

REVIEW OF THE TREE PROTECTION ACT 2005



Questions and Answers

Q: Why does the Act require reviewing?

A: The *Tree Protection Act* 2005 is now almost 15 years old. The legislation does not always work for the people who interact with it and can lead to adverse outcomes for canopy cover. It does not have a mechanism to require that removed trees are replaced in order to ensure our canopy cover continues to grow. It also does not adequately consider safety issues and other factors such as solar access, damage to structures or impacts on development potential due to its location within the block.

It is also important to ensure the Act is consistent with the recently released *Climate Change Strategy* and *Living Infrastructure Plan*, including the target to reach 30% canopy cover by 2045 and with community expectations.

The review will aim to create a well-designed framework for managing trees on leased land that supports the objective of increasing canopy cover over the long term and protects highly valued trees in our urban forest.

Q: Why is effective tree management important?

A: The trees that make up the urban forest are essential to making the city resilient against climate change. There are estimated to be 770,000 trees on leased land in Canberra, approximately equal to the number of trees on public land. This estimate includes regulated trees (those of sufficient size to fall within the Act) as well as smaller trees that are not regulated.

Without a framework to protect and enhance canopy cover between one quarter and half of these trees could be lost over the next 20 years due to the ageing forest and need to remove trees for urban intensification.

In addition to the important role trees play in mitigating climate change, we also know that trees are important to Canberrans and contribute significantly to the City's liveability. In developing the *Better Suburbs Statement* a 2018 citizen's forum ranked street and park trees as their second highest priority amongst 14 municipal service delivery themes. Trees contribute to creating a sense of identity for the City, make it easier to use active travel methods and can contribute to overall wellbeing.

Q: What problems exist with the current Act?

A: The Act currently focuses on protecting trees at an individual level, rather than on the urban forest as a whole and total canopy coverage. Any tree in Canberra that meets set criteria, like being over 12m tall or with a canopy of over 12m, is automatically protected and can only be pruned or removed if it meets a strict set of criteria.

This can result in outcomes that do not align with the goal of enhancing our urban forest. In some cases, it means trees cannot be removed, with impacts on urban design outcomes. Anecdotal evidence also suggests that the strict rules about when a tree can be removed results in removals without approval, or in tree poisonings. These actions have adverse effects on our urban forest and our ability to reach our canopy coverage targets.

Q: What changes to the criteria to be a 'regulated' tree are we considering?

A: Currently a regulated tree is any tree that is:

- 12m or taller
- has a canopy of 12m or more
- has a trunk with a circumference of 1.5m or more 1m above natural ground level
- has two or more trunks and the total circumference of all trunks, 1m above natural ground level, is 1.5m or more.

This criteria is somewhat restrictive and means that sometimes trees must be protected in situations that may seem illogical, including in some cases poorly formed multi-stemmed trees that meet the circumference requirement. We will look at clarifying and simplifying these criteria and welcome suggestions on this.

Q: What changes to the criteria to remove a 'regulated' tree are we considering?

A: Currently a tree can only be removed if it meets a certain set of criteria (available at <https://www.legislation.act.gov.au/di/2018-50/>). The criteria is prescriptive and does not always allow for innovation and best practice. The criteria could be changed to be more outcome-focused with a view to maintaining protections while allowing for urban forest development and densification. We welcome suggestions on this.

Q: How many applications are considered under the Act in a year?

A: In the 2018-19 financial year, 1837 Tree Damaging Activity applications were lodged, seeking to remove 2320 trees.

Of the 2320 trees for which approval for removal was sought, 1731 were approved (almost 75%).

Q: What solutions are you currently considering?

A: We are currently inviting the public to provide ideas on the review during the consultation period that will run from 22 October to 8 December 2019.

We are particularly interested in getting the public's views on a number of possible solutions, including:

- Offsets – which can be used to compensate for loss of trees and would mean that when a tree (that

meets a certain set of criteria) is removed, it needs to be replaced with another tree or trees, other living infrastructure that would be its equivalent, or an amount can be paid into an offset fund which would be used to plant trees on public land.

- Streamlined processes and decision making – which allows for more flexible decision making where trees do not meet removal criteria and the possible creation of a new ‘tree curator’ role that would be the decision maker on individual applications and work in conjunction with the Conservator.
- Outcome focused criteria – to overcome the current criteria that is used to assess whether a tree can be removed which is currently relatively prescriptive and does not always allow for innovation and best practice.

Q: Is it anticipated that changes to the Act will regulate trees on public land?

A: No. The current Act does not regulate trees on urban public land, unless they have been registered on the basis of their special significance.

The Public Unleased Land Act 2013 does provide for some protection measures for trees as public assets on public land, however this is limited. The Nature Conservation Act 2014 provides protection for trees outside of the urban area, for example, in nature reserves.

The future development of the Urban Forest Strategy will consider all trees in the urban forest.

Q: If the review is only covering leased land, how will the government meet its target to achieve 30% tree canopy cover (or equivalent) in Canberra’s urban footprint by 2045?

A: As the target is to be achieved on both public and private land, the Government, community and business will need to work collaboratively to realise the desired outcome.

The ACT Planning Strategy 2018 commits to reviewing planning and development codes, guidelines and standards to incorporate living infrastructure objectives. Implementation of the canopy cover target will be supported through the review of planning policy and mechanisms to maintain and enhance the urban forest in precinct, estate and district level planning processes, and the review of relevant development and design guidelines.

The Government has also committed to planting over 17,000 trees up to 2023 to assist in meeting this target.

Q: How can someone contribute to the review?

A: We have opened a consultation period that will run from 23 October to 8 December 2019.

There are several ways to contribute:

- Engage with us on [YourSay.act.gov.au](https://www.yoursay.act.gov.au).
- Complete the survey at the YourSay site.
- Write to TCCS. The details are available on the YourSay site (communityengagement@act.gov.au or Attention: Business Development Unit, Transport Canberra and City Services, GPO Box 158 Canberra ACT 2601).