



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

---

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: 16**

**Date Authorised for Publication: 27 October 2022**

24 October 2022

Minister Chris Steel  
Minister for Transport and City Services

Standing Committee on Planning, Transport, and City Services

via email: [REDACTED]; [LACommitteePTCS@parliament.act.gov.au](mailto:LACommitteePTCS@parliament.act.gov.au)

Dear Minister and Committee Members,

### **FOLLOW UP RESPONSE ON URBAN FORESTS BILL**

Our three Associations have each made submissions to the draft Urban Forest Bill and the Committee Inquiry into the Bill. Following questions we received at the Committee hearings to our associations and evidence provided from other witness, we note three important points:

- There was agreement amongst Government and witnesses on the objects of the Bill
- Other than opinions from witness, there was very little evidence or analysis provided by the ACT Government to assist answer the many questions raised during the Committee hearings
- There were significant questions raised about the operation of the Bill, mainly relating to the impact on developments on leased territory land, whether significant resources exist within government or industry to properly respond to the Bill, and whether the Bill will actually achieve the objects of the Bill.

To assist the Minister and the Committee, we have summarised our views and concerns and propose a solution to improve the bill.

#### Summary of Industry Views and Concerns:

- Supportive of increased canopy coverage
- The proposed legislation is too focused on leased territory land
- Part of the solution to increased canopy coverage is also planting on unleased territory land
- the current approach may not be equitable across different zonings or different land parcel sizes
- The approach to increased canopy coverage would benefit from a more holistic view
- While the principle of the legislation is simple, the implementation will be complex and need to be well resourced in terms of expertise and capacity
- It is positive that the Conservator can now refuse frivolous or vexatious nomination of registered trees

### Key Concerns:

- Trees on unleased land will be automatically classed as protected which may be a significant limitation in some circumstances
- The definition of a remnant tree is broad based and not necessarily related to ecological value
- The administrative burden associated with the new definition of a regulated tree and the capacity of the Conservator to resource / consider tree damaging activities
- It is not clear if EPSDD will retain their ability to exercise their discretion in approving the removal of protected trees for new development as enshrined in the *Planning and Development ACT 2007*
- A double contribution is implied when entering into a CCA for both any tree replacements as well as a fixed financial settlement payable for tree removal
- The Urban Forests Bill and DV369 Living Infrastructure appear to create a “double dip” with new subdivisions / estates
- The unsuitable timing of payment for a CCA - noting this needs to be agreed early in a project and long before there is certainty about a DA approval or indeed construction works commencing
- The financial contribution is highest with areas / suburbs that are most likely to be redeveloped given public transport and employment opportunities
- The proposed legislation does not make account for the permissible built form with different zonings – for example differences in permissible height which can then liberate more space at ground level
- The changes in definition of a regulated tree, the need to ascertain if trees can be removed and then if a CCA will be applied all add significant complexity to the process of establishing opportunities and constraints with a particular site redevelopment.
  - This will: increase risk for proponents and increase the time to develop design concepts with a reasonable degree of confidence, to inform subsequent detailed design, DA documentation and the DA Assessment process and, ultimately, the construction of the built form.

### Proposed Solution:

The Bill contains a 12-month transition period to assist industry to adjust to the new elements introduced by the Bill. This period will also assist Government to prepare for the implementation of the Bill.

The transition period presents an opportunity to trial the Bill and test its provisions against actual development proposals submitted during the transition period.

*We propose that Government establish a parallel assessment process to building and development applications and use the information provided through actual development proposals to test the proposal against the provisions of the Bill.*

Ideally the parallel process would test all applications, however if resources with the Conservators office do not allow this, then a sample of applications including the following examples should be tested:

- New single dwelling applications in new suburbs
- Knock-down re-build and substantial renovations on single dwellings in established suburbs
- New townhouse and apartment buildings
- New commercial buildings in town and group centres
- Special or uncommon uses such as retirement villages, child care, aged care.

The parallel process would be assessed by Government staff independent of the existing building and development application process. No additional cost or information should be mandated on proponents, however proponents should be invited to participate in the parallel assessment to assist the trial.

#### Conclusion

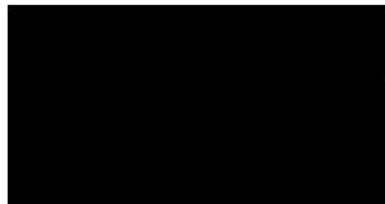
We have made this additional submission to assist the Minister and Committee find solutions to the questions raised during the Committee hearings and in submissions.

We hope that you will give our suggestion due consideration. Members of our three associations are available to assist the Minister or Committee if you require further information.

Yours sincerely,



Michael Hopkins  
Chief Executive Officer  
Master Builders ACT



Adele Lausberg  
Acting Executive Director  
Property Council of Australia (ACT)