higher level of protection is afforded registered trees over remnant and regulated (including some remnant) trees.

Development approvals under the Merit Track must not be given if the development will affect a registered tree or site (s119(1)(c)) and the approval is inconsistent with the conservator's advice. This extends to Impact Track proposals. However, under s119A and s128A, this does not apply in proposals relating to the light rail project - development approvals are not required to be consistent with the conservator's advice on the light rail project.

In the new draft *Planning Bill 2022*, the general intention is maintained - advice in relation to registered trees and declared sites is given a higher priority than advice in regards to remnant and regulated trees, and development approvals should not be granted unless they are consistent with the conservator's advice. The new category of Territory Priority Projects (TPPs) will be afforded similar provisions to the light rail project (indeed the light rail project has been used as an example of what might constitute a TPP under the new legislation) and projects that are approved as a TPP will be able to be approved by the chief planner even if the approval is inconsistent with the advice of the conservator (cl 185). An additional provision of the Bill is that the chief planner, in approving a DA that is inconsistent with the conservator's advice, is able to do so if satisfied that the proposal is

consistent with the offsets policy (cl 185 (2)(c)(i)). In relation to protection of mature native trees, it is difficult to see how that requirement could easily be met.

The Planning and Development Act 2005 also has provisions in relation to regulated trees under Deciding Development Applications (s162) that allow for tree management plans to be modified or approved:

- (6) If the planning and land authority approves a development application that relates to a regulated tree, the authority may, under this section—
 - (a) if a tree management plan is already in force for the tree— approve an amendment of, or replacement for, the tree management plan; or
 - (b) in any other case—approve a tree management plan for the tree.

These provisions are replicated in the Planning Bill 2022 at c180.

The total mature tree loss across urban Canberra (excluding nature reserves and exotic pine plantation) between 2015 and 2020 was 14,455 or 6.2% of the total mature trees, as at 2015.⁶ The bulk of this has been as a result of new urban development.⁷ 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%).

It is an indictment of the ACT's current planning rules that the largest loss of mature trees in the ACT urban landscape was as a result of new development areas. The capacity of the development approvals process to ignore advice provided by the conservator on remnant or regulated trees, and to amend tree management plans for regulated trees, is clearly not working. Given that trees outside the built up urban area are currently not able to be registered, there is little or no protection afforded to trees in future urban areas / areas subject to estate development plans.

Strengthen the criteria for protected trees

Height Criteria

Per clause 11(1)(a)(i) of the Bill, a living tree is regulated if it is 8m high and on leased land. It is noted that this is a reduction from the height requirement as set out in s10(1)(a) which is 12m. Reducing the height requirement for what constitutes a regulated tree is supported, however, when comparing the Bill to other regulations across Australia, it is evident that the 8m requirement in the Bill is inconsistent with other jurisdictions, which on average, set height requirements for protected trees at 4.6m.⁸

Table 1, below summarises the tree height requirements of analogous tree protection regulations across Australia.

⁶ Draft Action Plan to Prevent the Loss of Mature Native Trees (2022), p14.

⁷ Draft Action Plan to Prevent the Loss of Mature Native Trees (2022), p15.

⁸ Tom Morrison, Joanna Wells and Craig Wilkins, *Comparison of Australia's Tree Laws* (Conservation Council South Australia, 2021) <https://www.conservation.sa.org.au/tree_laws_21>.

| Table 1 | |
|---|-------------------------------|
| LGA | Tree Height |
| Camden Council | 3 Metres |
| Bayside City Council | 2 Metres (native vegetation)* |
| Darebin City Council | 8 Metres* |
| Moreland City Council | 8 Metres* |
| Lane Cove Council | 4 Metres |
| Mosman Council | 5 Metres |
| Willoughby City Council | 4 Metres |
| Hunter's Hill Council | 4 Metres |
| Woollahra Municipal Council | 5 Metres |
| North Sydney Council | 5 Metres |
| City of Ryde | 5 Metres |
| Georges River Council | 3 Metres |
| Randwick City Council | 6 Metres |
| Waverley Council | 5 Metres |
| City of Parramatta | 5 Metres |
| Inner West Council | 6 Metres |
| Strathfield Council | 4 Metres |
| City of Canterbury Bankstown | 5 Metres |
| Burwood Council | 4 Metres |
| Fairfield City Council | 4 Metres |
| Cumberland City Council | 3.6 Metres |
| Bayside Council | 3 Metres |
| Proposed ACT (Urban Forest Bill) | 8 metres |

It is recommended that the tree height requirement under clause 11(1)(a)(i) be lowered to be consistent with other regulations across Australia. Whilst it is accepted that this will vastly

expand the cohort of protected trees in the ACT however, evidence is that development in equivalent jurisdictions with similar requirements has been neither prevented nor delayed.⁹

Canopy Criteria

Per clause 11(1)(a)(ii) of the Bill, a living tree is regulated if it has a canopy width of 8m and is on leased land. Again, assessment of canopy spread/width requirements in other jurisdictions indicates that the new standards being set in the Urban Forest Bill - 8m - are well in excess of requirements in other jurisdictions - most commonly, sets canopy spread requirements for protected trees at 3m.

It is recommended that the canopy spread requirement under clause 11(1)(a)(ii) be reduced to be consistent with other jurisdictions around Australia.

Table 2 below summarises the canopy spread requirements of analogous tree protection regulations across Australia.

| Table 2 | |
|--|----------------------|
| LGA | Canopy Spread |
| Willoughby City Council | 3m or more |
| North Sydney Council | 3m or more |
| Randwick City Council | 5m or more |
| Inner West Council | 3m or more |
| Fairfield City Council | 4m or more |
| Woollahra Municipal Council | 5m or more |
| Georges River Council | 3m or more |
| Waverley Council | 2m or more |
| Burwood Council | 3m or more |
| Camden Council | 3m or more |
| Proposed ACT (Urban Forest Bill 2022) | 8m or more |

⁹ Ibid.

Circumference and Diameter Criteria

Per clause 11(1)(a)(iii) of the Bill, a living tree is regulated if it has a circumference of 1m or a diameter of at least 318mm. As above, this is an improvement on the provisions in the Act as set out in s10(1)(a); however, these revisions are still inconsistent with the rest of Australia's understanding of what should constitute a protected tree. On average, Australian councils set protected tree circumference at 64cm.¹⁰

The 1m tree circumference requirement set out in the Bill is also inconsistent with scientific understanding of what makes a tree valuable. As recognised in the Scientific Committee's Conservation Advice in the Draft Mature Tree Action 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.¹¹ Specifically, *Allocasuarina* (she oaks) and *Callitris* (cypress pines) are relatively small at maturity but still provide for the landscape.¹²

In light of this, the 1m circumference requirement in the Bill is insufficient. It is recommended that the tree circumference requirement under clause 11(1)(a)(iii) be lowered to 50cm as an acknowledgement of the ecological value of smaller trees, and their importance in continuing the cycle of trees across the landscape.

Canopy Contribution Scheme

The value of a tree

The thinking that underpins the canopy contribution scheme (CCS) outlined in Part 3 of the Bill is supported. It is important to reframe that trees have value, and that when they are to be removed, that value is recognised and compensated for. The policy of utilising a contribution scheme is relatively new in Australia and has not yet been widely applied.

The policy strikes a good balance between being specific enough to apply across the landscape but simple enough to be easily communicated to a community audience. The CCS is more nuanced than the recently announced South Australian framework, as it proposes varied contributions between homeowners and developers; and a spectrum of costs depending on location. The framework is also more consistent than NSW and Victorian models that give control of tree removal to local Councils, a model which fragments standards greatly across the landscape.

The tree values implied in the Draft Bill and associated fact sheets are relatively high in comparison to the South Australian model (outlined in Table 3 below). However, they are inconsistent with academic understanding of the economic value of a tree, and the cost of replanting and establishing a new tree. For example it has been estimated that the average amenity value of public trees in ACT streets and parks is \$10,600 per tree,¹³ and that the value

¹⁰ n 8.

¹¹ Draft Action Plan to Prevent the Loss of Mature Native Trees (2022), p8.

¹² Notifiable instrument NI2018–536 (ACT) p6.

¹³ Brack, C. L., & Merritt, W. (2005). Quantifying the asset, economic, environmental and social values of Canberra's urban forest estate. Canberra.

of ecosystem services provided by the urban forest is approximately \$27.12 million.¹⁴ The cost of replanting and establishing a new tree is approximately \$505 per native tree and \$705 for an exotic tree.¹⁵ As the research that has been used to design the CCS is not publicly available we are unable to make a specific suggestion, however, it is recommended that these studies be released to the public, and that the CCS values be adjusted in line with the whole value of a tree, and the cost of planting and establishing a new tree.

| Table 3 | | |
|--|-------------|------------|
| South Australian Canopy Contribution Legislation (as at 2021) s197 of the Planning Development and Infrastructure Act 2016 | | |
| Small Tree | Medium tree | Large Tree |
| \$300 | \$600 | \$1,200 |

Flexibility Mechanism

The ACT is fortunate to have many environmentally minded citizens. It has been reported that some Canberran’s have planned for the cessation of trees on their properties by establishing new trees prior to the death or planned removal of others. In order to accommodate this, it is recommended that a flexibility mechanism be implemented within the CCS where a person may apply to waive their contribution on the grounds that they planned for the cessation of trees and have already met the tree replacement requirements.

Pest Plants and Animals

It is noted that the Bill excludes pest species from being construed as regulated trees. This is supported as the removal of pest species should not be deterred. However, even if a tree species is a pest, it will still be contributing to the overall canopy coverage and the associated benefits that brings. It is questioned how the loss of pest plant canopy cover will be offset under the Bill, and whether or not pest species will trigger the replacement tree provisions as per when a regulated tree is removed.

Other

Site declaration

Clause 69 of the Bill proposes that the Conservator is able to make site declarations if there has been damage to a tree that was not authorised, and that site declarations can have effect for 5 years or for a longer period, as a disincentive to a proponent to damage a tree prior to or in preparation for development. A 5 year disincentive may not suffice as a strong enough disincentive for a developer who might potentially be land banking years in advance.

¹⁴Sorada Tapsuwan, Raymundo Marcos-Martinez and Heinz Schandl, ‘An Environmental-Economic Accounting of Services Provided by the Living Infrastructure in the ACT: Public Urban Forests and Irrigated Open Spaces’ 93.

¹⁵ Ibid.

Consideration should be given to extending the minimum time that a site declaration is in place under these circumstances. The provision that provides the capacity to extend the site declaration period is welcome.

Summary and Recommendations

The Bill is a positive step towards protecting Canberra's trees and preserving the city's identity as the 'bush capital'. Trees are the backbone of the landscape, cleaning the air we breathe, stabilising the soil we walk on, cooling the climate around us, and caring for the species that we love. With this in mind, the Bill presents an opportunity for the ACT to lead the way in maintaining and enhancing the urban forest to deliver on climate resilience and biodiversity objectives. Further revisions should be made to:

- prioritise biodiversity in the objects;
- better protect mature native trees, particularly in new development areas; and
- ensure that protected tree criteria and canopy contribution schemes are consistent with ecological understanding.

Recommendations

1. Elevate Object (f) to (c) and redraft to ensure that biodiversity outcomes for the ACT region are clear.
2. Review the wording of the definition of remnant trees for clarity.
3. Clarify whether 'remnant trees' should include non-native species.
4. Identify and map mature native trees, and register appropriate mature native trees in future urban areas.
5. To ensure consistency with the provisions in the Urban Forest Bill, amend criteria for tree registration (DI2018-50) to allow registration of trees in future urban areas and areas subject to an Estate Development Plan.
6. Amend the criteria for tree registration DI2018-50) in regards to the scientific value of trees to incorporate up to date criteria for the protection of ecologically important trees.
7. Irrespective of the mechanism (Urban Forest Bill or Planning Bill), require the following in law to ensure protection of mature trees in new urban areas:
 - 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.
8. Ensure there is a clear process that includes the above action that will ensure that trees, including mature native trees, are protected as new suburbs are developed.
9. Amend the Planning Bill to ensure that the conservator's advice in regards to remnant trees in future urban areas and areas subject to an Estate Development Plan is taken into account.
10. Lower tree height requirement under clause 11(1)(a)(i) to be consistent with the average requirements across other Australian jurisdictions.
11. Change tree canopy spread requirement under clause 11(1)(a)(ii) to be consistent with the average requirements across other Australian jurisdictions.
12. Lower tree circumference requirement under clause 11(1)(a)(iii) to 50cm.
13. Publically release studies upon which the Canopy Contribution Scheme values are based.
14. Adjust Canopy Contribution Scheme to reflect the value of both the cost of replanting a tree and a cost that reflects that total value of a tree that is lost.
15. Consider a flexibility mechanism within the Canopy Contribution Scheme that acknowledges that replacement trees might have already been planted prior to removal of a protected tree. .
16. Clarify whether trees that are removed and meet the definition of a pest plant should trigger a Canopy Contribution if canopy cover is lost.
17. Consider extending the minimum site declaration period in clause 69.