



STANDING COMMITTEE ON PLANNING AND URBAN SERVICES

REPORT NO.44 (APRIL 2000)

***AN APPROPRIATE TREE MANAGEMENT AND
PROTECTION POLICY FOR THE ACT***

RECOMMENDATIONS

1. That the Government prepare a draft '*Trees Policy*' based on this report and the *Discussion Paper* prepared by the ACT Tree Management Task Force, to be widely circulated in 2000 for public comment. The policy then should be reviewed in the light of that comment and released in a final version, and be made widely available (including on the Internet).
2. That a blanket Tree Preservation Order NOT be introduced, though the matter be kept under review during regular assessments of the final *Trees Policy*.

SIGNIFICANT TREE REGISTER

3. That a central element of the *Trees Policy* be a Significant Tree Register which identifies and protects trees on Territory land and on private leases, according to criteria agreed upon through a collaborative public consultation process.
4. That the *Land (Planning and Environment) Act 1991* be amended in conjunction with the establishment of a Significant Tree Register to ensure that trees listed on the Register are given legislative protection and require approval for alteration or removal.
5. That, in developing a Significant Tree Register for the ACT, the government draw on the expertise of local government and private organisations that have experience in the development and operation of Significant Tree Registers elsewhere. To this end, the government should consider calling for tenders of pre-qualified organisations to assist in the development of the Significant Tree Register.
6. That the criteria for placing trees on the Significant Tree Register include consideration of age, height and species; and that the government closely consider the Significant Tree Registers developed for the councils of North Sydney, Camden and Woollahra.

PLANNING

7. That the minimum performance standards for verge widths be increased in order to facilitate the growth of appropriate street trees.
8. That the performance standard for percentage of impervious surfaces be modified so as to facilitate tree growth on small blocks and on blocks being redeveloped.
9. That appropriate policies be introduced to protect and encourage tree growth in areas such as carparks (to include consideration of innovative surfaces rather than the usual hard, impervious surface treatment).
10. That the current review of rural property management agreements ensure appropriate protection of existing trees and provide for suitable replantings.
11. That the government review the impact on suburban treescapes of the dual occupancy policy, particularly in established, older suburbs.

RESOURCES

12. That the existing level of resourcing for tree management be urgently improved to protect and maintain Canberra's world-recognised tree asset; and that sufficient in-house resources be maintained (in government) to manage the ACT's *Trees Policy*.
13. That the *Trees Policy* be coordinated by one area of government, and that this body be adequately resourced to enable it to act as a 'one-stop' contact point for all aspects of the Policy.
14. That the section master plan process be appropriately resourced so as to ensure accurate and timely identification of all significant vegetation prior to any redevelopment.
15. That the government establish—and adequately resource—an easily accessible and well-advertised public advisory service on plant and tree maintenance, emphasising the policy of 'the right tree in the right place'.
16. That the government ensure adequate advice and funding is provided to bodies such as government schools which are increasingly expected to self-manage their tree resource.

RESEARCH

17. That research on trees be upgraded, in order not only to continue the legacy of skilled arborists like Weston and Pryor, but to promote new technology and businesses for the ACT.

18. That this research includes consideration of relocating essential services (such as water) under the road surface (in new areas), so that large street trees can be planted and maintained.

BUDGET

19. That a ‘tree management budget’—covering all activities of government—be part of the annual Budget Papers.
20. That the tree management budget outline a methodology whereby the monetary value of trees can be assessed.
21. That the tree management budget include a defined percentage of the estimated value of trees to be used for replacement and maintenance of trees.

INCENTIVES

22. That the government encourage the development of ‘partnerships’ (fostering tree planting and tree care) by community, business and other groups and individuals.
23. That appropriate public awards and incentives be developed to encourage public and commercial awareness of good tree management.

TREE SURGEONS AND PRUNING

24. That tree surgeons be accredited.
25. That a suitably high standard for pruning of amenity trees be introduced.

ASSESSMENT

26. That the Commissioner for the Environment regularly report on implementation of the *Trees Policy*, as well as on developments (in Australia and elsewhere) involving the care of trees.

COMMONWEALTH

27. That the ACT government apply pressure on the federal government to contribute to the development and on-going funding of the *Trees Policy*, in light of the Commonwealth’s responsibility to contribute to the maintenance of the national capital’s tree heritage.

**STANDING COMMITTEE ON PLANNING AND
URBAN SERVICES**

The committee was established on 28/4/98 to inquire into and report on planning and lease management, road and transport services, housing and housing assistance, government purchasing and public utilities purchasing, electricity industry and regulation, construction industry policy, parks and forests, private sector employment inspectorate, building services, environment, heritage and municipal services and any other matter (*resolution of appointment, as amended on 25/11/99*).

Committee members

Mr Harold Hird MLA (Chair)
Mr Dave Rugendyke MLA (Deputy chair)
Mr Simon Corbell MLA

Secretary – Mr Rod Power

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I. BACKGROUND

1. The inquiry into ‘an appropriate tree management and protection policy for the ACT’ commenced on 25/9/98 following a suggestion by the Minister for Urban Services, who asked the committee to ‘consider’ the Tree Management Task Force *Discussion Paper* (dated July 1998).

2. The purpose of the Tree Management Task Force was to re-examine ‘the issue of tree protection... in a more holistic manner’, following community concern about ‘removal of mature trees’ from suburban leases in 1997.¹

3. The Task Force was convened by the Department of Urban Services [DUS] and comprised representatives of three major advisory groups (the Heritage Council, the Flora and Fauna Committee, and the Environment Advisory Committee), along with DUS officials from Environment ACT, the Heritage Unit, and Canberra Urban Parks and Places.

4. *ACT for Trees* (a community based group) also provided input to the *Discussion Paper*.

Discussion Paper: review of legislation

5. The *Discussion Paper* reviewed the ‘three major Acts which are used by the ACT government to manage and protect trees’—and concluded they gave only ‘piecemeal’ protection.²

6. The *Nature Conservation Act 1980* protects native trees on unleased land but does not protect exotic or native trees on suburban leased land.³

7. The *Trespass on Territory Land Act* protects exotic and native trees ‘on unleased land or land occupied by the Territory (government premises)’.

8. The *Land (Planning and Environment) Act 1991* regulates the leasehold system and the Development Application [DA] process. But it protects trees in greenfield sites *only if* they have been identified from the start and *only until* the certificate of completion of works has been issued.

9. Further, it protects trees only if a DA is lodged.⁴ If a block is cleared ‘prior to the DA being submitted, this will not be apparent from the plans’ lodged with PALM.⁵

Discussion Paper: heritage aspects

10. The Land Act protects trees if they are listed as a ‘place’ on the Interim Heritage Places Register which then ‘may be made part of the Territory Plan when included in the ACT Heritage Places Register’.⁶ Listing requires the Heritage Council to ‘specify what measures are prudent and feasible to conserve the significance of the place’.⁷

11. But these measures ‘only have effect when a DA is lodged for a place’. Overall, the *Discussion Paper* considers the heritage process to be ‘lengthy’ and ‘cumbersome’.⁸

Discussion Paper: administrative arrangements

12. The Task Force assessed the existing administrative and management arrangements for tree protection to be ‘piecemeal’:⁹

- the *Nature Conservation Act* is administered by Environment ACT, which ‘is also responsible for approval of Property Management Agreements for rural leases’. The latter process is ‘under review’,¹⁰ but the Agreements ‘are potentially a valuable tool for managing ecologically significant trees’,¹¹
- the *Trespass on Territory Land Act* is ‘utilised by Environment ACT..., City Operations (DUS)..., and ACT Forests’,¹²
- the Land Act is administered by PALM, though the heritage provisions are administered ‘by ACT Heritage in liaison with the ACT Heritage Council and PALM’.¹³

Discussion Paper and ACT for Trees

13. The *Discussion Paper* listed the following concerns of *ACT for Trees*:

- there is a lack of Tree Protection Orders [TPOs] ‘covering leasehold land except in heritage listed areas’
- urban renewal is ‘denuding’ existing vegetation
- there is an ‘increasing number of disputes between neighbours over mature trees’
- smaller setbacks are affecting suburban streetscapes
- tree surgeons are poorly trained
- there is nil replacement ‘of farm and woodland trees’
- there is a weakened ‘culture of respect for trees’.¹⁴

Discussion Paper: approaches to a tree management strategy

14. The Discussion Paper advocates ‘a holistic approach’ to a tree management strategy involving a ‘strategic context’, a ‘planning context’ and an ‘education context’.

15. The **strategic** context involves ‘the contribution of trees to a sustainable Canberra’ and ‘the contribution of trees to the national capital and its setting’.¹⁵

16. The **planning** context in greenfield sites involves the following:

- how best to protect high-value ‘remnant eucalypts within residential urban blocks’.¹⁶ These are often removed for ‘perceived safety reasons’ as well as for the difficulties they pose for the design and construction of dwellings.¹⁷ The *Discussion Paper* asks: should they be protected by lease conditions?¹⁸
- Design and Siting issues, for example, ‘block size, verge widths, inadequate application of built to unbuilt plot ratios resulting in excessive tree removal and increase in proportion of hard cover with total runoff to water absorbent tree and ground cover’.¹⁹

This raises the question of how to have street trees in suburbs with no or minimal verges—PALM is considering ‘larger minimum performance standards for road verge widths’.²⁰

It also raises the issue of how to encourage large trees on small blocks. Again, PALM is considering larger minimum performance standards for ‘percentage of impervious surfaces’.²¹

17. The planning context in urban redevelopment involves the following issues:

- there is no protection if trees are removed before a DA is lodged. PALM hopes that section master plans ‘will identify all significant vegetation prior to any redevelopment’.²²
- how best to encourage trees ‘in inhospitable areas, for example car parks’. The *Discussion Paper* calls for policies in this area to be reviewed.²³

18. The **education** context involves the question of how to popularise the value of trees. This involves:

- information to be available when buying a property
- information on ‘what can I do on my block?’ and ‘what can I do on my nature strip?’
- the establishment of a ‘central point of contact within government for tree inquiries’
- advice on water consumption and tree selection²⁴
- information on how to protect trees on construction sites
- ‘education of building and construction trades’

- ‘education for custodians of significant trees’
- establishment of a database on trees
- preparation of an information kit on selection, protection, and management of trees
- establishment of an award scheme for good approaches.²⁵

Discussion Paper and a tree preservation order [TPO]

19. The *Discussion Paper* does not favour a TPO, concluding that:

‘On balance, the costs of implementing a TPO scheme in the ACT outweighed the benefits to be derived. Issues discussed by the Task Force in reaching this conclusion included:

- the fact that the ACT has already achieved a high degree of tree cover in the residential and public landscape without resorting to such regulation...;
- the potential for ACT government liability in the event that a tree required to be retained subsequently causes damage or injury; and
- the shortcomings demonstrated in other jurisdictions, including ongoing illegal removal of trees, insufficient monetary penalties to act as a deterrent in comparison to the returns to be derived from development of the land, and the high cost of administration’.²⁶

Discussion Paper and a significant tree register

20. The *Discussion Paper* does favour a Significant Tree Register. Such a register commenced in 1994 using ‘voluntary effort’ by the National Trust.²⁷ However, ‘no specific funds have been found for the task and progress to date has been slow’.²⁸

Discussion Paper and tree surgeons

21. The *Discussion Paper* favours accreditation or licensing of tree surgeons, who ‘could be obliged to adopt the Australian Standard AS 4373-1996 for pruning amenity trees’.²⁹

Discussion Paper: additional matters

22. In the long term, the Task Force favours inclusion of the following into a comprehensive tree strategy:

- management of environmental weeds
- how best to use timber ‘from trees which are removed’
- how to promote ‘alternative sources of firewood to regional woodlands’
- how to conserve ‘vegetation remnants as ecological communities’.³⁰

II. PUBLIC COMMENT

23. In October 1998 the Standing Committee on Planning and Urban Services placed advertisements in the local media inviting public comment on ‘an appropriate tree management and protection policy’. The committee subsequently received 30 submissions (listed in the *Appendix*).

24. Further, the committee conducted four public hearings during February-April 1999 at which the persons and organisations listed in the *Appendix* addressed the committee.

25. All of the written submissions and oral testimony was authorised for publication by the committee. It is available from the Committee Office of the Legislative Assembly (ph: 02 6205-0127).

26. **Much of the public comment reiterated points raised in the *Discussion Paper*, namely:**

- concern about Design and Siting issues in both greenfields and redevelopment areas³¹
- concern about verge protection³²
- concern about inappropriate plantings³³
- concern about tree pruning and thinning³⁴
- encouragement of the section master plan process³⁵
- concern about the incomplete nature of the Significant Tree Register³⁶
- concern about heritage aspects³⁷

- support for **not** introducing a TPO (but note a later section of this report dealing with calls for a TPO to be introduced)³⁸
- concern about the tree replanting program³⁹
- concern about lack of replanting, on rural leases, of ‘the older 100-300 year old major gum tree stock’⁴⁰
- concern about neighbourhood disputes⁴¹
- encouragement of mediation ‘as a first step to resolving [neighbourhood] disputes over trees’⁴²
- concern about the DA process⁴³
- concern about the piecemeal/fragmented management of trees by government⁴⁴
- encouragement of greater education about trees⁴⁵
- encouragement of greater tree research⁴⁶
- concern about ‘the poor state of trees in carparks’⁴⁷
- calls for arborists and tree surgeons to ‘be registered according to criteria developed by the National Arborists Association of Australia’⁴⁸
- support for ‘tree management data bases’, particularly as these identify ‘potentially hazardous trees and... [assist in] formulating management strategies’⁴⁹.

27. **Some public comment raised issues not mentioned in the *Discussion Paper*.** These include:

- ‘the species of trees replanted should be as varied as it is today’⁵⁰
- stormwater retention should be encouraged⁵¹
- new materials and methods (to encourage tree growth) should be used (for example, ‘deep trench root barrier membrane, installed at the time of new tree planting’)⁵²
- school-based management means that schools ‘are responsible for the management of the trees’ but they are likely to devote their limited resources to other concerns: ‘caring for the trees will come later’ However, if a child is hurt by a falling branch, there is likely to ‘be a knee-jerk reaction to remove trees from schools’⁵³

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- a publication like the 1993 *Canberra Landscape Guidelines* should be widely disseminated ('it covers not only trees and the landscape but also... signposting and street furniture...')⁵⁴
- residents should be consulted about street tree replacement and the replacement of trees in urban parks⁵⁵
- there should be greater coordination of work on essential services in residential streets, in order to minimise tree damage; and this work should be done by 'professional arborists',⁵⁶
- 'partnerships in tree care' should be encouraged, involving community and commercial groups along with the government. As a first step, the government should report 'on possible forms and principles of responsible partnerships and ventures', perhaps involving the CSIRO⁵⁷
- the ACT should take up an offer by the Local Government Tree Resources Association to support partnership initiatives⁵⁸
- the government should promote the link between the BRL Hardy Winery complex and the cork plantation at Glenloch Interchange: this will assist the care of the cork plantation⁵⁹
- the government should prepare 'discussion papers... to promote public examination' of methods to value trees in monetary terms, 'including in consultation with the Commissioner for the Environment',⁶⁰
- 'a tree management budget for the ACT [should be prepared] as part of annual budget papers and process'. It should include 'a recurrent basis of a defined percentage of the estimated capital value of the urban tree stock plus other targets to increase the current stock'.⁶¹ To date, 'the most acceptable' attempt in Australia to quantify tree values 'in monetary terms' is 'being developed by the Australian Institute of Horticulture Inc [AIH]... [It puts a value on] occurrence, historical association, location, form and vigour, live crown size... and life expectancy... If applied to the Bunya Bunya... planted in Kings Avenue in 1927 by the Duke of York the AIH method produces a value of over \$23,000. A remnant Woodland Red Gum... would be valued at about \$9,700',⁶²
- the government should report 'on progress, methods and issues of budgeting for tree resources, the regular monitoring and public reporting on urban and non-urban public tree stocks and conditions'. Such reporting should be included in the government's 'proposed environmental accounting' as well as in its normal accrual accounting. The report should cover what government agencies are doing—and are planning to do—in tree research and development⁶³

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- the government should set out its priorities for tree management ‘for the next three-five years’ following ‘consultation with community, research and commercial interests and the Commissioner for the Environment’,⁶⁴
- the government should consider ‘a set of public awards and incentives to promote public... and commercial awareness and involvement in good tree management, including with opportunities for commercial and media contributions’⁶⁵
- Cootamundra Wattle should not be treated as a weed⁶⁶
- ‘noxious weed legislation’ is needed⁶⁷
- the existing ‘wide exemptions’ regarding tree protection outside the built-up area (under the *Nature Conservation Act 1980*) should ‘be narrowed or removed’⁶⁸
- there should be provision to allow ‘any person to [ask] the Conservator to issue a direction [to protect native trees under the *Nature Conservation Act*] and a right of review in the AAT should he or she fail to do so’⁶⁹
- the provisions of the *Nature Conservation Act* dealing with ‘management agreements between the Conservator and various service utilities’ should be ‘extended to all relevant agencies, and the Conservator could be obliged to propose agreements if activities conflict with land management objectives, particularly protection of native trees’⁷⁰
- ‘the level of penalties under the *Trespass on Territory Land Act 1932* should be reviewed and increased’⁷¹
- consideration should be given to preparing ‘a new piece of legislation which dealt specifically with trees’⁷²
- there should be an obligation on office property owners/managers to protect important trees, such as the ‘three large white poplars [which are] important to the public amenity adjacent to the Albermerle Building in Woden’⁷³
- ACTEW’s higher-priced water has ‘the unintended consequence of residents leaving watering of street trees to the government, rather than seeing themselves as having some responsibility’⁷⁴
- building inspectors should be ‘delegated power from the Conservator... under the *Nature Conservation Act 1980* to be able to enforce regulations on the verge’⁷⁵
- ‘the federal government needs to be involved in the development of a ten-year plan to fund, protect and support the national Capital’s arboreal resource. Canberra tree plantings over many decades were initiated by the federal government... on behalf of

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the people of Australia. A degree of on-going financial support is required over and above what is provided by the local community⁷⁶

- government resources are ‘being cut in operational and management areas at a time when many ACT trees are ageing and require a lot of work’⁷⁷
- ‘tourism is an important industry’ in the ACT, and many visitors are attracted by the beauty of the trees⁷⁸
- the ACT’s membership of the UN’s *Cities for Climate Protection Campaign* involves a commitment to measures ‘that achieve measurable reductions in greenhouse gas emissions; improve air quality, and enhance urban liveability and sustainability’⁷⁹
- the Land Act should be amended to include ‘tree-felling’ as a “development”, subject to approval by PALM⁸⁰
- the front setback of private properties should ‘be seen as a significant part of the total streetscape’ and therefore subject to tree protection⁸¹
- any person should be able to nominate a tree ‘for insertion onto a register... [to] be developed parallel to, or along with, the Register of Significant Trees’⁸²
- ‘the onus of proof [should be] on the department to show that a tree is unsafe... [in regard] to habitat trees on development sites’⁸³
- the government should ‘establish an advisory group comprised of government, commercial, research and environmental organisations which would explore possibilities for innovation in relation to tree research, propagation, and management’⁸⁴
- ‘an annual tree report [should be included] in the *ACT State of the Environment Report*’⁸⁵
- ‘the usual 13 weeks consolidation period [for] newly planted/recently handed over trees’ is insufficient, because it often means trees are cut short of the watering they need. A time period of ‘12 or even 18 months’ should be considered⁸⁶
- consideration should be given to using ‘the road as the service corridor’ rather than the verges, in order to ensure priority for trees over infrastructure services such as water, sewer, etc. ‘This will at least return the roadside spaces to “nature strips” [and] provide the opportunity to extend the treescape of inner or older Canberra into the new areas’⁸⁷
- the Society for Growing Australian Plants disagrees with the *Discussion Paper* on one point, stating that ‘for simplicity, the tree policy should not become involved in related issues such as recycling of cut trees as suggested in... the draft policy’

- more native trees should be planted⁸⁸
- there should be ‘some provision in legislation’ to require owners to remove dangerous trees on their blocks⁸⁹
- there should be an increase in ‘trained staff and depots for the adequate on-going maintenance of trees’⁹⁰
- the community should pay for maintenance of ‘all of the old original large eucalyptus trees’, whether on public or private property⁹¹
- disputes between neighbours over trees would not arise if the dispute was confined to ‘the government and the citizen, based on clearly defined rules’.⁹²

28. A number of submitters strongly disagreed with the Task Force’s conclusion about TPOs, including:

- Ms Tucker MLA submitted that the Task Force ‘was too dismissive of the TPOs in place in other parts of Australia, particularly in most local governments in NSW’. She considers that, ‘in terms of legislative change... the critical gap that needs to be addressed is the removal of trees on private land in the urban area’. Ms Tucker submits that TPOs are needed in order to protect trees ‘on blocks where no redevelopment is being contemplated in the near future’. She recommends that a person wishing to fell a tree over five metres high must first obtain a licence from the Conservator; that adjoining lessees should be notified; that appeal rights should exist (to the AAT); and that fines should apply
- Mrs Forrest submitted that a home owner or tenant should be fined if a tree is removed; and a developer should be required to lodge ‘a bond for each tree, to be retained for two years after construction is complete... [and] forfeited’ if trees die
- Turner Residents Association submitted: ‘The benefits of TPOs outweigh the problems’; and TPOs should especially apply ‘to certain vulnerable locational areas, such as inner city redevelopment areas’
- Mr Pratten submitted that the reasons given by the Task Force ‘for not having a TPO... are really only excuses to cover the main reason which is that it will mean a financial commitment’
- Ms Geue submits: ‘It is essential that we bite the bullet with the introduction of a TPO system for trees on urban blocks’
- the EDO states: ‘TPOs are a well recognised planning instrument in NSW’. But if they are not introduced into the ACT, then ‘the existing legislative provisions need to

be reformed to remove unnecessary exceptions and to make them more amenable to use by the relevant authorities, concerned individuals or groups’.

III. CONCLUSION

29. The committee understands that there are ‘about 600,000 trees on public land in the urban area... [with] perhaps a little more on private land’.⁹³ The committee has no doubt about the significance of this valuable resource. It warrants careful and skilful management in order for it to be enjoyed by future generations.

30. The committee appreciates the careful thought that has gone into the *Discussion Paper*, which serves a useful purpose in drawing out a number of key issues involving the long-term maintenance of trees in the ACT. However, the Paper ‘stops short of supporting a tree management strategy which would integrate the planning and action around trees within the government and be partly negotiated with the federal government. Nor does it spell out the requirement for routine tree care reflecting the different stages of the life cycle of trees and the need for a specific budget allocation’.⁹⁴

31. The committee hopes that its own inquiry—culminating in this report—has identified other issues which should be addressed in a comprehensive tree management strategy.

32. The committee has greatly benefited from the detailed information made available during the inquiry. Among this wealth of information, the committee was struck by eight observations in particular. These are:

- ‘Canberra was established as the nation’s capital in 1911 on sparsely treed grazing land. Establishment of urban trees to ameliorate the dusty conditions of the windswept site was an early feature of Canberra’s development. Today, much of the city’s tree asset is reaching maturity...’⁹⁵
- ‘the trees of Canberra are a national resource and a national treasure’; hence, it is important to maintain ‘the high standards of planning and landscape design that many of us cherish when we come to Canberra’⁹⁶
- there has been a ‘long-term investment in money and beauty’ in Canberra’s trees⁹⁷
- there ‘has been a reduction in the amount of resources [devoted to trees] as the city has expanded and the tree heritage has grown. Resources are not matching the tasks at this stage’⁹⁸
- ‘Trees are a long-term investment in need of continual renewal and should not be made the victim of short-term budgetary stringencies. Canberra’s trees are its most unifying and valuable landscape asset’⁹⁹

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- ‘our trees... [are] the most valuable asset in the ACT... Without trees our city is visually and environmentally dead’¹⁰⁰
- ‘The great tree heritage of Canberra [is] being squandered, not deliberately but because of the absence of coordinated policies to nurture this heritage... There needs to be commitment to long-term funding, management and research as well as a greater awareness within government agencies of the importance of planning with trees in mind’¹⁰¹
- trees are ‘an integral part of the resources of this economy and community’. There should be ‘a systematic, broad-based, vigorous strategy for tree resource management’; and this committee’s report should ‘help [to] lead community interest, concern and cooperation in a balanced way’.¹⁰²

33. Against this background, the committee makes the recommendations set out at the front of this report.

Harold Hird MLA
Chair

April 2000

APPENDIX

(A) LIST OF SUBMISSIONS (IN ALPHABETICAL ORDER)

ACT for Trees

ANU Department of Forestry (Drs Brack & James)

Ms Brown

Mr Bryant

Mr Burdon

JP Cleaver

Mr Crockford

Dr Dobes

Mr Egan

Environmental Defender's Office (ACT)

Ms Fakes (teacher-in-charge of Arboriculture, Ryde College of TAFE)

Mrs Forrest

Ms Forster

Mr Geddes

Ms Geue

Mr Huntley

Mr Kain

Mr Macnicol

Mr McPherson

National Trust ACT

North Belconnen Landcare Group

J Pratten

Ms Rowe

Mr Scholtens

Society for Growing Australian Plants (Canberra Region Inc)

M&L Stecum

Ms Tucker MLA (*The Greens* ACT)

Turner Residents Association Inc

Ms Walsh

Mr Wilkinson

(B) WITNESSES AT THE PUBLIC HEARINGS

26/2/99

- ACT for Trees*: Ms Nairn (convenor), Mr Storey, Mr Wright (Canopy tree service)
- ACT Greens*: Ms Tucker MLA, Mr McAllister
- Conservation Council of the Southeast Region and Canberra Inc: Ms Davies (director), Mr Butler (weeds officer)
- National Trust: Dr Boden (council member)

19/3/99

- ANU Department of Forestry: Dr Brack
- Mr Bryant (landscape designer and horticultural consultant)
- Mr Crockford
- Environment Defenders Office; Ms Budavari
- Mr Geddes
- Ms Pratten (Queanbeyan Council's horticultural extension officer)
- Mr Scholtens (horticulturist, and partner in DSB Landscape Architects)
- Mr Wilkinson

6/4/99

- Mr Draper (consulting arborist and president of the Local Government Tree Resources Association)

23/4/99

- Turner Residents Association: Dr Dickins (president)
- DUS: Mr Tinson (manager, Canberra Urban Parks & Places), Mr Burnett (Environment ACT), Ms Fowler and Mr Adams (PALM)

ENDNOTES

Note that all references are to written submissions unless otherwise indicated.

¹ *Discussion Paper* p9

² *Ibid* p10

³ Unless (i) a native species is declared to have ‘special protection status’ (for example, because it may become extinct). This provision has not been used as yet;

(ii) the nest of a native animal is threatened;

(iii) the Conservator has ‘directed’ native timber on a particular site to be protected. This provision has been little used to date. [*Discussion Paper* p11]

⁴ In which case ‘the developer is required to submit a vegetation survey of the site’ which then is checked by PALM. ‘The protection of significant vegetation’ is publicly notified and, if an objection is raised, the matter is referred ‘to the independent Commissioner for Land and Planning’. Also, ‘the objector has appeals rights through the AAT’. [*Discussion Paper* p12]

⁵ Ditto

⁶ *Ibid* p13

⁷ Ditto

⁸ Ditto

⁹ *Ibid* p10 and p13

¹⁰ *Ibid* p14

¹¹ *Ibid* p13

¹² *Ibid* p14

¹³ Ditto

¹⁴ Ditto

¹⁵ *Ibid* p15

¹⁶ Ditto

¹⁷ *Ibid* p16

¹⁸ DUS considers that ‘instances are not frequent’ of a breach of lease and development conditions—and that such a breach would not mean that a developer could build on the area occupied by the tree (that is, the developer does not gain by tree removal). [Mr Tinson and Mr Adams *Transcript* p99 and p104 respectively]. However, PALM does not ‘have a regime of inspecting’ whether trees have been protected on greenfields sites [Mr Adams, *ibid* p106]

¹⁹ *Discussion Paper* p16

²⁰ Ditto. Also see *Transcript* p108

²¹ Ditto. Also see *Transcript* p109

²² *Ibid* p17

²³ Ditto

²⁴ Ibid p18

²⁵ Ditto

²⁶ Ibid p19

²⁷ Ibid p21

²⁸ Ibid p20

²⁹ Ibid p21

³⁰ Ibid p22

³¹ EDO; Turner Residents Assoc; Dr Dobes; Ms Pratten; Ms Geue; Mr Bryant; the National Trust; and others, including:

- JP Cleaver—‘there is no room for trees in urban redevelopment unless the plot ratio is reduced’

- Mr Draper—‘We have got these crazy little narrow streets where you cannot plant decent trees any more and maintain the heritage that was started here...’ [*Transcript* p85]

- Mr Geddes (8/4/99)—‘Smaller building block sizes are already sharply reducing tree plantings and density in new areas’

- *ACT for Trees*—‘planning procedures in the ACT and in the Guerilla Bay (within the Eurobodalla Shire)... are startling [in their difference]’ with respect to protection of existing trees and nature of the consultation process [supplementary submission 14/6/99]

³² Mrs Forrest; Turner Residents Assoc; *ACT for Trees* (especially concerned about inadequate monitoring by DUS); Mr Kain; Dr Dobes (who wants ‘heavy fines for builders (and residents) who damage trees on nature strips’); Ms Pratten; Mr McPherson; the National Trust; Mr Bryant; and others, including:

- Mr Scholtens—Canberra’s mature street trees were possible because of ‘the “no overhead wires in the street” policy and the provision of... a sufficiently wide nature strip’. But ‘nature strips now are barely wider than necessary to accommodate the engineering infrastructure and associated services’. This does not recognise that ‘street trees are a service (in the same way as stormwater, sewer, electrical cables, etc).’ In fact, these ‘other services should be relocated to accommodate the trees rather than vice versa or a tree not planted’ [submission]. Further, ‘verge management plans do not have any legislative or administrative teeth... [The] preservation of street trees needs to be given a much higher priority within... the Leasing and Building Sections [of PALM]’. Further, verge management plans ‘should be mandatory for all DA and BA applications in the older parts of Canberra where mature trees are a valuable public asset’. Also, the establishment of ‘little garden beds around street trees... cannot be condoned in any way’ [*Transcript* p46]

- Ms Fakes—‘Standards Australia currently has a working group considering the adoption of a modified version of the British Standard: *Guide to the Protection of Trees on Construction Sites*’ – the ACT should pursue this

-PALM—‘verge management plans are not applied to single residential redevelopment or a single

house extension. They are applied to multi-unit' developments only' [Mr Adams *Transcript* p112]

³³ Mrs Forrest; Ms Pratten; Ms Brown; Ms Fakes; and others, including:

- Mr Huntley—gum trees can be inappropriate in urban areas. The government should encourage 'trees less likely to break up during storms' and perhaps also trees less likely to encourage hay fever/asthma

- Mr Bryant—'eucalypts used as street trees [are] a possible danger to life and limb'

- *ACT for Trees*—'the Gungahlin wildlife corridors are not going to work effectively until they get the right trees into those places'. [Mr Butler *Transcript* p16]

³⁴ Mrs Forrest; Mr Kain; Ms Pratten; Mr Egan (for certain residents of Bass Gardens, Griffith); Mr McPherson; Mr Bryant; Ms Forster; M&L Stecum; and others, including:

- *ACT for Trees*—'major work on trees should be undertaken in accordance with the Australian Standard for the *Pruning of Amenity Trees* (AS4373-1996)'

- Ms Fakes—'AS4373-1996 *Pruning of Amenity Trees* took seven years to develop... and should be the basis for all pruning work performed on trees (public and private)'

- Mr Scholtens—'the maintenance of the old trees in the more established areas of Canberra' has been reduced; 'in the public sector, funds must be provided for thinning... operations'. Also, unless dense plantations at Glenloch Interchange and along Drakeford Drive are properly thinned, they 'will start to decline' [*Transcript* p46]

³⁵ The EDO; Turner Residents Assoc

³⁶ See:

- National Trust: the Significant Tree Register [STR] should be completed 'and made accessible... Although the national Trust currently maintains the STR, it does not have the resources to complete the project'

- *ACT for Trees*: The STR 'requires \$60,000... for completion. The Register needs to be integrated into PALM's database'. Also, it should have 'legislative protection and penalties [should] apply for removal of such trees without due process'

- Mr Geddes (19/3/99)—the STR should be completed 'urgently'

- Turner Residents Assoc—the STR should be available on the Internet

- EDO—the STR, once complete, 'could be incorporated into the Territory Plan and the Land Act with appropriate accompanying protective provisions'

- Society for Growing Australian Plants—the STR is needed and should include 'trees with strong cultural connections to Canberra'

³⁷ See:

- ACT for Trees—‘heritage citation of trees has recently been shown to be of only limited value in protecting significant trees’. The protection does not extend to many ‘significant trees and trees which communities believe are important’

- Ms Rowe—it is not possible at present to obtain a heritage order for a single tree, as distinct to a stand of trees. The heritage protection of a suburb like Reid should extend to protection of its ‘garden setting, mature trees and vegetation’. This would involve ‘a stay of execution order’ for three-six months to negotiate tree removal

³⁸ Mr Scholtens [*Transcript* p51]; Ms Walsh, who is concerned about the health problems arising from some trees; and

- Mr Wilkinson—A TPO to protect ‘old growth trees’ on suburban blocks is not appropriate in existing leases but could be appropriate on new leases: ‘In my view, to place discriminatory conditions on existing lessees retrospectively which limit the full use of their leases compared to neighbouring blocks simply because large trees exist would be a radical step’ and may involve compensation’.

What’s more, the original residents of what are now considered ‘mature’ suburbs (in terms of tree growth) planted their trees and shrubs ‘as close to the border [of the property] as possible in order to preserve the greatest area for their own use. Over time, this ‘heritage’ can take on grotesque proportions’ – such as the following trees along the border of a property: ‘poplar, pinus radiata, Tasmanian Blue Gum and willow’.

Further, ‘where preservation of any given tree is assessed as in the public interest, then the public should pay’ – not the leaseholder. And the government should indemnify the landowner ‘against injury/property damage’ where a tree is required to be kept.

- PALM—‘There are 100,000 residential leases... [in the ACT and so] there would be thousands of applications to process. The cost would be in the order of hundreds of thousands of dollars... the majority result would be approval of what people wanted to do. We would have to charge a fee... to cover the costs... We would have to have site inspections of every one, as you cannot approve the removal of a tree in absentia. We would [need] qualified horticulturalists or arborists to make the decisions... where a removal is refused, there are implications for liability for on-going problems. There would necessarily be an appeals process... [Also,] the incentive for people to plant trees may be reduced because of the possible implications when they might want to remove them... Balanced against [the cost of a TPO], the record of tree removal on private residential leases... is not approaching a level where there is a problem’ [Mr Adams *Transcript* pp100-101]

³⁹ Mr Kain; Ms Pratten; Mr Geddes; Mr Bryant; and others.

⁴⁰ Mr Geddes (8/4/99)

⁴¹ *ACT for Trees*; and others, including:

- Ms Walsh—PALM should be directly involved in assessing which property owner is responsible for trees causing disputes between neighbours – and this should be funded by the state. Further, ‘in the unusual situation of failure to act [by the offending neighbour] within 21 days or a month, an order could be made’

- Mr Wilkinson—legislation is required to cover the situation of danger posed by a neighbour's tree [*Transcript* p59].

⁴² EDO; North Belconnen Landcare Group; and others.

⁴³ *ACT for Trees*; Dr Dobes; and others

⁴⁴ Ms Pratten, Ms Geue; and others, including *ACT for Trees* which calls for central coordination of a trees strategy by DUS or the Chief Minister's Department or by an Authority (for example, the Environment Management Authority).

⁴⁵ Society for Growing Australian Plants; Ms Pratten; National Trust; Ms Geue; Mr Wilkinson; Mr Huntley; and others, including *ACT for Trees* which calls for 'a one-stop information point'.

⁴⁶ *ACT for Trees*; Ms Geue; Drs Brack and James (ANU Forestry), who call for the ACT to become 'a centre for urban forest excellence' [supplementary submission]; and others including Mr Draper [*Transcript* p87] and Mr Geddes [*Transcript* pp77-78].

⁴⁷ Mr Bryant; *ACT for Trees*; and others, including:

- Dr Boden [National Trust]—'Incorrect choice of species for carparks results in little shade and other management problems such as fruit drop. Species choice is as important as providing root space and adequate nutrition and water.'

⁴⁸ National Trust; *ACT for Trees*; Ms Fakes, who calls for the adoption of the NSW *Code of Practice: Amenity Tree Industry*.

⁴⁹ Ms Fakes. This call is supported by Mr Bryant and Drs Brack and James (ANU Forestry Department) who commend their DISMUT system (Decision Information System for the Management of Urban Trees). DUS told the committee that it expects this work 'to provide us with a mechanism for better managing the tree asset... [involving the number of trees,] where they are, what they are, what their age, what their conditions is, and the likely profile of expenditure in the future to make sure the asset is protected...' [Mr Tinson *Transcript* p113].

⁵⁰ JP Cleaver

⁵¹ Ditto

⁵² Ditto

⁵³ National Trust [Dr Boden *Transcript* p28]

⁵⁴ Mr Bryant [*Transcript* p43]. *Canberra Landscape Guidelines* was prepared by DUS (ACT Landscape, Public Works & Services), June 1993

⁵⁵ Mrs Forrest; *ACT for Trees*; Mr Draper [*Transcript* p84]; Mr Bryant [*Transcript* p42]

⁵⁶ Mrs Forrest

⁵⁷ Mr Geddes (8/4/99), who adds: 'At present, the main [partnerships] in the ACT... are confined to mostly non-urban landcare, some park care and limited roadside care cleaning projects'.

⁵⁸ Mr Draper *Transcript* p92

⁵⁹ Mr Geddes (19/3/99)

⁶⁰ Mr Geddes. Mr Draper told the committee that the Local Government Tree Resources Association is currently working on modifying a British Standard 'for the valuation of amenity trees.' [*Transcript* p85]

DUS told the committee that ‘there is at yet no agreement that we are aware of anywhere, either in Australia or overseas, as to how you appropriately value an asset of this nature. The arguments range from valuing them at the full value of the amenity which might be lost if the tree is removed, down to maybe recording them as a note in the accounts or valuing them at the cost of re-establishing the tree, plus the cost of the initial four or five years tending them to make sure you get the trees to a stage where they are self-sustaining. That argument probably will not be resolved for five or ten years yet, and the appropriate mechanism for recording them in the accounts will not be subject of a standard for some time’ [Mr Tinson *Transcript* p113]

⁶¹ Mr Geddes *op cit*. Mr Geddes calls on the government to report on ‘a basis...[to] estimate the value of public urban amenity trees... in line with international arboricultural practice plus a basis... [to] estimate the nominal value of heritage and significant trees’.

⁶² National Trust. *ACT for Trees* also states: ‘A commitment is needed to the application of life cycle costing to trees with a budget which bears a relationship to the assessed capital value of the tree stock on public land’.

⁶³ Mr Geddes

⁶⁴ Ditto

⁶⁵ Ditto

⁶⁶ Mr Macnicol and Mr Crockford

⁶⁷ Mr Bryant [*Transcript* p43]

⁶⁸ EDO

⁶⁹ Ditto

⁷⁰ Ditto. Also see *Transcript* p33

⁷¹ Ditto

⁷² EDO [*Transcript* p36]; also Mr Bryant [*Transcript* p45]

⁷³ *ACT for Trees*

⁷⁴ Ditto

⁷⁵ Ditto

⁷⁶ Ditto

⁷⁷ Ditto. Also Mr Bryant [*Transcript* p44]

⁷⁸ *ACT for Trees*

⁷⁹ Ditto

⁸⁰ Ditto. Dr Boden [National Trust] provided supplementary information to the committee about the report of the South Australian Urban Trees Task Force, which recommended an amendment to that State’s *Development Act* to ‘provide that removal or damage to trees in an urban setting of a prescribed class in a prescribed area... is classified as development, subject to specified exemptions’ [*A Community Tree Management Scheme for South Australia* p1]

⁸¹ *ACT for Trees*

⁸² Ditto

⁸³ Ditto

⁸⁴ Ditto

⁸⁵ Ditto

⁸⁶ Mr Scholtens

⁸⁷ Ditto. Also: 'If you accept my contention that trees are a service, and that street trees contribute significantly to the quality of life, other services should be relocated to accommodate the trees rather than vice versa or a tree not planted... Trees should be the first thing considered in designs of subdivisions, in-fill work and whatever else. They should not be the last, and they should be the last to be relocated, realigned or removed, not the first.' [*Transcript* pp48-49]

⁸⁸ Ms Geue: 'I would recommend 75% or 80% native trees to 25% or 20% overseas species'.

⁸⁹ Mr Burdon

⁹⁰ Mr Bryant, who adds: '[The] Cityscape staff are carrying out their role in an excellent manner... But they are finding it almost impossible to fulfil their function of tree management with the limited resources and the ever increasing size and spread of Canberra'.

Also Mr Scholtens: 'I do not think... [DUS has] enough resources. I think they do an excellent job within those limited resources' [*Transcript* p50]

⁹¹ Ms Walsh

⁹² Mr Wilkinson

⁹³ DUS [Mr Tinson *Transcript* p102]

⁹⁴ *ACT for Trees*

⁹⁵ *Planning the Future Management of Trees in Canberra* by JC Banks, C Brack and RN James (ANU Department of Forestry) p1 – supplementary information provided by Dr Brack

⁹⁶ Ms Fakes

⁹⁷ JP Cleaver

⁹⁸ National Trust [Dr Boden *Transcript* p30]

⁹⁹ Mr Kain

¹⁰⁰ Mr Bryant *Transcript* p39

¹⁰¹ *ACT for Trees*

¹⁰² Mr Geddes (*Transcript* p89 and submission of 19/3/99)