

2026

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

ELEVENTH ASSEMBLY

URBAN FOREST AND PLANNING LEGISLATION AMENDMENT BILL 2026

**EXPLANATORY STATEMENT
and
HUMAN RIGHTS COMPATIBILITY STATEMENT
(*Human Rights Act 2004, s 37*)**

**Presented by
Ms Tara Cheyne MLA
Minister for City and Government Services
June 2026**

THIS PAGE IS INTENTIONALLY LEFT BLANK

URBAN FOREST AND PLANNING LEGISLATION AMENDMENT BILL 2026

The Bill is not a Significant Bill. Significant Bills are bills that have been assessed as likely to have significant engagement of human rights and require more detailed reasoning in relation to compatibility with the *Human Rights Act 2004* (HRA).

OVERVIEW OF THE BILL

This explanatory statement relates to the Urban Forest and Planning Legislation Amendment Bill 2026 (the Bill) as presented to the Legislative Assembly. It has been prepared to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Legislative Assembly.

The purpose of the Bill is to deliver on the Government's 2024 election commitment to bring forward the review of the *Urban Forest Act 2023* (the Urban Forest Act), based on feedback from community and industry to the beginning of 2025. The objective of the review is to improve the application process and operation of the Urban Forest Act. The review sought to better align the Urban Forest Act with the delivery of Government priorities such as housing and infrastructure and broader development projects in the ACT, whilst still meeting the objects of the legislation.

The purpose of the Bill is to give effect to the findings of the review. These changes retain the integrity of the legislation while delivering a clearer, more flexible and coordinated regulatory environment. A summary of the key amendments proposed to deliver the Government's election commitment in the Bill include:

- Providing for a new pathway in the *Planning Act 2023* (Planning Act) to remove a regulated or public tree on design grounds outside of the Development Application (DA) and approval process;
- Introduces exemptions in the *Urban Forest Regulation 2023* (Urban Forest Regulation) to permit more works that do not require an application or approval under the Urban Forest Act if compliant with pre-determined conditions, including an increase to the prohibited groundwork thresholds if undertaken in accordance with Australian Standards;
- Introduces a new minor works process for works that have a minor impact on the health of a protected tree that can be provided on the spot or within 10 business days;
- Reducing legislated processing timeframes for applications to undertake damaging activities and prohibited groundwork (including for tree management plans) from 35 working days to 25 working days where referral to the tree advisory panel is not required;

- Updates the objects of the Urban Forest Act to provide additional context to the community about the legislative intent and to better reflect the intended outcomes of the amendments included in the Bill;
- Amendments to respond to dangerous trees, including the introduction of a new power for authorised officers to issue rectification directions to safeguard people, animals, or property and other amendments to enhance enforcement;
- Enhancements to the enforcement framework under the Urban Forest Act by extending the statutory timeframe for commencing prosecutions for offences under sections 16 and 17 from one year to two years and strict liability offences for failing to comply with directions and introducing a proportionate strict liability offence for minor damage to a tree;
- Introducing a new power for the Minister to determine conditions for Canopy Contribution Agreements under the Urban Forest Act to provide flexibility, including for Territory Priority Projects;
- Extension of the timeframe for an applicant to apply for an internal review when their application has been refused;
- Amends the definition of the built-up urban area in section 8 of the Urban Forest Act to fix a drafting error and clarify that only remnant and registered trees are protected in future urban areas;
- other minor and technical amendments to improve the operation of the Urban Forest Act, including the harmonisation of Tree Activity Applications and Tree Management Plans and the requirement to review the Urban Forest Act five year after passage of the Bill.

To support the changes in the Bill, the review has also considered updates to the *Urban Forest (Approval Criteria) Determination 2025 (No 1)* which will be progressed separately.

CONSULTATION ON THE PROPOSED APPROACH

The Review was conducted in close collaboration with subject matter experts from Territory Planning Authority and other relevant areas within the City and Environment Directorate. The Bill was informed by engagement with the City Operations Group, Conservator of Flora and Fauna, the Suburban Land Agency, Housing ACT, Chief Minister, Treasury and Economic Development Directorate, and Justice and Community Services Directorate.

The review also engaged with industry representatives during the Construction Industry Roundtables led by the Minister for City and Government Services in 2025, ACT Conservation Council, Arboriculture ACT and members of the community who expressed concerns.

The proposed amendments sought to incorporate the feedback received during the review where the Urban Forest Act's processes, timing and interaction with other legislation were creating unintended complexity, uncertainty and delay, particularly when applied to housing, infrastructure and community development projects.

CLIMATE IMPACT

The Bill introduces measures to improve the health, management and sustainability of trees in the ACT. Urban trees enhance air quality, reduce urban heat, support biodiversity, improve water and soil health, and contribute to a more liveable and resilient city. By strengthening protections, clarifying decision-making and supporting appropriate tree management, the Bill enhances environmental quality and supports the community's right to a clean, healthy and sustainable environment.

It is not currently possible to quantify the Bill's impact on emissions reduction due to limited data availability. Key elements of the Urban Forest Act have been in operation for less than 24 months. The 2025 urban canopy survey data was not available during the review process, and the survey does not capture trees under three metres in height, including trees planted under the Canopy Contribution Framework.

While quantitative data is not yet available to measure emissions impacts, it is well-established that urban tree canopy contributes to cooling through shade and evapotranspiration, supports carbon sequestration, and improves urban climate resilience.

The amendments primarily improve processes and administration. They do not alter the Urban Forest Act's key functions, and the Canopy Contribution Framework will continue to offset necessary tree removals and support ongoing canopy establishment, which is consistent with these broader climate benefits.

The Bill provides for a statutory review of the Urban Forest Act to be undertaken five years after commencement. This review will enable the operation and effectiveness of the legislative framework to be formally evaluated against emerging evidence, including data derived from urban canopy surveys and other monitoring sources that are not yet sufficiently available to support comprehensive assessment at this time.

CONSISTENCY WITH HUMAN RIGHTS

The Bill introduces a series of amendments to the Urban Forest Act, the Planning Act, and associated regulations. The amendments are designed to improve the efficiency, clarity, and responsiveness of tree protection and removal processes, particularly in the context of Government priorities such as urban development and the canopy contribution framework.

In developing the Bill, due regard was given to the human rights set out in the HRA. The Bill engages, promotes, and in some instances limits, several rights. Where rights are limited, the limitations are considered reasonable and demonstrably justified in accordance with section 28 of the HRA.

Rights engaged

The Bill engages the following rights under the HRA:

- Section 9 - Recognition and equality before the law (limited)
- Section 12 - Privacy and reputation (promoted/limited)
- Section 21 - Fair trial (promoted/limited)
- Section 22 - Rights in criminal proceedings (limited)
- Section 27C - Right to a healthy environment in conjunction with the right to life (section 9) and cultural and other rights of Aboriginal and Torres Strait Islander peoples and other minorities (section 27) (promoted/limited)

Rights Promoted

Right to Privacy and Reputation

The Bill promotes the right to privacy by streamlining application processes and clarifying when approvals, referrals, and enforcement actions are required. By reducing regulation relating to applications for tree removal on design ground and what constitutes prohibited groundwork and minor works, the amendments minimise intrusive regulatory interactions with landholders while still maintaining appropriate environmental oversight. Clearer thresholds and pathways reduce the need for repeated information requests or enforcement engagement, enhancing a person's ability to manage vegetation on their private property.

The Bill also promotes transparency and predictability in decision-making, allowing individuals to better understand their obligations and rights under the legislation. This reduces the risk of arbitrary enforcement action and supports fair, respectful engagement between regulators and members of the community.

Right to a Fair Trial

The Bill promotes the right to a fair trial by improving transparency in decision-making, clarifying the legal status of certain decisions under both the Urban Forest Act and the Planning Act, and extending the timeframe for applicants to submit an internal review under section 133 of the Urban Forest Act when applications are refused.

The extension of the application period from 14 days to three months enhances procedural fairness by ensuring that affected persons have a reasonable opportunity to seek review of decisions that impact their rights and interests. A 14-day period may not provide sufficient time for applicants who are refused to obtain advice, consider the implications of a decision, and prepare an application. The extended timeframe reduces the risk that access to request a review is limited by practical constraints and supports more effective participation in the review process.

The amendments also improve the efficiency and coherence of the regulatory framework. This ensures that review rights are focused on decisions that genuinely affect legal interests, rather than preliminary or conditional determinations, which supports a fairer and more workable system overall.

Right to a Healthy Environment

The Bill promotes the right to a healthy environment by introducing measures, that improve the health, management, and sustainability of trees in the ACT. Urban trees contribute to air quality by filtering pollutants, reducing urban temperature through shade and evapotranspiration, and mitigating the impacts of extreme heat. Trees also support biodiversity by providing habitat and ecological connectivity and contribute to water and soil health by reducing stormwater runoff, filtering pollutants, and stabilising soils. They contribute to a liveable environment, support resilience to climate impacts and promote community wellbeing. By strengthening protections, clarifying decision-making processes, and supporting appropriate tree management, the Bill enhances the quality of the natural environment and supports the community's right to live in a clean, healthy, and sustainable environment.

The Bill promotes the right to a healthy environment in conjunction with the right to life by addressing risks to physical safety posed by unsafe or dangerous trees. By introducing powers to issue rectification directions for unsafe or dangerous trees and, if necessary, enter land to carry out urgent works, the Bill reduces the risk of harm to individuals and property. This supports a safe living environment and, in doing so, also promotes the right to life by helping to protect individuals from foreseeable environmental risks.

The Bill also promotes the right to a healthy environment in conjunction with cultural rights of Aboriginal and Torres Strait Islander people. The Bill promotes the cultural dimension of the right to a healthy environment by recognising the connection of Aboriginal and Torres Strait Islander peoples to land, water, and culturally significant natural features. The Bill ensures that decision-making processes take into account the protection and preservation of culturally important trees. This supports the exercise and protection of cultural rights and reinforces the role of environmental stewardship in maintaining cultural identity and connection to Country.

Rights Limited

Right to Privacy and Reputation

Nature of the right and the limitation (sections 28(2)(a) and (c))

The Bill limits the Right to Privacy and Reputation. In a regulatory context, this right is engaged where legislation authorises regulatory monitoring, enforcement action, or entry onto private land.

The Bill limits this right in a targeted and lawful manner through several amendments to the Urban Forest Act that strengthen tree protection, compliance and risk-

management mechanisms. In particular, the limitation arises from amendments to the Urban Forest Act that:

- insert rectification direction powers under new Division 5.4 (new sections 104A–104D) of the Urban Forest Act, which allow directions to be issued where a tree poses a risk to the health or safety of people or animals or property; and
- introduce powers to enter land to carry out or complete required works where a person fails to comply with a rectification direction in certain circumstances, including cost recovery mechanisms (section 104D, the Urban Forest Act).

These provisions may result in regulatory engagement with landholders, including inspection, the issuing of directions, service of notices on land, and, in limited circumstances, entry onto private land to undertake necessary works. To that extent, the Bill permits lawful interference with private activities and property interests and therefore limits the right to privacy.

The Bill may also have a minor indirect impact on the right to privacy in some circumstances where tree removal or management reduces natural screening between neighbouring properties, potentially affecting a person's ability to enjoy privacy within their home. This may affect visual privacy in some cases.

Legitimate purpose (section 28(2)(b))

The amendments serve several legitimate and interconnected purposes.

Firstly, the limitation serves the legitimate purpose of protecting public safety and property. Rectification directions under new sections 104A-104D of the Urban Forest Act are intended to address situations where a tree poses a real or potential risk of serious injury, death or substantial property damage. In these circumstances, timely regulatory intervention is necessary to prevent harm.

Secondly, the Bill promotes fairness and proportionality in regulation. The amendments provide a power for authorised persons to enter land to carry out or complete works where a person has not complied with a rectification direction. The legitimate purpose of this power is to support a graduated compliance framework under the Urban Forest Act, which ranges from education and advisory measures through to formal directions and, where necessary, prosecution for serious offences. The entry power operates as an intermediate regulatory response to ensure that safety risks associated with dangerous trees can be effectively mitigated where compliance has not occurred, thereby protecting persons and property (including infrastructure).

Rational connection between the limitation and the purpose (section 28(2)(d))

There is a clear rational connection between the limitation on privacy and the achievement of the Bill's objectives. Protected trees are frequently located on leased residential or commercial land. Without the ability to issue

directions, monitor compliance, and intervene where necessary, damage to trees or risks arising from dangerous trees would often go unaddressed. Regulatory powers that apply to private land are therefore essential to ensuring that the Urban Forest Act operates effectively and consistently.

The powers to issue tree protection directions are directly connected to preventing environmental harm and protecting public safety. Similarly, the ability to enter land under section 104D of the Urban Forest Act where a person has failed to comply with a direction is rationally connected to ensuring that urgent or necessary works can be completed, particularly where delay would increase risk of damage.

Proportionality (section 28(2)(e))

The powers affecting privacy are narrowly defined, purpose-specific and conditional. Tree protection directions may only be issued where statutory criteria are met, such as the new section 104A of the Urban Forest Act where it endangers the health or safety of people or animals or is causing or may cause, substantial damage to public or private property.

Entry onto land under section 104D of the Urban Forest Act is not a general power, it only arises where a person has failed to comply with a direction and is subject to provisions relating to notice, safeguards, and any requirement to pay reasonable costs incurred by the Territory. The authorised person can only enter land to undertake the works where the tree is causing or may cause substantial damage to public property to align with the powers in Division 2.6 of the *Public Unleased Land Act 2013* which is under review.

Alternative approaches were considered, including reliance solely on voluntary compliance, education, and limiting intervention powers to serious or emergency situations. These approaches were not adopted because they would either fail to prevent cumulative environmental harm or delay intervention in situations involving genuine risk to people or property. They may also result in escalation to more intrusive enforcement mechanisms once harm has already occurred.

Any impact from the removal of trees that screen properties is expected to be limited and incidental. Any such impact is proportionate and does not outweigh the Bill's objectives of improving tree health, public safety, and environmental outcomes.

The framework adopted by the Bill represents the least rights-restrictive means of achieving effective urban forest protection and public safety, while ensuring that any interference with privacy is lawful, necessary, and proportionate to the objectives pursued.

Rights in Criminal Proceedings (Strict Liability Offences)

Nature of the right and the limitation (sections 28(2)(a) and (c))

The Bill limits rights in criminal proceedings where everyone charged with a criminal offence has the right to be presumed innocent until proved guilty according to law.

This is limited through the introduction of strict liability offences that remove the need to prove fault. While the strict liability offences of section 46 and section 104C of the Urban Forest Act include a defence to prosecution if the person has a reasonable excuse for failing to comply with a direction, the evidential burden falls on the accused albeit to a lower standard of proof (see *Criminal Code 2002*, section 58).

Section	Nature of the limitation	Penalty Units	Infringement penalty (\$)
Section 144F of the <i>Planning Act 2023</i> Offence – contravene condition of approval	The Bill provides an offence for a person where the territory planning authority approves a tree removal application under section 144C and the person contravenes a condition of an approval. This offence is a strict liability offence. This offence mirrors the existing offence for removing a tree without entering a CCA that is a condition of a DA (<i>Planning Act</i> , s 406).	60	\$1,200
Section 46 of the <i>Urban Forest Act 2023</i> Offence – fail to comply with tree protection direction	Amends the existing offence in s 46 of the Urban Forest Act to remove the fault element when a person fails to comply with a tree protection direction. The section does not apply if the person has a reasonable excuse for failing to comply with the direction. The defendant has an evidential burden in relation to this. This offence is a strict liability offence.	50	\$1,100
Section 104C of the <i>Urban Forest Act 2023</i> Offence – fail to comply with a rectification direction	Provides for an offence for failing to comply with a rectification direction. The section does not apply if the person has a reasonable excuse for failing to comply with the direction. The defendant has an evidential burden in relation to this. This offence is a strict liability offence. This complements the approach in s 36 of the PULA.	50	\$1,100
Section 4B of the <i>Urban Forest Regulation 2023</i> Offence – minor damage to protected trees	Provides an offence for a person who engages in conduct that constitutes minor damage to a protected tree. This offence is a strict liability offence.	15	\$480 if registered tree or remnant tree \$300 if public tree or regulated tree

Legitimate purpose (section 28(2)(b))

These measures support the legitimate purpose of the Bill to address minor or clear-cut breaches efficiently, without resorting to more resource-intensive prosecutions, while maintaining deterrence and promoting compliance with the Urban Forest Act and the Planning Act.

Section	Legitimate purpose
Section 144F of the <i>Planning Act 2023</i> Offence – contravene condition of approval	To ensure the integrity and enforceability of tree removal approval conditions. These conditions are imposed to avoid, minimise or offset impacts on the urban forest and non-compliance may undermine those outcomes.
Section 46 of the <i>Urban Forest Act 2023</i> Offence – fail to comply with tree protection direction	To ensure timely and effective compliance with tree protection directions, recognising that unauthorised damage or removal of protected trees can result in immediate, irreversible loss of canopy and environmental value. The availability of reasonable excuse defence serves the purpose of ensuring that the offence operates fairly and proportionately. It recognises that there may be circumstances outside a person’s control where compliance is not reasonably practicable because the person didn’t receive the notice.
Section 104C of the <i>Urban Forest Act 2023</i> Offence – fail to comply with a rectification direction	To ensure prompt mitigation of risks to public safety. Dangerous trees may present an immediate threat to persons and property, and requiring proof of fault could delay enforcement action in circumstances where timely compliance is crucial because the person ought to have known their obligations. The availability of reasonable excuse defence serves the purpose of ensuring that the offence operates fairly and proportionately. It recognises that there may be genuine circumstances outside a person’s control where compliance is not reasonably practicable.
Section 4B of the <i>Urban Forest Regulation 2023</i> Offence – minor damage to protected trees	To ensure that conduct that causes minor damage to a protected tree does not lead to incremental harm to the urban forest. Minor damage can accumulate over time and contribute to the decline or loss of protected trees.

Rational connection between the limitation and the purpose (section 28(2)(d))

There is a clear rational connection between the limitations and the purposes they seek to achieve. The conduct regulated is clearly defined, the harm is environmental in nature, and proof of fault would be disproportionate. The use of strict liability in this context promotes deterrence, supports consistent compliance action and facilitates efficient enforcement of the statutory framework.

The infringement notice regime is also rationally connected to its purpose. It provides a quick and low-impact alternative to prosecution, enabling minor offences to be dealt with efficiently. Recipients of an infringement notice retain the option to contest the matter in court.

Proportionality (section 28(2)(e))

The limitations are proportionate. The new offences in the Bill are consistent with similar penalties in either the Urban Forest Act or the Planning Act. The offence for minor damage under section 4B of the Urban Forest Regulation is significantly less than existing penalties where the infringement notice penalty is double (\$1,200). They are also significantly lower than penalties for more serious offences under the Urban Forest Act. The offence targets clearly defined conduct and supports proportionate enforcement. The offence for failing to comply with a tree protection direction (s 46) or rectification direction (section 104C) in the Urban Forest Act is similarly justified by the need to address risks to the urban forest, health and safety of people or prevent damage to property.

The strict liability provision contained in section 144F of the Planning Act relating to the contravention of a condition of approval has a maximum penalty amount of 60 penalty units. This maximum amount is slightly higher than the recommended amount set out in the Guide to Framing Offences (50 penalty units). This is to make the offence consistent with other similar offences in the Planning Act and reflect that these offences are intended to cover relatively serious regulatory offending for the purposes of financial gain.

The strict liability offences are directed at conduct where a person knows, or ought to reasonably know, their legal obligations. The offences apply in circumstances where requirements are clearly communicated and within the control of the person subject to them, such as complying with a direction, adhering to approval conditions, or avoiding damage to protected trees. The availability of guidance materials, combined with the clarity of directions and conditions, supports the conclusion that the offences are proportionate and appropriate to address unlawful behaviour while promoting consistent and informed compliance.

Further, in relation to offences under section 46 and section 104C of the Urban Forest Act, where an exception applies for a reasonable excuse, the evidential burden placed on the defendant is justified because the matters relevant to establishing the excuse are peculiarly within the knowledge of the defendant. The defendant is uniquely or better placed to provide evidence about the circumstances that prevented compliance with a tree protection direction or rectification direction. Requiring the defendant to raise evidence or a reasonable excuse does not displace the prosecution's legal burden to prove elements of the offence and consider these circumstances but ensures that matters can be appropriately considered by the court.

The defence of reasonable excuse is added to strict liability offences as a safeguard for the limitation on the presumption of innocence. The defence assists to make the limitation proportionate, by preventing the conviction of those who are not at fault. The prosecution will need to prove both the elements of the offence and disprove the defence of reasonable excuse if it is successfully raised by the accused, beyond reasonable doubt.

The Bill will be supported by clear and accessible education and communication measures. Publicly available guidance materials, including Plain English fact sheets, online resources and targeted information for industry participants such as developers, contractors and arborists will be provided. These materials will outline when tree directions apply, the nature of obligations under approvals, and the consequences of non-compliance. In addition, compliance expectations will be communicated directly through approval documentation, permit conditions, and on-site notices where appropriate, ensuring that affected persons are clearly informed of their responsibilities.

Rights in Criminal Proceedings and Right to Fair Trial

Nature of the right and the limitation (sections 28(2)(a) and (c))

The Bill may limit a person's right to a fair trial and the connected right in criminal proceedings to be tried without delay. The Bill extends the time for beginning prosecution for an offence against sections 16 or 17 of the Urban Forest Act from 1 years to 2 years. This could limit these rights due to the potential effects on evidence if the case is not brought promptly, including that evidence is stale or incidents are not fresh in the mind of a witness.

Legitimate purpose (section 28(2)(b))

This amendment seeks to enhance enforcement and protect the urban forest, particularly where unlawful conduct does not immediately damage the protected tree. This ensures that environmental harm that may only become apparent over time can be effectively investigated and prosecuted.

Rational connection between the limitation and the purpose (section 28(2)(d))

While the extension of the time to undertake prosecution may cause unreasonable delay, the limitation to the right to a fair trial is necessary to ensure that the urban forest is protected. This provision recognises that certain forms of tree damage, such as poisoning or soil contamination, have delayed symptoms that often manifest only after significant delay and are exacerbated further by species, seasonal differences and climate. Without an extended timeframe, serious environmental harm may escape accountability entirely. It means that regulators can prosecute offences that become apparent after one-year. The amendment directly addresses the evidentiary realities of environmental harm and supports meaningful deterrence.

Proportionality (section 28(2)(e))

The extension of time to begin prosecution is modest and targeted. It increases the period from one year to two years and applies only to offences involving tree damage or prohibited groundwork, where delayed detection is well documented. All other criminal justice safeguards remain, including the presumption of innocence, the standard of proof, disclosure obligations and judicial oversight.

Other options were considered, including a differentiated approach that retained a one-year limitation period for offences where harm is typically visible within 12 months (such as ringbarking or cutting), and applied a two-year period only to offences with delayed symptoms (such as poisoning or soil contamination). This approach was not adopted because it may introduce additional complexity into the offence framework and could create unintended consequences where the definitions of damage are updating in the future. It may create uncertainty about which limitation period applies in particular circumstances and may require regulators to categorise an offence before sufficient evidence is available to determine the cause of the damage.

In many cases the method of damage may not be immediately apparent. Harm to trees may also be deliberately concealed and symptoms may be delayed or obscured by seasonal growth cycles, climatic conditions, or environmental stressors. The species of the tree may also affect the time taken for symptoms to manifest, meaning similar damage may become visible at different times depending on the tree involved.

The amendment provides a clearer and more consistent enforcement framework and better reflects the biological characteristics of trees and their environmental and climatic context. The amendment supports effective investigation and evidence gathering while maintaining a reasonable limitation period for regulatory offences.

This amendment is the least rights-restrictive means of achieving procedural fairness, and effective environmental protection, while maintaining appropriate access to judicial oversight and safeguards.

Recognition and Equality Before the Law

Nature of the right and the limitation (sections 28(2)(a) and (c))

The right to equality and non-discrimination protects individuals from differential treatment based on protected attributes, including employment status (as recognised under section 7 of the *Discrimination Act 1991*). The Bill introduces the requirement for a person to enter into a canopy contribution agreement when a tree removal application is approved (s 144E of the Planning Act). The limitation arises where financial obligations associated with canopy contribution agreements may have a disproportionate impact on economically disadvantaged individuals. While the Bill does not directly differentiate between individuals, the imposition of financial contributions may indirectly affect those with fewer financial resources who are undertaking necessary construction.

Legitimate purpose (section 28(2)(b))

The purpose of canopy contribution agreements is to support the protection, restoration, and sustainability of the urban forest by ensuring that the removal of protected trees is appropriately avoided, minimised, or offset.

Rational connection between the limitation and the purpose (section 28(2)(d))

The requirement to enter into canopy contribution agreements, including financial settlements, is rationally connected to the objective of maintaining and enhancing urban canopy. By requiring contributions where tree removal occurs, the Bill ensures that environmental impacts are mitigated and that the costs of canopy loss are appropriately addressed.

Proportionality (section 28(2)(e))

The limitation is proportionate to its purpose. Financial settlements under canopy contribution agreements are not automatic or unavoidable but arise only where a protected tree is approved for removal. Financial contributions operate as a measure of last resort, applying only where neither on-site retention nor replacement planting is feasible. This structured approach reduces the likelihood that individuals will be required to make financial contributions and ensures that any financial burden is imposed only in limited circumstances.

In addition, the framework provides flexibility through allowing a person under 38 of the Urban Forest Act to apply to enter into a payment management plan to pay the financial settlement by instalments. Further, the Bill introduces the power for the Minister to determine canopy contribution conditions. This can be used in exceptional cases or to support Territory Priority Projects. These provisions seek to mitigate financial impacts on individuals experiencing disadvantage.

On balance, the limitation is reasonable and justified, as it is carefully calibrated to prioritise non-financial options, minimise impacts on affected individuals, and achieve significant public benefits in protecting and enhancing the urban forest.

Right to a Healthy Environment

Nature of the right and the limitation (sections 28(2)(a) and (c))

The right to a healthy environment recognises that all people are entitled to live in a clean, healthy and sustainable environment and to enjoy that right without discrimination. The Bill does not provide a new process for removing trees, however, amendments that allow trees to be approved for removal may be perceived as limiting this right because urban trees contribute to environmental quality and sustainability in urban areas. Trees provide important ecosystem services, including shade and cooling, habitat for biodiversity, carbon storage and improvements to air quality. The removal of trees may reduce these environmental benefits and may therefore affect the quality and sustainability of the urban environment experienced by the community.

The Bill introduces a new Part 7.1A in the Planning Act, which establishes a statutory framework for assessment and approval of the removal of regulated trees and public trees where removal is directly associated with a development proposal. This decision is currently made within the DA and assessment process. By enabling assessment earlier in the development cycle, the amendment could be perceived to increase the number of tree removal applications initially.

Amendments to the Urban Forest Regulation expand eligibility for Tier 1 canopy contribution arrangements to additional entities, including education entities, health facilities, Housing ACT, and registered community housing providers who are not engaging in development activities. This results in a lower, flat canopy contribution requirement compared to the tier 2 contribution applied to developers. This might encourage compliance to seek approval to remove trees rather than undertaking unlawful removals to avoid contributions.

Legitimate purpose (section 28(2)(b))

The limitations pursue several legitimate purposes consistent with the objectives of the Territory's planning framework. The introduction of Part 7.1A of the Planning Act serves the legitimate purpose of streamlining assessment processes and providing earlier certainty in the development cycle. Integrating tree removal decisions with development approval processes reduces late-stage redesign and supports more coherent decision-making without altering substantive criteria for tree protection.

The expansion of Tier 1 canopy contribution eligibility pursues the legitimate purpose of facilitating urban tree management to support the delivery of essential community infrastructure and services if the tree removal is not associated with a development. Education facilities, health services, Housing ACT, and registered community housing providers deliver significant public benefit. Applying a lower, flat contribution rate recognises this role, while maintaining a requirement to contribute to canopy loss.

Rational connection between the limitation and the purpose (section 28(2)(d))

There is a clear rational connection between the limitations and the purposes they seek to achieve. The establishment of Part 7.1A of the Planning Act is rationally connected to the goal of improving regulatory efficiency. By enabling tree removal associated with development to be assessed earlier and within a clearer statutory framework, the amendment improves decision-making quality and certainty. Importantly, the framework does not weaken assessment standards. It restructures the timing and integration of assessment to better align with development processes and government priorities.

Proportionality (section 28(2)(e))

The limitations are proportionate. They apply in defined and targeted circumstances to tree removals that are directly associated with a development approval or otherwise exempt development and to specific classes of applicants delivering public benefit outcomes. In these cases, the same substantive tree protections apply. The introduction of Part 7.1A of the Planning Act is not a new process, it does not remove protections or lower thresholds and applicants are still required to enter into a canopy contribution agreement to restore lost canopy.

Decision-makers must be satisfied that the removal of the tree will facilitate a desired planning outcome applying to the proposed development in accordance with the Territory Plan which serves as another safeguard. The power to approve the removal of trees is also limited to only regulated and public trees, it does not apply to heritage trees, registered trees or protected matter. Guidelines will outline the decision-making framework and factors that must be considered. The intention is that the Guidelines will codify the circumstances in which the authority may approve the removal of a protected tree where this differs from advice provided by the Conservator of Flora and Fauna under section 190 of the Planning Act, providing greater clarity and transparency in decision-making.

Alternative approaches were considered. In relation to the amendment to enable assessment earlier in the development cycle where removal is associated with a development proposal, the option was considered to retain the existing timing requirements for tree assessments associated with development proposals. However, this approach does not accord with the feedback received during the consultation process that applicants need certainty and earlier decisions to better align with project cycles.

In relation to allowing more applications to utilise the lower flat rate tier for canopy contribution arrangements for certain entities not engaging in development activities, the option was considered to limit access to the lower flat-rate canopy contribution arrangements to a narrower class of entities or retaining the existing eligibility settings. This approach was not adopted because these organisations often undertake works that support essential community services. Allowing these entities to access the lower flat-rate tier, where they are not engaging in development activities in a commercial capacity, helps reduce regulatory burden and supports the delivery of community infrastructure and housing outcomes. The Government also considered introducing more complex eligibility criteria or case-by-case assessment processes to determine when reduced canopy contribution arrangements should apply. This approach was not adopted because it would increase administrative complexity and reduce certainty for applicants.

Urban Forest and Planning Legislation Amendment Bill 2026

Human Rights Act 2004 - Compatibility Statement

In accordance with section 37 of the *Human Rights Act 2004* I have examined the Urban Forest and Planning Legislation Amendment Bill 2026. In my opinion, having regard to the Bill and the outline of the policy considerations and justification of any limitations on rights outlined in this explanatory statement, the Bill as presented to the Legislative Assembly is consistent with the *Human Rights Act 2004*.

.....

Tara Cheyne MLA
Attorney-General

CLAUSE NOTES

PART 1 PRELIMINARY

Clause 1 Name of Act

This clause provides that the name of the Act is the *Urban Forest and Planning Legislation Amendment Act 2026*.

Clause 2 Commencement

This clause provides for the commencement of section 3, section 39 and Part 5 (other than sections 107 and 124) on the day after this Act's notification day. The remaining provisions commence three months after this Act's notification day.

Clause 3 Legislation amended

This clause provides that the Act amends the *Planning Act 2023*, *Planning (General) Regulation 2023*, *Urban Forest Act 2023* and the *Urban Forest Regulation 2023*. Consequential amendments are made to the *Heritage Act 2004*, *Magistrates Court (Planning Infringement Notices) Regulation 2023*, *Magistrates Court (Urban Forest Infringement Notices) Regulation 2023*, *Nature Conservation Act 2014*, *Planning (Exempt Development) Regulation 2023*, *Public Unleased Land Act 2013*, *Utilities Act 2000*, *Utilities (Technical Regulation) Act 2014*, and *Utility Networks (Public Safety) Regulation 2001*.

Clause 4 Legislation repealed

This clause provides that the Act repeals the *Urban Forest (Tree Management Plans) Guidelines 2025 (No 1) [NI2025-364]* because the Bill is replacing the existing section 88 with 'rules'.

PART 2 PLANNING ACT 2023

Clause 5 New Part 7.1A

New Part 7.1A establishes a statutory framework to assess and approve the removal of regulated trees and public trees where the removal is directly associated with a development proposal.

The amendments are intended to provide an integrated process that enables the territory planning authority to consider tree removal on design grounds, while maintaining strong protections for the urban forest and ensuring appropriate canopy compensation through the canopy contribution framework.

The new part operates alongside, but separately from, development approval processes under the Planning Act, and does not itself authorise development. It provides a targeted mechanism for determining whether removal of a particular tree is justified to achieve improved planning outcomes.

Division 7.1A relates to development proposals involving tree removals.

Section 144A enables a proponent of a development proposal to apply to the territory planning authority for approval to remove a regulated tree or public tree affected by the proposed development. This application does not apply to a heritage tree or an Aboriginal Cultural tree.

The section sets out minimum application requirements, including that the application be made in writing, approval requirements, anything set out in any guidelines made under section 144G and any additional information, plan or document prescribed by regulation. These requirements ensure that tree removal applications are supported by sufficient information to enable informed assessment, particularly in relation to design intent and site context.

Section 144B allows the territory planning authority to request further information reasonably required to decide an application. If the applicant fails to provide the requested information within the stated timeframe, the authority may refuse to consider the application further. This provision supports efficient decision-making while ensuring applicants engage constructively with information requests.

Section 144C establishes the decision-making framework for tree removal applications. The territory planning authority must decide an application within 10 working days after the day the authority receives the application or additional information from the applicant under section s144B. The authority may approve an application only where it is satisfied that removal of the tree will facilitate the achievement of a desired planning outcome of the proposed development and the development does not involve a protected matter. In making its decision, the authority must consider applicable desired planning outcomes under the Territory Plan, any relevant ministerial guidelines made under section 144G, and any other relevant considerations.

All approvals must include a condition requiring the applicant to enter into a canopy contribution agreement, ensuring canopy loss is appropriately offset. Additional conditions may also be imposed as stated in the approval or prescribed by regulation. If a tree management plan is already in force for the tree, the authority may approve an amendment of, or replacement for, the tree management plan; or approve a tree management plan for the tree in any other case. In making such a decision, the authority is required to take into account rules made under section 88 of the Urban Forest Act as if the authority were approving a tree management plan under that Act. This means that groundwork or other damaging activities can be approved at the same time as the tree approved for removal to streamline process and align with current decision making within the DA process.

These requirements ensure that decisions on tree removal application consider all required conditions, particularly in relation to the desired planning outcome to be

achieved of a proposed development under the territory plan and the canopy contribution agreement in relation to the tree's removal.

Section 144D requires the territory planning authority to give written notice of its decision, including any decision under section 144C (6) in relation to a tree management plan, to relevant parties, including the applicant, any person prescribed under section 144A (3) (b), either the Conservator of Flora and Fauna, or the director-general of the administrative unit responsible for the Urban Forest Act, and any other person prescribed by regulation. A regulation may prescribe information that must or may be included in the notice.

Section 144E provides that approval to remove a tree does not take effect until either a relevant building approval has been issued, or the day building work starts for the building work that does not require building a relevant approval; and a canopy contribution agreement has been entered into. If a building approval is required for the erection or alteration, or the removal or demolition, of a building, the plans must be substantially consistent with the approved site plan of the proposed development before it will be issued. This will be confirmed by the certifier. An approval under this section remains in force for the period stated in the approval, which will not be more than 5 years after the day the territory planning authority approves the tree removal application.

This ensures that tree removal only occurs once downstream approvals are secured and alignment between approvals is confirmed. Limiting the life of the approval to no more than 5 years also ensures that decisions are based on current planning, environmental, and urban forest conditions rather than outdated assumptions. This ensures decisions remain consistent with contemporary policy settings, community expectations and the objectives of maintaining and enhancing the Territory's urban forest canopy.

Section 144F creates a strict liability offence for contravening a condition of a tree removal approval. The offence is a strict liability offence, with a maximum penalty of 60 penalty units, providing a clear enforcement mechanism to ensure compliance.

The maximum penalty of 60 penalty units is consistent with comparable offence provisions under the Planning Act for non-compliance with approval conditions and development controls. Approvals to remove a tree on design grounds are currently issued within the DA process and s 406 of the Planning Act is applicable. This reflects the seriousness of unauthorised or non-compliant tree removal in the context of development, where premature or unlawful removal can undermine planning outcomes, reduce urban canopy, and disrupt the integrity of the development approval process. A meaningful penalty is necessary to deter contraventions and ensure approval conditions are treated as enforceable obligations.

Section 144G enables the Minister to make guidelines to assist decision-making under the Part. The guidelines may address matters such as alternative design options, planning outcomes, characteristics of the tree, and exceptional circumstances for example. The Minister is required to consult with, and consider advice from, the Conservator of Flora and Fauna before making the guidelines. Guidelines are disallowable instruments, ensuring appropriate oversight.

**Clause 6 When authority must refer development application
Section 170 (1) (e)**

This clause amends section 170 of the Planning Act by replacing the reference to the conservator of flora and fauna with a reference to the decision-maker under the Urban Forest Act.

**Clause 7 Deciding development applications
New section 185 (5A) and (5B)**

This clause inserts a new section 185 (5A) and (5B) to reflect the practice of taking into account any rules made under section 88 of the Urban Forest Act relating to tree management plan rules when approving a tree management plan provided with a DA. The amendment also clarifies that approval of a tree management plan may be granted subject to stated conditions.

Clause 8 Section 185 (6), definitions of *public tree* and *regulated tree*

This clause omits the definitions of public tree and regulated tree from section 185 (6) of the Planning Act as they are no longer required for the operation of section 185.

**Clause 9 Considerations when deciding development applications
New section 186 (m)**

This clause inserts new paragraph (m) into section 186 of the Planning Act. The amendment requires the territory planning authority, when deciding a development application, to have regard to any earlier decision it has made under section 144C of the Planning Act in relation to an application to remove a regulated tree or a public tree, including the reasons for that decision.

The new consideration ensures continuity and consistency between decisions made under the Planning Act. It recognises that tree removal decisions made under new Part 7.1A of the Planning Act involve the assessment and consideration of design options and planning outcomes that are directly relevant to the development approval process when the design is substantially the same.

**Clause 10 Conditional approvals
Section 187 (1) (f) (i)**

This clause substitutes paragraph (f) of section 187 (1) to refer to an approved tree management plan. A new definition of approved tree management plan has been inserted to support this amendment and provide clarity and consistency in the operation of conditional approvals.

Clause 11 Section 187 (6), new definition of *approved tree management plan*

This clause inserts a new definition of approved tree management plan by referring to the dictionary definition of the Urban Forest Act. The insertion of the definition ensures consistency across the planning and urban forest regulatory frameworks and avoids duplication or inconsistency.

Clause 12 Section 187 (6), definition of *canopy contribution agreement*

This clause omits the definition of canopy contribution agreement from section 187 (6) of the Planning Act. The amendment is consequential to the relocation of the definition to the dictionary of the Planning Act.

**Clause 13 Restrictions on development approval
New section 189 (1) (da)**

The insertion of new paragraph 189 (1) (da) of the Planning Act is intended to provide an additional restriction on development approval where a development proposal involves the removal of a regulated tree or public tree for which the territory planning authority has previously made a decision under section 144C. In these circumstances, where the design of the proposed development is substantially the same as that considered in the earlier tree removal decision, the decision-maker must consider the Authority's decision under section 144C.

This amendment ensures alignment between the earlier assessment of tree removal to provide consistent decision-making and greater certainty for applicants.

Clause 14 Section 189 (7), new definition of *built-up urban area*

This clause inserts a definition of built-up urban area into section 189 (7) of the Planning Act.

The definition adopts the meaning given in section 8 of the Urban Forest Act. This amendment ensures that the term "built-up urban area" is used consistently across the planning and urban forest legislative frameworks, particularly in relation to restrictions on development approval affecting trees and declared sites.

Clause 15 Dictionary, new definition of *canopy contribution agreement*

This clause inserts a definition of canopy contribution agreement into the dictionary of the Planning Act.

The definition adopts the meaning given in section 35 (3) of the Urban Forest Act. This amendment ensures that the term "canopy contribution agreement" has a

consistent meaning across both the planning and urban forest legislative frameworks.

Clause 16 Dictionary, definition of *development approval*

This clause substitutes the definition of development approval in the dictionary of the Planning Act.

The amended definition clarifies that a development approval means an approval for a development under Chapter 7 (Development assessment and approvals) but expressly excludes an approval to remove a tree under Part 7.1A (Development proposals involving tree removals).

The amendment makes clear that approvals granted under the new tree removal framework are distinct from development approvals under the planning system. This distinction reinforces that an approval to remove a tree under Part 7.1A does not authorise development and does not alter the requirement to comply with the remainder of Chapter 7.

Clause 17 Dictionary, new definitions

This clause inserts new definitions into the dictionary of the Planning Act to support the operation of Part 7.1A. The clause inserts definitions of public tree, regulated tree, and tree removal application, each adopting the meaning given in the Urban Forest Act or, in the case of tree removal application, the meaning given in new section 144A (1) of the Planning Act.

Including these definitions ensures consistency of terminology between the planning and urban forest legislative frameworks and provides clarity about the scope and application of Part 7.1A.

PART 3 PLANNING (GENERAL) REGULATION 2023

Clause 18 New part 4A

This clause inserts the regulatory framework for assessing and approving the removal of regulated trees and public trees associated with a development proposal in part 7.1.A of the Planning Act into the *Planning (General) Regulation 2023*.

Part 4A Development proposals involving tree removals

Section 27A sets out requirements for the approval of an application made by someone other than the lessee of the land on which the regulated tree is located. If the land is subject to a lease, the approval must be provided in writing by the lessee of the land.

The requirements ensure that tree removal applications are supported by sufficient information, consistent with section 144A (3) (b) of the Planning Act.

Section 27B specifies the prescribed information that must be provided with the development application, in accordance with section 144A (3) (e) of the Planning Act. The prescribed information includes a brief description of the proposed development, the applicant's details, the land on which the tree to be removed is located, for a tree on public unleased land a description of the location of the tree in relation to the location of the proposed development, the tree proposed to be removed, and any information required for the applicant to enter into a canopy contribution agreement in relation to the tree's proposed removal. If the development application also involves an adjoining place that has one or more dwellings, a written statement must be provided as evidence of compliance with section 27C, along with any written information about the development proposal required section 27C (2).

These requirements ensure that the territory planning authority is provided with sufficient information to decide on tree removal applications.

Section 27C provides that the proponent must notify neighbouring residents if the development proposal also involves one or more dwellings adjoining the place to which the proposal relates. The notification requirements place the onus on the applicant to ensure that their neighbours are notified about the proposed development and associate tree removal.

For a proposed development to be considered, section 27D requires one electronic copy of the site plan, and three paper copies if the authority receiving the application requests paper copies. The site plan must be marked with the location and size of the tree to be removed, as well as any other trees on the block and include any preliminary drawings or plans of the proposed development on the site, marked with relevant details like location of buildings, access points and other development.

Section 27E specifies the information that must be included in a notice of decision of a development application, including the date of the application and a description of the tree, its location, the proposed development to which the decision relates, and the decision, reasons for the decision, date, and if approved any conditions, date the approval takes place and an approved site plan for the proposed development. This ensures that the *Planning (General) Regulation 2023* prescribes the relevant information to be provided in the notice of a decision for a tree removal application, as required under section 144D of the Planning Act.

PART 4 URBAN FOREST ACT 2023

Clause 19 Objects of Act Section 6 (a)

This clause amends section 6 (a) of the Urban Forest Act by inserting the words "health and" after "community".

The amendment clarifies that a key object of the Urban Forest Act is to support a resilient and sustainable urban forest that contributes not only to community wellbeing, but specifically to community health. This reflects contemporary evidence and policy recognition of the role of urban trees and canopy in supporting physical and mental health outcomes, including heat mitigation, improved air quality, and enhanced liveability.

Clause 20 Section 6 (c)

This clause amends section 6 (c) of the Urban Forest Act by inserting the words “and sustainability” after “biodiversity”.

The amendment broadens the object of contributing to biodiversity in urban areas to explicitly include sustainability, reinforcing the long-term ecological, environmental and resource-management objectives of the Urban Forest Act. This ensures that biodiversity outcomes are considered within a sustainability framework that recognises climate resilience, intergenerational equity and enduring urban forest outcomes.

Clause 21 New section 6 (e) to (g)

This clause inserts new paragraphs (e), (f) and (g) into section 6 of the Urban Forest Act. New section 6 (e) provides that an object of the Urban Forest Act is to support long-term strategies for renewing and maintaining trees. This amendment emphasises the importance of proactive, planned and sustainable management of the urban forest over time, including renewal, succession planning and maintenance to ensure canopy resilience in a changing climate.

New section 6 (f) recognises the importance of community involvement in protecting and enhancing the urban forest. The amendment acknowledges the role of residents, landholders, community groups and other stakeholders in stewardship of urban trees and supports participatory approaches to urban forest management.

New section 6 (g) recognises the importance of supporting and enhancing the Territory’s liveability and prosperity through the protection, maintenance and growth of the urban forest. The amendment acknowledges that urban trees and canopy cover contribute significantly to Canberra’s economic resilience, environmental sustainability, public health and overall quality of life. A strong urban forest helps create cooler and more attractive neighbourhoods, supports business activity and tourism, improves community wellbeing, and reinforces the Territory’s identity as a liveable and prosperous city.

Clause 22 Meaning of *built-up urban area* Section 8 (1), definition of *built-up urban area*, paragraphs (a) (v) and (b)

This clause amends the definition of built-up urban area in section 8 (1) of the Urban Forest Act.

Paragraph (a) (v) is substituted to include land in the parks and recreation zone (PRZ) within the meaning of built-up urban area. This amendment ensures that both Urban Open Space Zone and Restricted Access Recreation Zones within PRZ which commonly contain significant public tree assets and form an integral part of the urban environment, are clearly captured within the Urban Forest Act's urban forest framework.

Paragraph (b) is also substituted to clarify that the definition of built-up urban area includes verges, median strips and roundabouts on roads that are located in or adjacent to zones identified in paragraph (a). This provides certainty that roadside and transport corridor trees within or adjoining urban areas is subject to Urban Forest Act's protections and management provisions.

Clause 23 New section 8 (1A)

This clause inserts new subsection 8 (1A) into the Urban Forest Act to clarify exclusions from the definition of built-up urban area. New subsection (1A) provides that, despite the general definition in section 8 (1) (a), a built-up urban area does not include a future urban area.

The amendment clarifies the intended scope of the urban forest protections by distinguishing established urban areas from land that is planned for future urban development. This ensures that Urban Forest Act's provisions are applied in a manner appropriate to the development lifecycle and objectives of the Urban Forest Act.

Clause 24 Section 8 (4), new definitions

This clause inserts new definitions of median strip and roundabout into section 8 (4) of the Urban Forest Act. These definitions support the amended definition of *built-up urban area* by providing clarity about the types of road-related areas that are included within urban areas for the purposes of the Urban Forest Act.

Clause 25 Meaning of *protected tree* Section 9, definition of *protected tree*, paragraph (a) (iii)

This clause substitutes a "tree on public unleased land (a public tree)" with "public tree" as a public tree is now defined in the new section 11A.

Clause 26 Section 9, definition of *protected tree*, paragraph (b) (ii)

This clause substitutes an area that is the subject of a subdivision design application with an area that is the subject of a subdivision design application and outside the

built-up urban area. This clarifies that only remnant or registered trees in future urban areas or on land subject to a subdivision design application are protected outside of the built-up urban area.

Clause 27 Meaning of *regulated tree*
Section 11 (1), definition of *regulated tree*, paragraph (a) (ii)

This clause amends paragraph (a) (ii) of the definition of regulated tree in section 11 (1) of the Urban Forest Act by inserting the words “at its widest point” after “wide”.

The amendment clarifies that the relevant width measurement for determining whether a tree meets the regulated tree threshold is to be taken at the widest point of the tree. This provides greater certainty for applicants, arborists and decision-makers and supports consistent interpretation and application of the definition.

Clause 28 Section 11 (1), definition of *regulated tree*, paragraph (a) (iv)

This clause amends paragraph (a) (iv) of the definition of regulated tree in section 11 (1) of the Urban Forest Act. For trees with 2 or more trunks, the average circumference of the trunks does not have to be at least 625 mm to meet the updated definition.

The amendment simplifies the criteria for identifying regulated multi-stemmed trees, reducing complexity in measurement and assessment while maintaining appropriate protection for significant trees under the Urban Forest Act.

Clause 29 New section 11A

This clause inserts the meaning of a public tree as a tree on public unleased land into a new Section 11A of the Urban Forest Act. It seeks to explain the relationship between a public tree and a registered tree by specifying a tree is not a public tree if it is a registered tree.

Clause 30 Meaning of *protection zone* for protected tree
Section 13 (2)

This clause substitutes “an approved tree management plan” in section 13 (2). This is intended to specify that a tree management plan needs to be an approved plan.

Clause 31 Meaning of *damage*
Section 14 (3), definition of *minor pruning*

This clause substitutes the definition of minor pruning in section 14 (3) of the Urban Forest Act. The amended definition clarifies the types of pruning activities that do not constitute damage to a tree.

The amendment provides greater clarity and certainty for landholders, arborists and compliance officers by more clearly distinguishing routine, low-impact pruning from activities that may damage a tree and require approval under the Urban Forest Act.

**Clause 32 Meaning of *prohibited groundwork*
Section 15(1)**

This clause substitutes section 15 (1) of the Urban Forest Act to re-order the provision.

Clause 33 New section 15 (3)

This clause inserts new subsection 15 (3) into the Urban Forest Act. The new subsection provides that a regulation may prescribe groundwork that is not prohibited groundwork. This enables flexibility within the regulatory framework by allowing certain activities to be expressly excluded from the definition of prohibited groundwork.

Clause 34 New section 15A

This clause inserts new section 15A into Division 3.1 of the Urban Forest Act to provide a clear, standalone definition of tree management plan for the purposes of the Urban Forest Act.

New section 15A defines a tree management plan as a plan in relation to a protected tree that may provide for activities that may be carried out in relation to the tree and include conditions about how those activities are to be carried out. This definition is currently included in section 78.

Clause 35 New section 17A

This clause inserts new section 17A into Subdivision 3.2.1 of the Urban Forest Act. New section 17A provides that a prosecution for an offence against section 16 or section 17 must be commenced no later than 2 years after the day the offence is committed. This is a 1-year increase on the timeframe for prosecution which is generally required under section 192(2)(a) of the *Legislation Act 2001*. Section 192(2)(b) provides that this period may be extended by another ACT law such as this Act.

The intention behind the extension is that in many cases tree decline caused by a damaging event, such as poisoning, soil contamination, root disturbance or other indirect or concealed methods, can only become visible after 12 months have passed due to the nature of the damaging event producing delayed symptoms and other factors such as the season and climate that can exacerbate this delay. This means that evidence gathering for effective enforcement of offences under sections

16 and 17 is often not possible because the damage may not be immediately apparent.

**Clause 36 Exceptions—tree damaging and prohibited groundwork offences
Section 18 (1) (c)**

This clause substitutes paragraph (c) of section 18 (1) of the Urban Forest Act. The amended provision clarifies that activities approved under sections 28, 32 or 32A, and carried out in accordance with the conditions (if any) of that approval, are exceptions to the offences relating to tree damaging and prohibited groundwork. The exception applies regardless of whether the activity is undertaken by the applicant for the approval.

The amendment ensures consistency and clarity by expressly identifying the relevant approval pathways under the Urban Forest Act that authorise activities affecting protected trees. It confirms that persons acting in accordance with a valid approval, and complying with any conditions attached to that approval, do not commit an offence under the Urban Forest Act.

Clause 37 Section 18 (1) (d) (i)

This clause substitutes a tree management plan for an approved tree management plan in section 18 (1) (d) (i) of the Urban Forest Act. It clarifies that Sections 16 and 17 do not apply in relation to anything done in accordance with an approved tree management plan.

Clause 38 Section 18 (1) (d) (iv) and (v)

This clause substitutes section 18 (1) (d) (iv) and (v) of the Urban Forest Act to update the tree damaging and prohibited groundwork offences that are exceptions to committing an offence.

Section 18 (1) (d) (iv) refers to an exception by replacing a tree protection condition of a development approval with a rectification direction. Section 18 (1) (d) (v) refers to an exception of anything done in accordance with the *Biosecurity Act 2023* with a declaration made under section 137 (Power to apply or disapply Act to entities or activities). This makes it clear that undertaking an activity permitted under the Urban Forest Act will not be an offence.

Clause 39 New section 18 (1) (da) and (db)

This clause inserts new paragraphs (da) and (db) into section 18 (1). New paragraph (da) provides an exception for committing an offence under the Urban Forest Act for removing a protected tree approved under a development proposal by the territory planning authority under Chapter 7 (Development assessment and approvals) of the

Planning Act, where the activity is carried out in accordance with the conditions (if any) of the approval. This exception applies regardless of whether the activity is undertaken by the applicant for the approval.

New paragraph (db) provides an exception for anything done in relation to a protected tree in accordance with the *Biosecurity Act 2023* which is currently an exception. This ensures that emergency and biosecurity-related actions, including those undertaken under emergency declarations, control declarations or biosecurity directions, can be carried out lawfully without exposing persons to offence liability under the Urban Forest Act.

Clause 40 New section 18 (1) (dc)

This clause inserts new paragraph (dc) into section 18 (1). New paragraph (dc) provides an exception for the removal of a regulated tree or a public tree approved by the territory planning authority under Part 7.1A (Development proposals involving tree removals) of the Planning Act, where the removal is carried out in accordance with the conditions (if any) of the approval. This ensures consistency with the new tree removal approval framework and confirms that authorised removals do not constitute offences under the Urban Forest Act.

Clause 41 Application for approval of tree damaging etc activity New section 21 (2) (d) to (f)

This clause inserts new subsections 21 (2) (d) to (f) into section 21 of the Urban Forest Act to provide for when a tree management plan is required for public and regulated trees. The amendment ensure that adequate information is provided to effectively assess applications and approve activities that may be carried out in relation to the tree, and for conditions about how activities to be carried out under section 21 of the Urban Forest Act.

Clause 42 New section 21 (2A) and (2B)

The clause inserts new section 21 (2A) and (2B) into section 21 of the Urban Forest Act.

Section 21 (2A) clarifies that written evidence signed by the lessee of the land where the tree is located that the lessee agrees to the application is not required where an application involves prohibited groundwork carried out on the applicant's land, in accordance with a tree management plan. Section 21 (2B) provides that a tree management plan may be included where an application involves an activity that would, or may, damage a protected tree other than a public tree.

The new provisions streamline requirements relevant for each type of activity approval by removing barriers to submitting applications and clarify when a tree management plan is required.

**Clause 43 Approval application—assessment of tree
Section 23, examples**

This clause amends the examples in section 23 by clarifying that the assessment of a tree may occur in accordance with any identified risk management methodology.

The amendment recognises that tree assessment may be informed by structured, evidence-based risk management approaches, supporting consistent and defensible decision-making when assessing risks associated with protected trees.

Clause 44 Section 23, examples, new dot point

This clause inserts an additional example in section 23 requiring consideration of whether a tree is or may be affected by any key threatening processes under the *Nature Conservation Act 2014*.

The amendment strengthens environmental integration by ensuring that threats to trees arising from broader ecological processes are considered during assessment.

Clause 45 Sections 28 and 29

This clause substitutes sections 28 and 29 to restructure and clarify the decision-making framework for approval applications relating to protected trees.

The revised section 28 clarifies decision-making requirements for different application pathways under section 21, enables the decision-maker to approve an activity and a tree management plan or, where appropriate, propose a tree management plan. The provision also updates timeframes for decision-making, including circumstances where time may be extended due to tree damage, sets out mandatory considerations and confirms the ability to impose conditions on both decisions to approve the activity and to approve or propose a tree management plan. In making a decision on the application, the decision-maker must take into consideration the approval criteria, any advice of the advisory panel or any other advice of an entity to whom the application was given under section 25, and anything else the decision-maker considers relevant. If the conservator approves a tree management plan for a registered tree, the conservator must include details of the plan in the tree register.

If the conservator asks the advisory panel for advice the relevant period for making a decision is 35 working days after the decision-maker receives the application and in all other cases the relevant period is 25 working days.

The revised section 29 updates notice requirements for applications made under section 21 for public trees. This ensures that affected parties, relevant authorities and representative Aboriginal organisations are appropriately notified of decisions.

**Clause 46 Operation of approval
 Section 30 (1) and (2)**

This clause substitutes section 30 (1) and (2) to clarify when an approval takes effect to ensure that neighbours are notified of approved activities. The amendment updates the commencement rules to provide certainty for applicants and affected parties.

**Clause 47 Cancellation of approval,
 Section 31 (3) (d)**

This clause amends section 31 (3) (d) of the Urban Forest Act by inserting the words ‘if the application is for the removal of a tree on leased land’ before ‘the occupier of land —’

The amendment provides for the specific situation in which the occupier of the land must be given a notice of the cancellation of an application approval (removal only, not other damage such as pruning).

Clause 48 Sections 32

This clause substitutes section 32 and inserts new section 32A.

Section 32 continues to distinguish approval pathways for urgent circumstances, where activities are necessary to protect the health or safety of people or animals, or public or private property. It enables a person to continue to seek urgent approval to carry out an activity affecting a protected tree where immediate action is necessary.

Section 32A allows a person to apply in writing for approval to undertake certain activities affecting a protected tree where the activity is expected to have only a minor impact on the tree’s health or stability. Eligible activities include major pruning or prohibited groundwork within a tree protection zone or declared site. Minor works applications are currently assessed within section 32 (5) and introducing a new process and increasing the threshold will provide more flexibility to assess applications.

The decision-maker must determine the application within 10 working days, may approve the activity (with conditions), and may propose a tree management plan. Approval may be time-limited. Applicants must be notified of the decision, and if a heritage tree is involved, the Heritage Council must receive written notice of any approval or proposed management plan. If approval is refused, the application may

instead be considered under section 21. This could occur through a further information request.

The amendments allow applications to be made orally or in writing, enable the decision-maker to propose a tree management plan where appropriate, provide streamlined decision timeframes, and ensure that heritage values continue to be protected through notification requirements.

These provisions balance the need for streamlined responses with appropriate safeguards for protected trees.

**Clause 49 Offence—contravene condition of approval
Section 33 (1)**

This clause updates the offence provision to reflect the introduction of section 32A. As a result, compliance obligations and enforcement consequences apply consistently across all approval pathways under the Urban Forest Act.

**Clause 50 Definitions—sdiv 3.3.2
Section 34, definition of *decision-maker***

This clause omits the definition of decision-maker from section 34.

The amendment clarifies responsibility for decision-making for canopy contribution agreements with application of the dictionary definition.

Clause 51 Section 34, definition of *financial settlement*

This clause amends the reference in the financial settlement definition in section 34 to section 36 (2) (1) (ii) to reflect amendments to that section.

Clause 52 Section 34, definition of on-site *canopy contribution*

This clause amends the reference in the on-site canopy contribution definition in section 34 to section 36 (2) (a) (i) to reflect amendments to that section.

**Clause 53 Decision on approval application—canopy contribution
agreements
New section 35 (2A)**

This clause inserts new subsection 35 (2A) to extend the operation of section 35 to approvals granted under Part 7.1A of the Planning Act for the removal of regulated trees or public trees.

Clause 54 Section 35 (3), note

This clause omits the existing note as a consequential amendment, reflecting the operation of section 35.

Clause 55 New section 35 (4) (e)

This clause inserts a new subsection 35 (4) (e) to clarify that the provision does not apply where the approval relates to the removal of a protected tree other than a registered tree or a remnant tree, as part of civil infrastructure works on unleased territory land or national land. While the Urban Forest Act does not apply during the DA process and approval is not required under section 18 for civil infrastructure works, this clarifies the policy intention when development applications are considered.

**Clause 56 Canopy contribution agreements—conditions
Section 36 (1)**

This clause amends section 36 (1) of the Urban Forest Act by replacing the words “an applicant” with “a person”. The amendment reflects that obligations under a canopy contribution agreement may apply more broadly than the applicant.

Clause 57 Section 36 (2)

This clause substitutes subsection 36 (2) to provide for the Minister to determine conditions for canopy contribution agreements. This provides flexibility to tailor conditions to individual circumstances while maintaining consistency in canopy offset outcomes. This new power is in addition to the existing requirement for canopy contribution agreements to be subject to at least one condition determined by the decision-maker, including an on-site canopy contribution or a financial settlement.

Clause 58 Section 36 (3) and (4)

This clause amends sections 36 (3) and (4) of the Urban Forest Act by replacing references to “applicant” with “person”.

The amendment expands the range of persons who may be required to enter into a canopy contribution agreement to ensure that the provisions governing the operation and effect of canopy contribution agreements apply consistently regardless of whether the agreement is entered into by an applicant or another person.

Clause 59 New section 36 (6) and (7)

This clause inserts new subsections 36 (6) and (7) into the Urban Forest Act.

Subsection 36 (6) enables a regulation to prescribe additional conditions for canopy contribution agreements. This provides flexibility to respond to evolving policy, operational experience or technical requirements.

Subsection 36 (7) provides that a determination made by the Minister under section 36 (2) (b) is a disallowable instrument. This ensures appropriate oversight of Ministerial determinations relating to canopy contribution agreement conditions.

**Clause 60 Criteria for tree protection directions
Section 43 (1)**

This clause amends section 43 (1) of the Urban Forest Act by inserting the words “in relation to protected trees other than public trees” after “directions”.

The amendment clarifies that the criteria determined under section 43 (1) apply only to protected trees that are not public trees. This improves clarity about the scope of the Conservator’s power for tree protection directions and aligns with amendments establishing separate arrangements for public trees.

Clause 61 New section 43 (1A)

This clause inserts new subsection 43 (1A) into the Urban Forest Act.

The new provision enables the Director-General to determine criteria for the giving of tree protection directions in relation to public trees. The amendment recognises the different governance arrangements that apply to public trees.

Clause 62 Section 46

This clause remakes the existing offence where a person fails to comply with a tree protection direction, providing for the same maximum penalty of 50 penalty units. This offence is now a strict liability offence, while allowing a defence of reasonable excuse, for which the defendant bears an evidential burden under the Criminal Code. The provision reinforces compliance with regulatory directions while ensuring proportionality where non-compliance is justified.

**Clause 63 Tree reparation directions
Section 48 (1), examples 1 and 2**

This clause updates the examples in section 48 (1) relating to tree reparation directions to clarify that a tree reparation direction may relate to an approval give under section 28, section 32 relating to urgent circumstances or section 32A relating to minor works or an approved tree management plan. The changes ensure that the examples accurately reflect current approval pathways and support consistent application of tree reparation powers.

**Clause 64 Tree register
Section 53 (2)**

This clause replaces ‘the tree management plan’ with ‘the approved tree management plan’ in section 53 (2). The change ensures consistency with

terminology used elsewhere in the Urban Forest Act and clarifies that only approved tree management plans are required to be recorded on the tree register.

**Clause 65 Cancellation of registration of dead tree
Section 70 (1)**

This clause substitutes section 70 (1) of the Urban Forest Act. The amended provision allows the Conservator to cancel a registered tree's registration if satisfied on reasonable grounds that the tree has died of natural causes and no longer satisfies the registration criteria. The amendment ensures that the register of protected trees remains accurate and reflects the current condition of registered trees.

Clause 66 Sections 78 to 80

This clause substitutes sections 78 to 80 of the Urban Forest Act to amend tree management plan provisions and to provide further details where relevant. Section 78 applies if a decision-maker proposes a tree management plan as part of the approval of tree damaging activities, in urgent circumstances, for minor works, or where the plan is proposed by the decision-maker on their own initiative under section 79.

Section 79 provides that a decision-maker may propose a tree management plan for a protected tree.

Section 80 requires the decision-maker to assess the tree proposed in a tree management plan. Examples are included to assist in how a tree may be assessed in accordance with any identified risk management methodology. Assessing a tree may include consideration of its health, condition, structure, ecological significance and location; whether it is a protected tree; and whether it is or may be affected by any key threatening processes under the *Nature Conservation Act 2014*.

Clause 67 Section 81 heading

This clause substitutes the heading of section 81 of the Urban Forest Act by removing the words 'or application' from the heading. The omission clarifies that Division 5.1 relates to advisory panel advice on tree managements plan proposals only.

Clause 68 Section 81

This clause omits the words 'or application' from section 81 of the Urban Forest Act. The omission clarifies that Division 5.1 relates to the conservator asking the advisory panel for advice in relation to the proposal only.

Clause 69 Section 82 heading

This clause substitutes the heading of section 82 of the Urban Forest Act by removing the words ‘or application’ from the heading. The omission clarifies that the section refers to referral of the proposal to other entities only.

Clause 70 Section 82 (1) (a)

This clause substitutes section 82 (1) (a) to provide that the section applies if a decision-maker assesses a tree to which a tree management plan proposal relates. It removes reference to an application.

Clause 71 Section 82 (2)

This clause omits the words “or application” from section 82 (2) of the Urban Forest Act. The omission clarifies that the section refers to a proposal only.

Clause 72 Section 82 (3) and (4)

This clause omits section sections 82 (3) and (4) because the division only applies to tree management plans proposed, not applications for approval.

**Clause 73 Tree management plans—time for referral entity to give advice
Section 83**

This clause omits the words ‘or application’ from section 83 of the Urban Forest Act to clarify that the time for referral entity to give advice is only related to a proposal.

Clause 74 Section 83 (a)

This clause amends section 83 (a) of the Urban Forest Act to provide that the time for a referral entity to give advice is 15 working days after the day the decision-maker gives the proposal to the entity.

**Clause 75 Tree management plans—effect of no response by heritage
Council
Section 84**

This clause omits the words “or application” from section 84 of the Urban Forest Act as the provision only relates to a proposal.

**Clause 76 Tree management plans—decision
Section 85 (1)**

The clause omits ‘, or receives an application for’ from section 85 (1) of the Urban Forest Act to provide that the decision-maker must decide whether to approve a tree management plan if the plan is proposed by the decision-maker.

Clause 77 Section 85 (2), (3) and note

This clause omits section 85 (2), (3) and note from section 85 of the Urban Forest Act. The omission is consequential to the amendment made to section 85 (1) regarding decisions for tree management plans proposed by the decision-maker.

Clause 78 Section 85 (4) (a)

This clause amends section 85 (4) (a) of the Urban Forest Act by replacing ‘the guidelines determined under section 88’ with ‘the rules determined under section 88’. This ensures consistency between this section and the amendments made to section 88 of the Urban Forest Act.

Clause 79 Section 85 (4) (c)

This clause omits the words ‘or application’ from section 85 of the Urban Forest Act as this provision only applies to the proposal.

Clause 80 Sections 86 to 88

This clause substitutes sections 86 to 88 of the Urban Forest Act to update the notification requirements for approved tree management plans. The main changes to section 86 is that in subsection (1) in addition to the decision-maker giving written notice of the decision to the lessee or custodian of the land on which the tree is located, they must also give notice to the lessee or custodian of the land where the approved activity is to occur if the tree is not located on the same land. Subsection (2) limits the notification requirements. The main change is to clarify that the decision-maker is not required to notify adjoining occupiers where the approved tree management plan relates to a public tree.

The main change in relation to section 87 is that an approved tree management plan takes effect on the date stated in the tree management plan rather than the approval dated of the plan.

The main change in relation to section 88 is that update the terminology to refer to rules rather than guidelines and to distinguish that the director-general may make rules for public trees and the conservator can make rules for protected trees other than public trees.

**Clause 81 Offence—contravene tree management plan
Section 90 (1)**

This clause updates section 90 (1) by replacing the reference to “a tree management plan” with “an approved tree management plan”. The change clarifies that the offence for contravening a tree management plan applies only where the plan has been formally approved.

Clause 82 Tree bonds and tree bond agreements
Section 92 (1) (a) (i)

This clause updates section 92 (1) (a) (i) to replace the reference to “a tree management plan” with “an approved tree management plan”. The change ensures that tree bonds and tree bond agreement are tied only to approved tree management plans.

Clause 83 Advisory panel—functions
Section 100 (a) (ii)

This clause amends section 100 (a) (ii) of the Urban Forest Act by replacing the reference to an application for approval of a tree management plan under division 5.1 with the reference to a proposal for a tree management plan under subdivision 3.3.1 or division 5.1.

Clause 84 New division 5.4

This clause inserts new Division 5.4 into the Urban Forest Act to establish a clear statutory framework for the management of dangerous trees on leased land.

Section 104A enables the Conservator of Flora and Fauna to issue a rectification direction in relation to a tree (other than a registered tree) where the conservator reasonably believes the tree poses a risk to health or safety of people or animals, or is causing or may cause substantial property damage to public or private property. Directions may be given orally or in writing and must identify the tree, the land and the timeframe for compliance.

Section 104A (2) is a discretionary power, providing that the Conservator may give a rectification direction when the threshold has been met.

Section 104B provides for service of written rectification directions or notices by leaving them conspicuously on the land where the tree is located, supporting timely and practical service of the directions.

Section 104C creates an offence for failing to comply with a rectification direction, with a maximum penalty of 50 penalty units. The offence is a strict liability offence, with a defence of reasonable excuse available.

Section 104D enables the conservator to give a person a rectification direction to require the person to do something in relation to a tree that may cause substantial damage to public property. The section also enables authorised persons to take action to carry out or complete required works where a person fails to comply with a rectification direction. In addition, the section provides for cost recovery by the Territory, notice requirements prior to entry, waiver by the person of the right to all or

part of the minimum period of notice, and application of existing safeguards relating to minimising damage and compensation.

Clause 85 Simplified outline—pt 6
Section 106, new note

This clause inserts a new Note 1A into the simplified outline in section 106 of the Urban Forest Act. The new note explains that the Territory Planning Authority may approve the removal of a regulated tree or a public tree before a development application is made, where the authority is satisfied that removing the tree will facilitate the achievement of a desired planning outcome of the proposed development, under Part 7.1A of the Planning Act.

The amendment improves legislative clarity by signposting the interaction between the Urban Forest Act and the new development-based design ground tree removal approval pathway.

Clause 86 Land subject to development—conservator may give advice about tree protection
New section 107 (1A)

This clause inserts new subsection 107 (1A) into the Urban Forest Act. The new provision clarifies that section 107 does not apply where the territory planning authority has approved the removal of a regulated tree or a public tree under Part 7.1A (Development proposals involving tree removals) of the Planning Act. The Conservator's advice is considered when making the guidelines under 144G of the Planning Act.

Clause 87 Conservator's advice about tree protection
Section 108 (3) (b) (i)

This clause amends section 108 (3) (b) (i) of the Urban Forest Act by substituting the reference to rules with a reference to any rules made under section 88 (Tree management plans-rules).

Clause 88 Applications for internal review
Section 133 (2)

This clause amends section 133 (2) of the Urban Forest Act by replacing the fixed 14-working-day timeframe for internal review applications with a period prescribed by regulation. The amendment introduces flexibility to adjust internal review timeframes in response to operational experience or future policy requirements.

Clause 89 Delegation of decision-maker's functions
New section 141 (3)

This clause inserts new subsection 141 (3) into the Urban Forest Act. The amendment allows a decision-maker to delegate the function of reviewing a decision under section 134 where the decision relates to a public tree, despite existing delegation limits in subsection (2) (c). This supports administrative flexibility and reflects the different governance arrangements applying to public trees.

Clause 90 Section 145

This clause substitutes section 145 of the Urban Forest Act. The substituted provision requires the Minister to review the operation and effectiveness of the Urban Forest Act as soon as practicable 5 years after the commencement of section 3 of the *Urban Forest and Planning Legislation Amendment Act 2026*, to present a report to the Legislative Assembly, and provides for the section to expire 6 years after the day it commences. The amendment ensures a structured and time-limited post-implementation review of the amended framework.

Clause 91 New part 10

The clause inserts new part 10 (Transitional – Urban Forest and Planning Legislation Amendment Act 2026) which contains transitional provisions to support the transition from the Urban Forest Act as it operated before commencement of the *Urban Forest and Planning Legislation Amendment Act 2026*. The provisions ensure continuity for applications and approvals made, but not finally determined or completed, before commencement, while enabling the amended Act to apply appropriately after commencement.

Section 146 defines key terms used in Part 10, including commencement day and pre-amendment Act. These definitions provide clarity and ensure consistent interpretation of the transitional provisions.

Section 147 applies to applications made under section 10 of the pre-amendment Act for approval of tree-damaging or related activities where the application had not been decided before the commencement day. Where this section applies, the pre-amendment Act continues to govern the consideration and decision of the application, ensuring that applications already in progress are assessed under the legislative framework in force at the time they were made. If an application is approved after commencement, the approval is taken to be an approval under amended section 28 of the Urban Forest Act. From that point, the Urban Forest Act as amended applies to the approval, including the operation of conditions, compliance, enforcement and related administrative provisions.

Section 148 applies to approvals granted under section 28 of the pre-amendment Act that are in force immediately before the commencement day. Under this section, an existing approval continues in force for the period it would have remained in effect under the pre-amendment Act. The section also preserves the ability for such an

approval to be extended once, in accordance with section 30 (4) of the pre-amendment Act, where an application for extension is made before the approval expires and within six months after commencement.

Section 149 deals with approvals granted under the pre-amendment Act that, before commencement, had already been extended but where the extended period had not yet begun. In these circumstances, the approval continues in force under the pre-amendment Act and ends at the conclusion of the previously granted extended period.

Section 150 applies to applications made under section 32 of the pre-amendment Act for approval of activities in urgent circumstances or for minor works where the application had not been decided before commencement. The pre-amendment Act continues to apply to the assessment and decision of these applications. If such an application is approved after commencement, approvals for activities in urgent circumstances are taken to be approvals under amended section 32 and approvals for activities for minor works are taken to be approvals under new section 32A. Once approved, the Urban Forest Act as amended applies to the approval. The section also clarifies the meaning of urgent circumstances and minor works by reference to the relevant provisions of the pre-amendment Act, ensuring continuity of decision-making criteria.

Section 151 applies where a person holds an approval under section 32 of the pre-amendment Act that is in force immediately before commencement. Such approvals continue in force until the time they would have ended under the pre-amendment Act.

Section 152 applies to applications made under section 78 of the pre-amendment Act for approval of a tree management plan where the application had not been decided before commencement. The application continues to be dealt with under the pre-amendment Act. If approved after commencement, the approval is taken to be an approval under amended section 85, and the Urban Forest Act as amended applies to the approval.

Section 153 applies to tree management plans approved under section 85 of the pre-amendment Act that are in force immediately before commencement. These approvals continue in force until they would have ended under the pre-amendment Act, providing certainty for plan holders and administrators.

Section 154 provides that Part 10 expires one year after commencement. In accordance with section 88 of the *Legislation Act 2001*, the expiry of the Part does not affect the ongoing operation of the transitional provisions in relation to matters to which they apply.

Clause 92 Internally reviewable decisions

Schedule 1, part 1.1, item 1

This clause substitutes item 1 in Schedule 1, part 1.1 to update the list of internally reviewable decisions relating to approvals under section 28.

The amendment clarifies that decisions to approve or refuse to approve an activity or a tree management plan under section 28 (1) and (2) are internally reviewable by specified persons, including applicants for approval, lessees of land, the Heritage Council and representative Aboriginal organisations.

Clause 93 Schedule 1, part 1.1, item 4, column 2

This clause amends Schedule 1, part 1.1, item 4 by substituting a reference to section 36 (2) (a) with section 36 (2) (a) (i).

Clause 94 Schedule 1, part 1.1, item 5, column 2

This clause amends Schedule 1, part 1.1, item 5 by substituting a reference to section 36 (2) (b) with section 36 (2) (a) (ii).

Clause 95 Schedule 1, part 1.1, item 9, column 4

This clause omits “applicant for approval” from the entities listed in column 4, item 9, part 1.1 of Schedule 1.

Clause 96 Reviewable decisions Schedule 1, part 1.2, new item 6A

This clause amends schedule 1, part 1.2 by substituting new item 6A to include a decision under section 104A to give a rectification direction as a reviewable decision. It provides that the person who is given the direction and the lessee or occupier of the land to which the direction relates may apply for internal review of a decision to give a rectification direction.

Clause 97 Dictionary, new definition of *approved tree management plan*

This clause inserts a new definition of approved tree management plan into the Dictionary of the Urban Forest Act. The definition clarifies that an approved tree management plan is a tree management plan approved under sections 28, 32, 32A or 85 of the Urban Forest Act and section 144C (6) or section 185 (5) of the Planning Act.

Clause 98 Dictionary, definition of *decision-maker*

This clause substitutes the definition of decision-maker in the dictionary of the Urban Forest Act. The amended definition clarifies that the Conservator of Flora and Fauna

is the decision-maker for protected trees other than public trees and the Director-General is the decision-maker for public trees.

Clause 99 Dictionary, definition of *financial settlement*

This clause updates the Dictionary definition of “financial settlement” by replacing the reference to section 36(2)(b) with section 36(2)(a)(ii). The change aligns the definition with the amended structure of section 36.

Clause 100 Dictionary, definition of *on-site canopy contribution*

This clause updates the Dictionary definition of “on-site canopy contribution” by replacing the reference to section 36(2)(a) with section 36(2)(a)(i). The change aligns the definition with the amended structure of section 36.

Clause 101 Dictionary, definition of *public tree*

This clause updates the Dictionary definition of “public tree” by substituting it with a signpost definition “public tree - see section 11A.” The amendment ensures the definition of public tree is read consistently with section 11A.

Clause 102 Dictionary, new definition of *rectification direction*

This clause inserts a new definition of rectification direction into the Dictionary of the Urban Forest Act. This definition aligns with the introduction of Division 5.4 into the Urban Forest Act and provides a reference to section 104A (2) about the meaning of a rectification direction.

Clause 103 Dictionary, definition of *tree management plan*

This clause inserts a definition of tree management plan into the Dictionary of the Urban Forest Act. The amendment ensures the definition of tree management plan is read consistently with section 15A.

PART 5 URBAN FOREST REGULATION 2023

**Clause 104 Dictionary
Section 3, note 1**

This clause substitutes Note 1 to clarify the role and operation of the Dictionary for the Urban Forest Regulation. The revised note explains that the Dictionary defines certain terms used in the Urban Forest Regulation and includes signpost definitions that refer readers to terms defined elsewhere in the Urban Forest Regulation or in other legislation.

Clause 105 New section 4A

This clause inserts new section 4A. The new section clarifies that other legislation applies in relation to offences against the Urban Forest Regulation, including Chapter 2 of the Criminal Code and section 133 of the *Legislation Act 2001*.

Clause 106 New part 1A

This clause inserts new Part 1A “Prohibited activities” into the Urban Forest Regulation. The new Part establishes a regulatory framework for protected trees (including exemptions), supporting enforcement under the urban forest protection regime.

The clause inserts a new section 4B, creating a strict liability offence where a person engages in conduct that constitutes minor damage to a protected tree, with a maximum penalty of 15 penalty units. The definition of minor damage adopts the meaning in section 14 (3) of the Urban Forest Act. The amendment supports proportionate enforcement by distinguishing minor damage from more serious offences under the Urban Forest Act.

Clause 107 New sections 4C and 4D

The clause inserts a new section 4C “Groundwork that is not prohibited groundwork” into the Urban Forest Regulation. The section provides a narrowly defined exemption for excavation works carried out to facilitate development in accordance with the Planning Act. The provision applies only where excavation is undertaken using specified low-impact methods and within clearly defined limits designed to protect tree health and structural stability.

The section allows for limited cutting or severing of small roots (not more than 50 mm in diameter) where this is done cleanly and using appropriate arboricultural root-pruning equipment.

Section 4C also includes definitions of key technical terms used in the section, including air spading, directional boring beneath tree roots, hand excavation, hydro-vacuum excavation, and structural root zone.

The intention is that the work must be undertaken with care to ensure that damage to the bark of tree roots (vascular cambium) is minimised and tree roots are not severed or torn unless it complies with 4C (2). Excavation must be undertaken with an appropriate pressure (below 1200psi), be kept at a minimum distance of 15cm from the soil profile or roots to prevent damage and use appropriate attachments, such as a fan shape nozzle for hydro-vacuum. Exposed roots should not be allowed to dry out and must be backfilled as soon as practicable with damp soil, mulch or hessian to prevent damage or dehydration.

The clause also inserts a new section 4D for groundwork that is not prohibited groundwork. It provides that certain types of groundwork are not prohibited groundwork for the purposes of section 15(3) of the Urban Forest Act where the work is undertaken in accordance with Australian Standard AS 4970:2025.

Under this section, excavation is not prohibited groundwork if it is carried out in accordance with AS 4970:2025 (Protection of trees on development sites) and involves excavation that would compact soil in at least 20% of a tree's protection zone or excavation to a depth greater than 200 mm over an area of 4 square metres or more, other than excavation undertaken for horticultural soil cultivation.

Section 4D also provides that section 47(6) of the *Legislation Act 2001* does not apply to AS 4970:2025. This ensures the Australian Standard may be applied, adopted or incorporated as in force from time to time, consistent with section 142 of the Urban Forest Act and section 47(7) of the *Legislation Act 2001*. Notes clarify that the standard is therefore not required to be notified as a notifiable instrument and indicate where it may be accessed.

Clause 108 Definitions—pt 2
Section 5 (1), new definition of *applicant*

This clause inserts a new definition of applicant into section 5 (1) of the Urban Forest Regulation. The definition provides that an “applicant” means a person entering into a canopy contribution agreement under section 35 of the Urban Forest Act in relation to the removal of a protected tree.

Clause 109 Section 5 (1), definition of *financial settlement amount*

This clause substitutes the definition of financial settlement amount. The amended definition distinguishes between tier 1 applicants, by reference to section 7 (1) and tier 2 applicants, by reference to section 7AA (1). The amendment reflects the introduction of tiered financial settlement arrangements.

Clause 110 Section 5 (1), definition of *home owner*

This clause omits the definition of “home owner”. The omission is consequential to the introduction of the tiered applicant framework and removes obsolete terminology from the Urban Forest Regulation.

Clause 111 Section 5 (1), new definitions

This clause inserts new definitions of tier 1 applicant and tier 2 applicant. The definitions reflect a two-tier applicant framework for canopy contribution agreements, with tier 2 applicant defined as an applicant other than a tier 1 applicant whose meaning is set out in the new section 5A.

Clause 112 New section 5A

This clause inserts new section 5A “Meaning of tier 1 applicant”, which sets out the criteria for determining whether an applicant is a tier 1 applicant. The provision identifies specific categories of applicants, including certain lessees that meet the current definition of home owner. It also includes other applicants and entities who do not have, and have not applied for, approval for development involving the removal of protected trees, including owners corporations, education entities, health facilities, registered community housing providers, and the housing commissioner or an entity contracted by the housing commissioner to provide public housing. It includes definitions of education entity, health facility and registered community housing provider.

The additional organisations included in new section 5A (1) (d) are included because they are entities that commonly manage large established landscapes with significant tree canopy as part of delivering essential public or community services, rather than for private commercial gain or redevelopment. These organisations often undertake protected tree management for safety, access, maintenance, insurance, service continuity and asset management reasons. The amendment therefore places these entities in tier 1 for non-development removals, rather than treating them as higher-contribution tier 2 applicants solely because of the scale of their landholdings.

Owners corporations are included because they are responsible for common property under unit titles arrangements and must manage shared landscapes on behalf of residents. Their tree management decisions are commonly maintenance-based and relate to safety, insurance and common asset protection rather than redevelopment. Similarly, non-resident lessees who are not undertaking development are included to recognise that not all non-owner occupier applications are associated with redevelopment outcomes.

Where an applicant outside the listed categories presents circumstances that justify equivalent treatment, subsection (2) allows the Minister to declare the applicant to be a tier 1 applicant by notifiable instrument. This provides flexibility to respond to exceptional cases without creating an overly broad default category, preserving both fairness and the integrity of the canopy contribution framework.

Clause 113 Section 6 heading

This clause substitutes the heading into section 6 of “On-site canopy contribution – tier 1 applicants – Act, s 36 (5) (a). The amendment aligns the heading with the revised tiered canopy contribution framework.

Clause 114 Section 6 (1)

This clause amends section 6 (1) by replacing the reference to a home owner with a tier 1 applicant. The amendment is consequential to the removal of the home owner concept and ensures consistency with the new applicant tiers.

Clause 115 New section 6 (2A)

This clause inserts new subsection 6 (2A). The new provision allows reduced replacement planting requirements where the decision-maker is satisfied that 7 or more protected trees form a hedge, limiting replacement planting to a maximum of 6 trees.

Clause 116 New section 6A heading

This clause inserts a new heading section 6A “On-site canopy contribution - tier 2 applicants - Act, s 36 (5) (a)” before section 6 (3). The amendment separates provisions applying to tier 1 applicants from those applying to tier 2 applicants.

Clause 117 Section 6 (3)

This clause amends section 6 (3) by replacing the reference to an applicant other than a home owner with a tier 2 applicant. The amendment aligns the provision with the tiered applicant framework.

Clause 118 Section 6 (4)

This clause amends section 6 (4) by updating an internal cross-reference to reflect the renumbering of subsections following earlier amendments.

Clause 119 Section 6 (7)

This clause omits section 6 (7). The omission is consequential to restructuring of section 6.

Clause 120 Sections 6 (3) to (6)

This clause renumbers sections 6 (3) to (6) as subsections (1) to (4). The amendment improves structural clarity following the insertion of new provisions and headings.

Clause 121 Section 7

The cause amendment substitutes section 7 to align the provision with the new tiered applicant framework. The section introduces specific treatment for hedges, allowing the financial settlement amount to be reduced where a group of seven or more protected trees forming a hedge is approved for removal.

The clause includes a new section 7AA which separates the financial settlement framework for tier 2 applicants, reflecting the different scale and impact of removals undertaken by this cohort. The provision adopts the current requirements for non-home owners.

This clause inserts new section 7AB into the Urban Forest Regulation. The section enables a decision-maker to make a canopy contribution agreement subject to a condition that, where a protected tree is removed from land, development on the land must not be undertaken within 2 years of the day the tree is removed.

Clause 122 Section 7A heading

This clause substitutes the heading to section 7A to read “Canopy contribution agreements – exemption considerations for tier 1 applicants – Act, s 39 (3) (b)”. The amendment is consequential to the introduction of tiered applicant categories and clarifies the scope of section 7A as applying to exemption considerations specifically for tier 1 applicants.

Clause 123 Section 7A (1)

This clause amends section 7A (1) by replacing the reference to a home owner with a reference to a tier 1 applicant. The amendment ensures that exemption considerations align with the revised tiered applicant framework and apply where a tier 1 applicant has applied under section 21 of the Urban Forest Act for approval to remove a protected tree.

Clause 124 Tree bond agreements—Act, s 92 (3) Section 8 (b) (ii), example

This clause amends the example in section 8 (b) (ii) by substituting the word “guidelines” with “rules”. The amendment aligns terminology with the rule-making framework established under the Urban Forest Act and Urban Forest Regulation.

Clause 125 Tree bond amount—Act, s 93 (5) (a) Section 9 (3)

This clause amends section 9 (3) by substituting a reference to section 7 (1) with a reference to section 7AA (1). The amendment is consequential to the restructuring of financial settlement provisions and ensures correct cross-referencing.

Clause 126 New part 4

The clause provides for matters of a miscellaneous nature, including prescribed periods for applications for internal review under section 133 (2) of the Urban Forest Act. This clause prescribes timeframes for making applications for internal review.

The provision differentiates between decisions to approve (14 working days) or refuse (3 months) to approve an activity or tree management plan. The amendment extends the time available for review if there is a refusal from 14 days to 3 months to provide the applicant with more time to seek an internal review.

Clause 127 Dictionary, note 1, new dot point.

This clause notes that note 1 currently provides that the *Legislation Act 2001* contains definitions relevant to the Urban Forest Regulation. The amendment inserts an additional dot point under note 1 to include “housing commissioner” as an example of a term defined.

Clause 128 Dictionary, new definition of applicant.

This clause amends the Dictionary to insert a new definition of “applicant”. The definition provides that, for part 2 (Canopy contribution agreements), applicant has the meaning given in section 5 (1). The amendment clarifies the application of the term applicant by identifying that its meaning for part 2 is contained in the operative provisions of the Urban Forest Regulation, rather than in the Dictionary itself.

Clause 129 Dictionary, definition of *home owner*

This clause omits the definition of “home owner” from the dictionary of the Urban Forest Regulation. The omission is consequential to the introduction of the tiered applicant framework and removes obsolete terminology from the Urban Forest Regulation.

Clause 130 Dictionary, definition of *financial settlement amount*

This clause amends the Dictionary by substituting the definition of “financial settlement amount”. The amended definition reflects the introduction of the tiered structure and provides that, for part 2 (Canopy contribution agreements), the meaning of financial settlement amount depends on the type of applicant.

Clause 131 Dictionary, new definitions

This clause adds the definition of tier 1 applicant and tier 2 applicant to the dictionary of the Urban Forest Regulation. The addition is consequential to the introduction of the tiered applicant framework and removes obsolete terminology from the Urban Forest Regulation.

Clause 132 Urban Forest Regulation 2023—renumbering

This clause provides for the renumbering of provisions of the Urban Forest Regulation on the last commencement date. The renumbering is to occur when the

Urban Forest Regulation is republished on the ACT legislation register under the *Legislation Act 2001*.

Schedule 1 Consequential amendments

Part 1.1 Heritage Act 2004

[1.1] Section 59, new note

The clause inserts new note 1A “Development proposals involving tree removals” before note 1 in section 59 of the *Heritage Act 2004*. The note provides that the territory planning authority may approve the removal of a regulated tree or a public tree before a development application is made if the authority is satisfied that removing the tree will facilitate the achievement of a desired planning outcome of the proposed development, with a reference to part 7.1A of the Planning Act.

[1.2] Section 61A, new definitions

This clause inserts new definitions of “tree management plan application” and “tree management plan proposal” into section 61A of the *Heritage Act 2004*, with references to the Urban Forest Act. This ensures the *Heritage Act 2004* reflects amendments relating to tree management plan applications and proposals in the Urban Forest Act.

[1.3] Section 61B (2)

This clause replaces the words “proposed tree damaging activity, or a tree management plan,” with “a proposed tree damaging activity, or a tree management plan proposal or application” in section 61B (2) of the *Heritage Act 2004*.

[1.4] Section 61B (3) (b) (ii) (A)

This clause inserts “or a tree management plan application” after “a proposed tree damaging activity” into section 61B (3) (b) (ii) (A) of the *Heritage Act 2004*

[1.5] Section 61B (3) (b) (ii) (B)

This clause omits the words “or application” from Section 61B (3) (b) (ii) (B) of the *Heritage Act 2004* to ensure consistency with amendments made to section 83 of the Urban Forest Act.

[1.6] Section 61B (4), definition of *tree protection notice*, paragraph (a)

This clause inserts the words “or a tree management plan application” after a “proposed tree damaging activity” into the definition of tree protection notice of

section 61B (4) of the *Heritage Act 2004*. The amendment ensures consistency between the definition and the Urban Forest Act.

[1.7] Section 61B (4), definition of *tree protection notice*, paragraph (b)

This clause omits “or application” from section 61B (4) of the *Heritage Act 2004* reflecting changes to the operation of tree protection processes under the *Urban Forest Act*.

[1.8] Section 61C (1) (a) and (2) (a)

This clause inserts the words “proposal or application” after “tree management plan” into section 61C (1) (a) and 2 (a) of the *Heritage Act 2004*.

[1.9] Dictionary, new definitions

This clause inserts new definitions of “tree management plan application” and “tree management plan proposal” into the Dictionary of the *Heritage Act 2004*, with references to section 61A of the Urban Forest Act, reflecting the update made to that section.

Part 1.2 Magistrates Court (Planning Infringement Notices) Regulation 2023

[1.10] Schedule 1, new item 1A

This clause amends schedule 1 to the *Magistrates Court (Planning Infringement Notices) Regulation 2023*. The amendment inserts a new item 1A. It sets out an infringement offence for a contravention of section 144F (1), with an offence penalty of 60 penalty units for an individual and \$1,200 infringement penalty. The amendment enables enforcement of section 144F (1) by infringement notice and ensures that appropriate infringement penalties are available in the schedule.

Part 1.3 Magistrates Court (Urban Forest Infringement Notices) Regulation 2023

[1.11] Sections 5 and 6

This clause omits the reference to the Urban Forest Act and substitutes urban forest legislation. This amendment reflects the new definition of urban forest legislation, defined to mean the Urban Forest Act and the Regulation.

[1.12] Section 6

This is a technical amendment.

[1.13] Sections 7 to 12

This clause substitutes references to the Urban Forest Act with “urban forest legislation”. It reflects the new definition of urban forest legislation, defined to mean the Urban Forest Act and the Regulation.

[1.14] Section 12 (b)

This clause substitutes the reference to “that Act” with “the urban forest legislation”. The amendment improves consistency and clarity in the application of infringement notice provisions. It reflects the new definition of urban forest legislation.

[1.15] Schedule 1 heading

This clause substitutes the heading to Schedule 1. The amendment is consequential to the restructuring of the Schedule and supports clearer presentation of infringement notice offences and penalties.

[1.16] Schedule 1, new Part 1.1 heading

This clause inserts a new heading Part 1.1 before the table in Schedule 1.

[1.17] Schedule 1, part 1.1, new item 3A

This clause inserts new item 3A into part 1.1, Schedule 1 relating to the Urban Forest Act to reflect the offence provision in section 46 (1), with an offence penalty of 50 penalty units and an infringement penalty of \$1,100. The amendment aligns the infringement notice schedule with the tree protection direction offence in the Urban Forest Act.

[1.18] Schedule 1, part 1.1, new item 5A

This clause inserts new item 5A into part 1.1, Schedule 1 relating to the Urban Forest Act to reflect the offence provision in section 104C (1), with an offence penalty of 50 penalty units and an infringement penalty of \$1,100. The amendment aligns the infringement notice schedule with the new rectification direction offence in the Urban Forest Act.

[1.19] Schedule 1, new part 1.2

This clause inserts new Part 1.2 into Schedule 1 relating to the Regulation. The new Part includes an offence for minor damage to a protected tree under section 4B (1), with differentiated infringement penalties depending on whether the tree is a registered or remnant tree (offence penalty of 15 penalty units and infringement penalty of \$480), or a public or regulated tree (offence penalty of 15 penalty units and infringement penalty of \$300).

[1.20] Dictionary, new definition of *urban forest legislation*

This clause inserts a new definition of urban forest legislation. The amendment supports consistent drafting and simplifies cross-referencing across the infringement notice framework.

Part 1.4 Nature Conservation Act 2014

[1.21] Section 316, new note

This clause inserts new note 1A “Development proposals involving tree removals” in section 316 of the *Nature Conservation Act 2014*. The note provides that the territory planning authority may approve the removal of a regulated tree or a public tree before a development application is made if the authority is satisfied that removing the tree will facilitate the achievement of a desired planning outcome of the proposed development, with a reference to part 7.1A of the Planning Act.

Part 1.5 Planning (Exempt Development) Regulation 2023

[1.22] Schedule 1, section 1.137 (1) (b) (ii)

This clause replaces the existing reference in paragraph (1)(b)(ii) with updated references to section 32 (*Approval for activity in urgent circumstances*) and the new section 32A (*Approval for minor works*).

This change ensures that the exempt development framework accurately reflects the approval pathways available under the Urban Forest Act, including the separate approval process for minor works.

Part 1.6 Public Unleased Land Act 2013

[1.23] Section 30, definition of *tree damaging activity approval*, paragraph (b)

This clause replaces paragraph (b) in the definition of tree damaging activity approval of the *Public Unleased Land Act 2013* to correctly refer to the provisions governing approval in urgent circumstances and minor works following amendments to the Urban Forest Act.

[1.24] Section 36 (2) (c)

This clause substitutes the word “pruning” with “removal” to correct a drafting error.

Part 1.7 Utilities Act 2000

[1.25] Section 105 (5), note etc

The amendments align these sections with the restructured provisions for approval of tree activity applications, in urgent circumstances, and for minor works in the Urban Forest Act.

Part 1.8 Utilities (Technical Regulation) Act 2014

[1.26] Section 32 (10), note etc

The amendments align these sections with the restructured provisions for approvals of tree activity applications, in urgent circumstances, and for minor works in the Urban Forest Act.

Part 1.9 Utility Networks (Public Safety) Regulation 2001

[1.27] Section 25 (1), note

The clause substitutes the words “s 28 or s32” with “s 28, s32 or s32 A” in the note of section 25 (1) of the *Utilities Networks (Public Safety) Regulation 2001*.