



**LEGISLATIVE ASSEMBLY**  
**FOR THE AUSTRALIAN CAPITAL TERRITORY**

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STANDING COMMITTEE ON PLANNING, TRANSPORT, AND CITY SERVICES  
Ms Jo Clay MLA (Chair), Ms Suzanne Orr MLA (Deputy Chair),  
Mr Mark Parton MLA

## Submission Cover Sheet

### Inquiry into Urban Forest Bill 2022

**Submission Number: 12.1**

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Email: 

### **Urban Forest Bill (UFB)**

ACT Urban Woodland Rescue is a Landcare group dedicated to the protection and enhancement of Canberra's local grassy ecosystems both within and outside the urban fabric. We formed around a pilot project which is restoring the understorey and middle storey of Box Gum Woodland to a small pocket park in Weston to protect mature and hollow bearing trees.

The Tree Protection Act 2005 (TPA) is central to the protection of Canberra's urban forest and its capacity to provide amenity, ecological and environmental benefits to Canberra residents.

Any future Act which replaces the TPA must improve on some of its significant failings in particular the failure to protect mature trees which are keystone features of Canberra's urban forest.

In its current form ACT Urban Woodland Rescue considers the proposed Urban Forest Bill (The Bill), will weaken the protection of trees on private and public land.

If unamended, the Bill will undermine tree protection in Canberra, its unique biodiversity and further compromise the ecological services provided by Canberra's urban forest by incentivising the removal of mature trees and vegetation.

This will increase urban heat island effects (UHI) and result in an urban landscape which is less resilient and less able to meet the challenges of climate change.

ACTUWR does not consider the Bill in its current form to be in the public interest.

### **Inquiry into the Urban Forest Bill**

Having watched and considered the oral evidence and submissions put before the Inquiry ACTUWR strongly recommends the Committee include our original submission in its considerations when formulating its report and recommendations.

The issues raised and recommendations provided in ACTUWR's submission have accurately identified most of the key issues with the current UFB.

Oral and written evidence from a range of witnesses in the Inquiry have made it clear that the governments planning policy of 70% urban infill to facilitate urban intensification has played a central role in the crafting of the Bill.

Oral evidence from Minister Steel provides some insight into how the loss of mature and hollow bearing trees has become a key threatening process in Canberra when he indicated that decision makers in the Planning Authority have been using informal processes to facilitate the removal of mature trees to make way for development and the government is seeking to formalise this process in the UFB.

Further evidence from Minister Steel confirms that it is the governments and his Directorates expectation that there will be more and more development and many of those applications will require tree removal which will be granted using the term 'design reasons' and in exchange there will be saplings planted on site or somewhere else.

Minister Steel's advisor explained that the government does not think the removal, of mature trees is significant in low density residential areas because they believe it has a marginal impact on the Urban Forest as a whole clearly ignoring both the cumulative impact of this process on the integrity and functioning of the Urban Forest.

### **Key Issues Raised in Oral and Written Evidence**

There is a contradiction between the 70% urban infill planning strategy and protection of the mature trees in Canberra's urban forest. (HIAA/MBA/Property Council Australia/Forestry Australia/Landscape Architects/Conservation Council/ACTUWR/ISCC/KBCG)

The Urban Forest Bill in its current form is not designed to protect mature trees and urban biodiversity particularly mature native trees and native urban biodiversity in Canberra's urban forest. (MBA/Conservation Council/HIA legal advisor/ACTUWR/ Cmm Sustainability)

Urban intensification of 70% will not be achievable unless mature trees are removed. (MBA/Property Council/HIA) This is a matter of space for trees (KBCG/ISCC) versus the need to maximise the required returns on development which have been established by the governments planning requirements. (MBA)

The functioning of Canberra's unique urban forest requires the protection of its mature trees (Forestry Australia/Conservation Council/ACTUWR/ISCC/ACT Landscape Architects/KBCG/Cmm Sustainability), particularly mature native trees in the context of the local ecology and in keeping with the requirements of landscape connectivity. (ACTUWR/Cons Council/Cmm Sustainability) .

The ACT government does not believe the protection of mature trees should limit urban intensification. When trees are in the way of development their removal will be justified as a 'design limitation. (Minister Chris Steel) This practice has previously taken place informally

by Planning decision makers and the government is seeking to formalise the process of mature tree removal in the UFB. (Minister Chris Steel)

The Government justifies the removal of Canberra's mature trees on the grounds that one or two saplings planted on site or elsewhere or monetary compensation through a canopy contribution fund is a satisfactory exchange for the loss of mature trees to Canberra's urban forest. (Minister Steel/ Minister Steels advisor)

Implementation of the Bill will be delegated to officers in the Tree Unit who will make decisions about tree removal, sapling replacement and monetary compensation on a case by case basis. (Advisor to Minister Steel)

Inadequate resourcing for the administration of approvals to remove Canberra's mature trees may slow the removal of mature trees and therefore the desired outcomes of the governments urban intensification policy. (MBA/Property Council Australia/HIA)

The current decision making structure in the Bill diminishes the role and authority of the Conservator and does not therefore provide for the independent decision making required to protect Canberra's urban forest. (ACTUWR/KBCG/Mr Jochen/ISCC/Cons Council/Cmm Sustainability)

While the mature trees in Canberra's urban forest are a fundamental public good and their protection is undeniably in the public interest the government does not appear to see its role as advocating for the public interest value of the mature trees in Canberra's urban forest.

Rather the government has sought to satisfy any public interest requirement on the protection of Canberra's Urban Forest through certain kinds of consultation processes.

These processes include:

- the community Have your Say strategy including provision for written submissions
- lobbying by the construction sector whose access to capital makes them disproportionately powerful actors in these processes (see HIA written submission re proportion of ACT economy driven by the construction sector)
- the opportunity for selected actors to be briefed by government and for some actors to participate in this time limited Inquiry into the Urban Forest Bill.

In these processes the governments role has been to engage as one of many actors seeking to influence the outcome, in this case lobbying to implement its policy of 70% urban density by crafting the UFB to facilitate urban intensification.

Through this process of feedback from other parties the government seeks to manufacture consent on the final Bill however this is not the same as the government protecting the public interest by being an advocate for the protection of Canberra's urban forest.

## **Unresolved Issues**

1. Whether the canopy contribution scheme and use of replacement saplings in exchange for the removal of Canberra's mature trees particularly mature native trees is in the public interest given it is designed to facilitate their removal.
2. Whether the 70% urban density policy should be re evaluated to allow enough room for the urban forest and urban density opportunities should be restricted to ensure protection of Canberra's mature trees particularly mature native trees and urban biodiversity.
3. Whether there is any evidence that a case by case tree protection strategy can protect Canberra's mature trees particularly its mature native trees and the urban biodiversity of Canberra's unique urban forest.
4. Whether the ACT Government has acted in the public interest in their drafting of the UFB.

## **Recommendations**

1. Revise the objects of the Bill to ensure the ACT government has an appropriate governance role in protecting the urban forest as a public good by replacing aspirational language with language which adequately reflects the gravity of the obligation the government owes the community to protect the mature trees particularly mature native trees in Canberra's urban Forest. (A detailed analysis of the objects in the first and second draft of the Bill have been provided in the body of the submission see sections.)
2. An independent body of some kind which is at arms length from the commercial interests of government is required to protect Canberra's Urban Forest because the government itself has clear financial interests in the removal of mature trees and changing land use which results in increases in hard surfaces and consequent loss of ecological services. This body should report to government and the public based on the best available scientific evidence the proportion, composition and structure of vegetation required to mitigate and prevent dangerous UHI effects and protect the cities Urban Forest particularly its mature native trees. This body would also be tasked with reporting on losses and increases in vegetation coverage across all land tenures.
3. Include specific criteria in the body of the Bill to ensure transparency and accountability in decision making.
4. Revise the decision making structure to ensure the Conservator of Flora and Fauna has the authority to independently ensure the protection of Canberra's Urban Forest particularly its mature native trees and unique biodiversity.
5. Assess the validity of the proposed implementation strategy of a case by case tree protection strategy. Evidence suggests this approach which has already been applied elsewhere has failed.
6. Revise the governments 70% urban density strategy to allow enough room for the urban forest and engage in proper analysis to determine which urban density

opportunities are suitable for development to ensure Canberra's mature trees and urban biodiversity particularly mature native trees are in fact treated as infrastructure for the community.

Your Sincerely,



Alice Hathorn  
Convenor and Founder  
ACT Urban Woodland Rescue



October 2022