

2023

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

URBAN FOREST (CONSEQUENTIAL AMENDMENTS) BILL 2023

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

**Presented by
Chris Steel MLA
Minister for Transport and City Services**

URBAN FOREST CONSEQUENTIAL AMENDMENT BILL 2023

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*.

OVERVIEW OF THE BILL

The purpose of the Urban Forest (Consequential Amendments) Bill 2023 (the Bill) is to support the implementation of the Urban Forest Act 2023 (UFA) by making minor and technical updates to a range of Territory legislation.

The Bill makes amendments to 14 pieces of legislation that relate to the management and protection of the ACT urban forest. This includes legislation which references the to be repealed *Tree Protection Act 2005* (TPA) and legislation which contains exemptions or explanations in relation to how provisions apply in relation to protected trees. Notably, the UFA protects trees on private and public land in the ACT under a single piece of legislation. As a result, legislation relating to activities undertaken on both public and private land need to be amended for consistency and clarity.

The passage of the Bill will ensure that all relevant Territory legislation will align with the UFA.

ACT Civil and Administrative Tribunal Act 2008

The Bill includes technical updates to the *ACT Civil and Administrative Tribunal Act 2008* to amend references to the TPA. These are replaced with updated references to the relevant sections of the UFA.

City Renewal and Suburban Land Agency Act 2017

The Bill includes a minor update to the *City Renewal and Suburban Land Agency Act 2017* to replace TPA references with references to the UFA and to clarify the responsible authority for different categories of protected trees.

Heritage Act 2004

The Bill updates key definitions and references relating to trees under the *Heritage Act 2004*, particularly Aboriginal cultural trees and the processes for their protection under the UFA. The amendments ensure that clear and consistent information is provided regarding the advisory role of the ACT Heritage Council and representative Aboriginal organisations to the UFA decision-maker about such trees.

Nature Conservation Act 2014

The Bill includes updates to revise the definition of built-up urban area in the *Nature Conservation Act 2014* to reference the sections in which this is defined in the Urban Forest Act, and to update the definition of damage to a tree to align more closely with that in the UFA. Further updates will create exceptions from offences for damaging native trees for works that are exempt from tree damaging offences under the UFA to

ensure that conduct that is permitted under one Act is not subject to penalty under another.

Planning legislation

The Bill progresses updates to terms, TPA references, definitions and explanations of tree protection requirements in the *Planning Act 2023*, the *Planning (Exempt Development) Regulation 2023* and the *Planning (General) Regulation 2023*.

The changes to the planning legislation will take effect from the date of commencement of the relevant sections of the Planning Act or from 1 January 2024 if the Planning Act sections commence prior to this date. This will ensure the planning legislation refers to the tree protection law that is in force at the time as the Urban Forest Act commences on 1 January 2024.

The changes will ensure that the planning legislation clearly specifies protection requirements for protected trees and provides an accurate reference to the relevant provisions for these under the UFA. Notably, the UFA continues previous protections for registered trees and extends protections to all public trees, to remnant trees and to regulated trees that are greater than 8m in height or width. Additionally, trees approved for removal under the planning legislation will require a canopy contribution agreement to be a condition of the development approval, and trees that may be impacted by works will require a tree management plan and may require a tree bond.

Public Unleased Land Act 2013

The Bill contains several updates to references, definitions, notes and provisions relating to works that impact trees. These updates provide clarity as to when a tree damaging activity approval must be sought and clarify that directions to prune a tree overhanging public unleased land relate solely to trees on leased land under the UFA.

These changes ensure that people will be aware of the relevant requirements, the required tree-related information to provide and the offences for protected trees under the UFA prior to lodging a work approval application, a public unleased land permit application or complying with a plant pruning direction.

In addition to providing clarity, this change will ensure the necessary information is provided in order to apply a tree bond under the UFA to a tree management plan, including one that forms part of a public unleased land permit.

Surveyors Act 2007

The Bill makes one minor update to a note in the *Surveyors Act 2007* to clarify that whilst there are offences for damaging protected trees in the UFA, these do not extend to minor pruning of a regulated tree.

Trespass on Territory Land Act 1932

The Bill amends the offence for damaging trees in the *Trespass on Territory Land Act 1932* to state that it only applies to trees that are not protected trees under the Urban Forest Act as the tree damaging offences for protected trees are set in the UFA

Urban Forest Act 2023

The Bill amends the *Urban Forest Act 2023* to ensure accurate references to the planning legislation. The *Planning Act 2023* was passed after the UFA, so the UFA currently contains references only to the *Planning and Development Act 2007*. This change will take effect from the later date of 1 January 2024 or the date of commencement of the relevant sections of the Planning Act, thus the UFA will have up-to-date details relating to the planning law that is in force at any particular time.

These updates will insert accurate references to relevant parts of the Planning Act, amend definitions to align with those under the Planning Act, amend the naming of the decision-maker under the Planning Act to the 'territory planning authority', and replace the simplified outline of the tree-related provisions of the *Planning and Development Act 2007* in UFA section 106 with an outline of the tree-related provisions of the Planning Act.

These changes will provide clarity and consistency with the references in the Planning Act, ensuring that the requirements around tree protection during development activities are clear for readers of the legislation.

The Bill also updates the definition of the built-up urban area. These amendments remove reference to nature reserves in the *Planning and Development Act 2007* and the definition of road verges as the land between the trafficable part of a road and the boundary of the adjoining lease. These will be replaced with reference to reserves under the *Nature Conservation Act 2014* and clarification that road verges within the built-up urban area are all included in the built-up urban area, irrespective of whether they border leased or unleased land.

Utilities legislation

The Bill includes technical updates to the *Utilities Act 2000*, the Utilities (Technical Regulation) Act 2014 and the Utility Networks (Public Safety) Regulation 2001.

These updates align utilities legislation with the exemptions from tree damaging and prohibited groundwork offences under the UFA, which set out that these offences do not apply to anything done in relation to:

- a public or regulated tree under any of the listed provisions of the utilities legislation relating to:
 - installation of network and territory network facilities
 - maintenance of network and territory network facilities,
 - network protection notices or territory network protection notices,
 - clearance of vegetation from aerial lines,
 - maintenance of electrical infrastructure within network boundary, or
 - inspection of electrical infrastructure outside network boundary); or
- a registered tree or remnant tree, or a declared site – anything done under any of the listed provisions of the utilities legislation in relation to the following actions if work is undertaken for protecting life or property in urgent circumstances:
 - maintenance of network and territory network facilities,
 - clearance of vegetation from aerial lines,

- maintenance of electrical infrastructure within network boundary, or
- inspection of electrical infrastructure outside network boundary).

CONSULTATION ON THE PROPOSED APPROACH

Key partners, stakeholders and the Canberra community were engaged throughout the development of the Urban Forest Act.

Consultation during the development of this Bill was targeted to ACT Government stakeholders due to the technical nature of the Bill. Progressing technical alignments will ensure smooth implementation of the Urban Forest Act, which was developed after an extensive review and consultation period.

External stakeholders

The public was consulted twice during the development of the UFA: first in 2019 during the review of the *Tree Protection Act 2005*, then in 2022 on the draft Urban Forest Bill. The views of the community and industry contributed to the development of key parts of the Bill including the objectives, the definition of a regulated tree, the Canopy Contribution Framework and Tree Bonds.

ACT Government agencies

The business units responsible for the legislation that this Bill is amending were consulted during the development of the Bill. This ensured that the changes relating to the UFA were understood and provided an opportunity for minor refinements to the draft provisions to be identified to avoid any unintended impacts of the changes.

CONSISTENCY WITH HUMAN RIGHTS

During the development of the Bill due regard was given to its compatibility with human rights as set out in the *Human Rights Act 2004* (the HR Act), noting the Bill is not a Significant Bill and does not engage human rights to a significant extent.

Rights engaged

The Bill engages the following section of the Human Rights Act 2004:

- section 27 – Cultural and Other Rights of Aboriginal and Torres Strait Islander Peoples and Other Minorities (promoted)

Rights Promoted

Cultural and Other Rights of Aboriginal and Torres Strait Islander Peoples

The updating of the *Heritage Act 2004* to reflect the provisions on protection of Aboriginal cultural trees in the UFA supports cultural and other rights of Aboriginal and Torres Strait Islander Peoples. The amendments create consistency in the terminology used for culturally significant trees and in the referral and consultation processes for Aboriginal cultural trees which may be protected under the ACT Tree Register as they are identified. This process values Aboriginal heritage and cultural practice and ensures continuing consultation with ACT Aboriginal peoples regarding the protection of their cultural heritage.

Urban Forest (Consequential Amendments) Bill 2023

Human Rights Act 2004 – Compatibility Statement

In accordance with section 37 of the *Human Rights Act 2004* I have examined the **Urban Forest (Consequential Amendments) Bill 2023**. 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*.

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Shane Rattenbury MLA
Attorney-General

CLAUSE NOTES

PART 1 PRELIMINARY

Clause 1 Name of Act

This clause states that the name of the Act is the *Urban Forest (Consequential Amendments) Act 2023* (the Act).

Clause 2 Commencement

This clause provides that the Act will commence on the commencement of section 3 of the *Urban Forest Act 2023*.

Clause 3 Legislation amended – sch 1

This clause provides for this Act to amend the legislation mentioned in Schedule 1.

SCHEDULE 1 LEGISLATION AMENDED

Part 1.1 ACT Civil and Administrative Tribunal Act 2008

Clause 1.1 Section 22P (1)

This clause removes reference to the *Tree Protection Act 2005* and inserts the *Urban Forest Act 2023*.

Clause 1.2 Section 32 (2), note

This clause removes reference to the *Tree Protection Act 2005* and inserts the *Urban Forest Act 2023*.

Clause 1.3 Sections 48 (2) (d) etc

This clause removes references to the *Tree Protection Act 2005* and inserts the *Urban Forest Act 2023*.

Part 1.2 City Renewal and Suburban Land Agency Act 2017

Clause 1.4 Section 36B (3) (a) (ii)

This clause removes reference to referring works that may affect a protected tree under the *Tree Protection Act 2005* to the conservator. This clause inserts reference to referring works that may affect a registered or regulated tree to the conservator and works that may affect a public tree to the director-general under the *Urban Forest Act 2023*.

Part 1.3 Heritage Act 2004

Clause 1.5 Section 3B (4)

This clause removes reference to definitions of built-up urban area and urban tree in the *Tree Protection Act 2005*. The clause inserts reference to the definitions of urban forest and urban tree in the *Urban Forest Act 2023* and applicable section numbers.

Clause 1.6 Section 61A

This clause removes reference to definitions of Aboriginal heritage tree, tree damaging activity and tree management plan in the *Tree Protection Act 2005*. The clause replaces these with reference to the definitions of Aboriginal cultural tree, decision-maker, tree damaging activity and tree management plan in the *Urban Forest Act 2023* and applicable section numbers.

Clause 1.7 61B (1) (b) (i)

This clause replaces 'Aboriginal heritage tree' with 'Aboriginal cultural tree' in line with the terminology used in the *Urban Forest Act 2023*.

Clause 1.8 Section 61B (3) and (4)

This clause removes reference to the *Tree Protection Act 2005*, the conservator of fauna and flora and relevant sections of that Act. The clause inserts reference to the *Urban Forest Act 2023*, the decision-maker and applicable section numbers.

Clause 1.9 Section 61C (1) and (2)

This clause replaces 'conservator' with 'decision-maker' to reflect the terminology under the *Urban Forest Act 2023*.

Clause 1.10 Section 61C (2) (a) (i)

This clause replaces 'Aboriginal heritage tree' with 'Aboriginal cultural tree' in line with the terminology used in the *Urban Forest Act 2023*.

Clause 1.11 Section 61D (1) (a)

This clause replaces 'conservator' with 'decision-maker' to reflect the terminology under the *Urban Forest Act 2023*.

Clause 1.12 Section 61D (1) (b)

This clause removes reference a decision made by the conservator under the *Tree Protection Act 2005* and replaces it with reference to a decision made by the decision-maker under the *Urban Forest Act 2023*.

Clause 1.13 Section 61D (2)

This clause replaces 'conservator' with 'decision-maker' to reflect the terminology under the *Urban Forest Act 2023*.

Clause 1.14 Section 61D (3) (a)

This clause removes reference to information provided for the conservator to make a decision under the *Tree Protection Act 2005* and replaces it with reference to information provided to the decision-maker for a decision to be made under the *Urban Forest Act 2023*.

Clause 1.15 Dictionary, new definition of *Aboriginal cultural tree*

This clause adds a definition of Aboriginal cultural tree with a reference to the relevant definition in the *Urban Forest Act 2023* in line with the terminology used in the *Urban Forest Act 2023*.

Clause 1.16 Dictionary, definition of *Aboriginal heritage tree*

This clause removes the definition of Aboriginal heritage tree under the *Tree Protection Act 2005* in line with the terminology used in the *Urban Forest Act 2023*.

Clause 1.17 Dictionary, definition of *decision-maker*

This clause removes reference to the *Tree Protection Act 2005* and inserts the *Urban Forest Act 2023* to ensure the definition references the dictionary in the *Urban Forest Act 2023*.

Clause 1.18 Dictionary, definition of *tree management plan*

This clause removes reference to the *Tree Protection Act 2005* and inserts the *Urban Forest Act 2023* to ensure the definition references the dictionary in the *Urban Forest Act 2023*.

Part 1.4 Nature Conservation Act 2014

Clause 1.19 Section 139, definitions of *built-up urban area* and *damage*

This clause updates the definition of damage that previously reflected the *Tree Protection Act 2005* to align more closely with the definition of damage in the *Urban Forest Act 2023*. This clause also removes reference to the *Tree Protection Act 2005* and inserts the *Urban Forest Act 2023* to ensure the built-up urban area definition references the dictionary in the *Urban Forest Act 2023*.

Clause 1.20 New section 139 (2)

This clause adds a definition of hollow that references the relevant section of the *Urban Forest Act 2023*, and definitions of lop and pollard that align with meaning of these terms in industry as reflected in the *Urban Forest Act 2023*.

Clause 1.21 Section 140 (2), except note

This clause adds an exception for activities that are exempt from tree damaging and prohibited groundwork offences under the *Urban Forest Act 2023* to create consistency with the new legislation.

Clause 1.22 Section 144 (2), except note

This clause adds an exception for activities that are exempt from tree damaging and prohibited groundwork offences under the *Urban Forest Act 2023* to ensure consistency with the new legislation.

Clause 1.23 Section 145 (2) (e)

This clause adds an exception for activities that are exempt from tree damaging and prohibited groundwork offences under the *Urban Forest Act 2023* to create consistency with the new legislation.

Part 1.5 Planning Act 2023

Clause 1.24 Section 3, note 1

This clause removes reference to the *Tree Protection Act 2005* in the example of a signpost definition and replaces this with reference to the *Urban Forest Act 2023*.

Clause 1.25 New section 170 (1) (e)

This clause specifies that if a development application affects a protected tree or a declared site, the territory planning authority must refer the application to the conservator of fauna and flora. This referral requirement has been moved from regulation to the to the primary legislation and updated to apply to all protected trees to give clear effect to the new legislation.

Clause 1.26 Section 185 (5)

This clause replaces the reference to a regulated tree with a reference to a regulated or public tree in line with the protections afforded to different types of trees under the *Urban Forest Act 2023*

Clause 1.27 Section 185 (6), new definition of *public tree*

This clause adds a definition of public tree that references the relevant section of the *Urban Forest Act 2023*.

Clause 1.28 New section 187 (1) (f)

This clause specifies that if a development application affects a protected tree or a declared site, the approval is to be conditional on the applicant complying with any tree protection conditions. Tree protection conditions include complying with a tree management plan, entering into of a canopy contribution agreement and/or signing a tree bond agreement as required under the *Urban Forest Act 2023*.

Clause 1.29 New section 187 (2) (q)

This clause adds entering into a canopy contribution agreement under the *Urban Forest Act* as an example of a condition subject to which a development approval may be issued.

Clause 1.30 Section 187 (6)

This clause adds definitions of canopy contribution agreement and tree bond agreement for this section that refer to the *Urban Forest Act 2023*.

Clause 1.31 Section 189 (1) (d)

This clause extends the provision relating to a registered tree to also apply to a remnant tree on land outside the built-up urban area in line with the protections afforded to different types of trees under the *Urban Forest Act 2023*.

Clause 1.32 Section 189 (7), definition of *registered tree*

This clause removes reference to the *Tree Protection Act 2005* and inserts the *Urban Forest Act 2023* to ensure the definition references the dictionary in the new legislation.

Clause 1.33 Section 189 (7), new definition of *remnant tree*

This clause adds a signpost definition of remnant tree for this section that refers to the *Urban Forest Act 2023*, to provide clarity around the terms used in provisions referring to the new legislation.

Clause 1.34 Section 430 (1) (f)

This clause removes reference to the *Tree Protection Act 2005* and inserts reference to the *Urban Forest Act 2023* to give effect to the new legislation. The relevant part of the new legislation is provided in a note to assist in locating relevant provisions.

Clause 1.35 Section 430 (3)

This clause removes the signpost definition of protected tree in this section, as another amendment recreates this definition in the dictionary for this Act.

Clause 1.36 Dictionary, definition of *declared site*

This clause adds a definition of declared site that references the relevant section of the *Urban Forest Act 2023*.

Clause 1.37 Dictionary, definition of *protected tree*

This clause adds as definition of protected tree that references the relevant section of the *Urban Forest Act 2023* to give effect to the new legislation.

Clause 1.38 Dictionary, definition of *tree management plan*

This clause removes reference to the *Tree Protection Act 2005* and inserts the *Urban Forest Act 2023* to ensure the definition references the dictionary in the new legislation.

Part 1.6 Planning (Exempt Development) Regulation 2023

Clause 1.39 Schedule 1, section 1.1, definition of *built-up urban area*

This clause adds with reference to the definition of built-up urban area in the *Urban Forest Act 2023* to ensure these remain aligned in future.

Clause 1.40 Schedule 1, section 1.2

This clause removes the definition of built-up urban area as this has now been replaced by reference to this term in the *Urban Forest Act 2023*.

Clause 1.41 Schedule 1, section 1.13 (1) (d)

This clause removes reference to the *Tree Protection Act 2005* and inserts the *Urban Forest Act 2023* to ensure the definition references the dictionary in the new legislation.

Clause 1.42 Schedule 1, section 1.137 (1) (b)

This clause removes reference to the *Tree Protection Act 2005* and inserts reference to the *Urban Forest Act 2023* and its relevant sections to give effect to the new legislation.

Clause 1.43 Schedule 1, section 1.137 (2)

This clause removes references to the *Tree Protection Act 2005* for the terms damage, declared site, prohibited groundwork and protection zone and replaces these with references to the *Urban Forest Act 2023* and applicable section numbers to give effect to the new legislation.

Part 1.7 Planning (General) Regulation 2023

Clause 1.44 Section 33 (1) (b)

This clause removes the subsection specifying that a development application that relates to a declared site under the Tree Protection Act must be referred to the conservator of fauna and flora. This requirement is now outlined in the Planning Act itself in relation to declared sites under the Urban Forest Act.

Part 1.8 Public Unleased Land Act 2013

Clause 1.45 New section 19 (4) (a) (iv)

This clause adds that in deciding on an application to carry out work on public land, the director-general must consider whether the work would be likely to damage a protected tree or impact its tree protection zone. This expands the principle in section 19 (4) (a) (iii) that the decision-maker must consider whether the work would be likely to damage the public unleased land, specifying that this consideration must extend to impacts to trees that are protected under the *Urban Forest Act 2023*.

Clause 1.46 New section 19 (5) (c)

This clause adds that the director-general may only approve an application to carry out work on public land if satisfied that the work would be unlikely to cause unacceptable damage to a public tree. Unacceptable damage includes damage that would constitute tree damage or prohibited groundwork under the *Urban Forest Act 2023*.

Clause 1.47 New section 19 (7)

This clause adds a reference to the definition of prohibited groundwork in the *Urban Forest Act 2023*.

Clause 1.48 Section 30

This clause updates the definitions of leased land and registered tree to refer to the *Urban Forest Act 2023*. It also replaces the definition of tree protection approval with a definition for tree damaging activity approval to align with the terminology used in the new legislation, and removes the definition of damage for this section, as clause 1.37 of this Bill adds a definition of damage a protected tree to the dictionary of the Public Unleased Land Act.

Clause 1.49 Section 31 (1)

This clause clarifies that this section applies in relation to trees or other plants on leased land only. This additional explanation clarifies that whilst public trees are protected under the *Urban Forest Act 2023*, they are not relevant to this section.

Clause 1.50 Section 31 (3)

This clause updates the note regarding the approvals required for pruning of registered trees to align with the terminology in the new legislation. It also provides further explanation that approvals are not required for pruning of regulated trees in this section, with reference to the relevant sections of the *Urban Forest Act 2023*.

Clause 1.51 Section 31 (4) (f)

This clause replaces ‘tree protection approval’ with ‘tree damaging activity approval’ to align with the terminology used in the new legislation.

Clause 1.52 Section 34 (1)

This clause adds ‘on leased land’ after ‘tree or other plant’ to provide clarity on the location of relevant vegetation for directions to prune trees etc overhanging public unleased land. This additional explanation clarifies that whilst public trees are protected under the *Urban Forest Act 2023*, they are not relevant to this section.

Clause 1.53 Section 34 (3)

This clause removes reference to the *Tree Protection Act 2005* and the relevant section of that Act. The clause inserts reference to the *Urban Forest Act 2023* and the applicable section numbers to give effect to the new legislation.

Clause 1.54 Section 34 (4) (e)

This clause replaces ‘tree protection approval’ with ‘tree damaging activity approval’ to align with the terminology used in the new legislation.

Clause 1.55 New section 45 (2) (d) (ii) (C)

This clause specifies that the location plan attached to an application for a public unleased land permit must include the location of any protected trees on the public unleased land to give effect to the new legislation.

Clause 1.56 Section 50, definition of *suitability information*, new paragraph (a) (via)

This clause inserts that suitability information about a public unleased land activity includes the location of any protected trees within the area of the activity, any potential impacts to these trees from the proposed placement of an object, and how the applicant will minimise the impact to the protected trees.

Clause 1.57 Section 50, definition of *suitability information*, new paragraph (b) (iva)

This clause inserts that suitability information about a public unleased land activity includes the location of any protected trees within the area of the activity, any potential impacts to these trees from the proposed event, and how the applicant will minimise the impact to the protected trees.

Clause 1.58 Section 57 (4), new example and note

This clause inserts tree protection measures as an example of a condition that a public unleased land permit may be subject too. An explanatory note clarifies that a tree bond agreement may be required if a protected tree is identified as being at risk of damage from the permit activity.

Clause 1.59 Dictionary, definition of *damage*

This clause updates the definition of damage to reference the *Urban Forest Act 2023*.

Clause 1.60 Dictionary, new definitions

This clause adds references to the definitions of leased land and protected tree in the *Urban Forest Act 2023* and applicable section numbers.

Clause 1.61 Dictionary, definition of *registered tree*

This clause updates the definition of registered tree to reference the *Urban Forest Act 2023*.

Clause 1.62 Dictionary, new definition of *tree damaging activity approval*

This clause adds a new definition of tree damaging activity approval that references the *Urban Forest Act 2023*.

Clause 1.63 Dictionary, definition of *tree protection approval*

This clause removes the definition of 'tree protection approval' under the *Tree Protection Act 2005* in line with the terminology used in the new legislation.

Part 1.9 Surveyors Act 2007

Clause 1.64 Section 45 (1) (f), new note

This clause adds a note explaining that the UFA contains offences for damaging protected trees, however these do not apply to minor pruning of a regulated tree. This note supports accurate understanding of the scope of the powers of entry granted under section 45 (1) (f): a surveyor or assistant may trim a tree obstructing a survey only if this comprises minor pruning to a regulated tree.

Part 1.10 Trespass on Territory Land Act 1932

Clause 1.65 New section 7 (2)

This clause clarifies that this offence only applies to trees on Territory land that are not protected trees under the Urban Forest Act, in addition to plants, gardens, plantations or afforestation areas on Territory land. This reflects that offences for damaging public trees within the built-up urban area and remnant trees in future urban areas and areas subject to an estate development plan are now provided for in the *Urban Forest Act 2023*.

Part 1.11 Urban Forest Act 2023

Clause 1.66 Section 3, note 1

This clause removes reference to the *Planning and Development Act 2007* in this example of a signpost definition and adds reference to the *Planning Act 2023* to ensure the example definition references current legislation.

Clause 1.67 Section 7 (c), definition of *urban forest*, paragraph (c) and note

This clause removes references to an area that is the subject of an estate development plan and adds reference to any area that is the subject of a subdivision design application to reflect the terminology used in the *Planning Act 2023*.

Clause 1.68 Section 8 (1), definition of *built-up urban area*, paragraphs (b) and (c)

This clause amends the definition of built-up urban area to specify that this area includes the verge of a road that is in or adjacent to a zone that is in the built-up urban area. This makes certain that regardless of their own zoning, urban road verges will be included within the built-up urban area due to their proximity to other zones such as residential, commercial and urban open space zones.

Clause 1.69 Section 8 (4)

This clause replaces 'nature reserve' with 'reserve' and replaces the reference to the definition of nature reserve in the *Planning and Development Act 2007* with reference to the definition of reserve in the *Nature Conservation Act 2014* to ensure that the definition references the most relevant current legislation.

This clause also removes reference to the *Planning and Development Act 2007* and inserts reference to the *Planning Act 2023* to ensure the definition of rural lease references the current legislation.

Clause 1.70 Section 9 (b), definition of *protected tree*, paragraph (b) (ii)

This clause removes references to an area that is the subject of an estate development plan and adds reference to any area that is the subject of a subdivision design application to reflect the terminology used in the *Planning Act 2023*.

Clause 1.71 Section 25 (2) (b)

This clause removes reference to the *Planning and Development Act 2007* and relevant sections of that Act. This clause adds reference to the *Planning Act 2023* and applicable section numbers to give effect to the new legislation.

Clause 1.72 Sections 29 (1) (c) and 31 (2) (c)

This clause removes reference to the planning and land authority and inserts reference to the territory planning authority to reflect the terminology used in the *Planning Act 2023*.

Clause 1.73 Section 34, definition of *decision-maker*

This clause removes reference to the *Planning and Development Act 2007* and inserts reference to the *Planning Act 2023* to ensure the definition references the current legislation.

Clause 1.74 Section 35 (2)

This clause removes reference to the *Planning and Development Act 2007* and the planning and land authority and inserts reference to the *Planning Act 2023* and the territory planning authority to give effect to the new legislation.

Clause 1.75 Section 35 (3), note

This clause removes reference to the *Planning and Development Act 2007* and inserts reference to the *Planning Act 2023* to reflect the current legislation.

Clause 1.76 Section 69 (4) (a) (ii)

This clause removes reference to the planning and land authority and inserts reference to the territory planning authority to reflect the terminology used in the *Planning Act 2023*.

Clause 1.77 Section 78 (4), note

This clause removes reference to the *Planning and Development Act 2007*, its decision-maker and its authority to approve a tree management plan for a regulated tree. In its place, the clause adds reference to the *Planning Act 2023*. This clarifies that the territory planning authority may approve a tree management plan for a regulated or public tree to which a development application that the authority approves relates.

Clause 1.78 Section 82 (3) (b)

This clause removes reference to the *Planning and Development Act 2007* and relevant sections of that Act. This clause adds reference to the *Planning Act 2023* and applicable section numbers to give effect to the new legislation.

Clause 1.79 Section 105, definition of *development*

This clause removes reference to the *Planning and Development Act 2007* and inserts reference to the *Planning Act 2023* to ensure the definition references the current legislation.

Clause 1.80 Section 106

This clause replaces the summary of the provisions of the *Planning and Development Act 2007* that relate to development applications and the conservator's advice on tree-related matters with a summary of the equivalent provisions of the *Planning Act 2023*. This clarifies the requirements for referrals, the processes for providing and considering advice, and the tree protection conditions that may be applied to development approvals to support understanding of the new legislation.

Clause 1.81 Section 107 (2)

This clause removes reference to the planning and land authority and the *Planning and Development Act 2007* and its relevant sections and timeframes and inserts reference to the territory planning authority to reflect the terminology, relevant sections and decision-maker of the *Planning Act 2023*.

Clause 1.82 Section 108 (1) (b)

This clause removes reference to the *Planning and Development Act 2007* and relevant sections of that Act. This clause adds reference to the *Planning Act 2023* and applicable section numbers to give effect to the new legislation.

Clause 1.83 Dictionary, note

This clause removes reference to the planning and land authority and replaced it with reference to the territory planning authority to reflect the terminology used in the *Planning Act 2023*.

Clause 1.84 Dictionary, definition of *decision-maker*, paragraph (b)

This clause removes reference to the *Planning and Development Act 2007* and inserts reference to the *Planning Act 2023* to reflect the current legislation.

Clause 1.85 Dictionary, definition of *development*, paragraph (a)

This clause removes reference to the *Planning and Development Act 2007* and the relevant section of that Act. This clause adds reference to the *Planning Act 2023* and the applicable section number to reflect the current legislation.

Clause 1.86 Dictionary, definition of *development application*

This clause removes reference to the *Planning and Development Act 2007* and its dictionary. This clause adds reference to the *Planning Act 2023* and the applicable section number to ensure the definition references the current legislation.

Clause 1.87 Dictionary, definition of *development approval*

This clause removes reference to the *Planning and Development Act 2007* and inserts reference to the *Planning Act 2023* to ensure the definition references the current legislation.

Clause 1.88 Dictionary, definition of *estate development plan*

This clause removes reference to the definition of estate development plan from the *Planning and Development Act 2007* as this term is not used in the *Planning Act 2023*.

Clause 1.89 Dictionary, definition of *future urban area*

This clause removes reference to the *Planning and Development Act 2007* and inserts reference to the *Planning Act 2023* to ensure the definition references the current legislation.

Clause 1.90 Dictionary, definition of *subdivision design application*

This clause adds a reference to definition in the *Planning Act 2023* to ensure the definition references the current legislation.

Clause 1.91 Dictionary, definition of *tree management plan*, paragraph (b)

This clause removes reference to the *Planning and Development Act 2007* and inserts reference to the *Planning Act 2023* to ensure the definition references the current legislation.

Part 1.12 Utilities Act 2000

Clause 1.92 Section 105 (5) and note

This clause removes reference to registered trees under the *Tree Protection Act 2005* and relevant sections of that Act. The clause inserts reference to protected trees under the *Urban Forest Act 2023* and applicable section numbers.

This clause also adds a note specifying that the *Urban Forest Act 2023* has offences for damage to a protected tree and prohibited groundwork, however, these do not apply to any activity that has approval under the *Urban Forest Act 2023* or anything done to a public or regulated tree under this section of the *Utilities Act 2000*.

Clause 1.93 Section 106 (3) and note

This clause removes reference to registered trees under the *Tree Protection Act 2005* and relevant sections of that Act. The clause inserts reference to protected trees under the *Urban Forest Act 2023* and applicable section numbers.

This clause also adds a note outlining the exemptions for tree damaging and prohibited groundwork offences under the *Urban Forest Act 2023*, including both a general exemption for works done to public or regulated trees under this section of the *Utilities Act 2000* and a targeted exemption for urgent emergency work relating to a registered or remnant tree under this section.

Clause 1.94 Section 110 heading

This clause amends the section heading to clarify that the contents of this section may be referred to as network operations.

Clause 1.95 Section 110 (3) (d)

This clause inserts a statement that if a network operations notice applies to the clearing of trees, the landholder may need approval under the *Urban Forest Act 2023* before undertaking tree works.

Clause 1.96 Section 110 (3), new note

This clause inserts a note that offences for damaging protected trees or doing prohibited groundwork apply under the *Urban Forest Act 2023*. This note states that offences do not apply to approved activities and provides the relevant sections of the *Urban Forest Act 2023*.

Clause 1.97 Section 231 (5) and note

This clause removes reference to registered trees under the *Tree Protection Act 2005* and relevant sections of that Act. The clause inserts reference to protected trees under the *Urban Forest Act 2023* and applicable section numbers.

This clause also adds a note specifying that the *Urban Forest Act 2023* has offences for damage to a protected tree and prohibited groundwork, however, these do not apply to any activity that has approval under the *Urban Forest Act 2023* or anything done to a public or regulated tree under this section of the *Utilities Act 2000*.

Clause 1.98 Section 232 (3) and note

This clause removes reference to registered trees under the *Tree Protection Act 2005* and relevant sections of that Act. The clause inserts reference to protected trees under the *Urban Forest Act 2023* and applicable section numbers.

This clause also adds a note outlining the exemptions for tree damaging and prohibited groundwork offences under the *Urban Forest Act 2023*, including both a general exemption for works done to public or regulated trees under this section of the *Utilities Act 2000* and a targeted exemption for urgent emergency work relating to a registered or remnant tree under this section.

Clause 1.99 Section 236 heading

This clause amends the section heading to clarify that the contents of this section may be referred to as territory network operations.

Clause 1.100 Section 236 (3) (d)

This clause inserts a statement that if a territory network operations notice applies to the clearing of trees, the landholder may need approval under the *Urban Forest Act 2023* before undertaking tree works.

Clause 1.101 Section 236 (3), new note

This clause inserts a note that offences for damaging protected trees or doing prohibited groundwork apply under the *Urban Forest Act 2023*. This note states that offences do not apply to approved activities and provides the relevant sections of the *Urban Forest Act 2023*.

Clause 1.102 Section 249 (1)

This clause clarifies that this section applies to trees.

Clause 1.103 Section 249 (2)

This clause clarifies that this section applies to trees.

Clause 1.104 Section 249 (4) (a)

This clause clarifies that this section applies to trees.

Clause 1.105 Section 249 (7) and (9) (a)

This clause clarifies that these sections apply to trees.

Clause 1.106 Section 249 (10)

This clause removes reference to registered trees under the *Tree Protection Act 2005* and relevant sections of that Act. The clause inserts reference to protected trees under the *Urban Forest Act 2023* and applicable section numbers to give effect to the new legislation.

This clause also adds a note specifying that the *Urban Forest Act 2023* has offences for damage to a protected tree and prohibited groundwork, however, these do not apply to any activity that has approval under the *Urban Forest Act 2023* or anything done to a public or regulated tree under this section of the *Utilities Act 2000*.

Clause 1.107 Section 249 (11), definition of *person given the notice*, paragraph (a)

This clause clarifies that this section applies to trees.

Clause 1.108 Dictionary, new definition of *protected tree*

This clause adds reference to the definition of protected tree in the *Urban Forest Act 2023* in line with the terminology used in the new legislation.

Part 1.13 Utilities (Technical Regulation) Act 2014

Clause 1.109 Section 32 (1) and (3) (a)

This clause clarifies that this section applies to trees.

Clause 1.110 Section 32 (6) and (9) (a)

This clause clarifies that these sections apply to trees.

Clause 1.111 Section 32 (10)

This clause removes reference to registered trees under the *Tree Protection Act 2005* and relevant sections of that Act. The clause inserts reference to protected trees under the *Urban Forest Act 2023* and applicable section numbers.

This clause also adds a note specifying that the *Urban Forest Act 2023* has offences for damage to a protected tree and prohibited groundwork, however, these do not apply to any activity that has approval under the *Urban Forest Act 2023* or anything done to a public or regulated tree under this section of the *Utilities (Technical Regulation) Act 2014*.

Clause 1.112 Section 41D (8) and note

This clause removes reference to registered trees under the *Tree Protection Act 2005* and relevant sections of that Act. The clause inserts reference to protected trees under the *Urban Forest Act 2023* and applicable section numbers.

This clause also adds a note outlining the exemptions for tree damaging and prohibited groundwork offences under the *Urban Forest Act 2023*, including both a general exemption for works done to public or regulated trees under this section of the *Utilities (Technical Regulation) Act 2014* and a targeted exemption for urgent emergency work relating to a registered or remnant tree under this section.

Clause 1.113 Section 41H (4) and note

This clause removes reference to registered trees under the *Tree Protection Act 2005* and relevant sections of that Act. The clause inserts reference to protected trees under the *Urban Forest Act 2023* and applicable section numbers to give effect to the new legislation.

This clause also adds a note outlining the exemptions for tree damaging and prohibited groundwork offences under the *Urban Forest Act 2023*, including both a general exemption for works done to public or regulated trees under this section of the *Utilities (Technical Regulation) Act 2014* and a targeted exemption for urgent emergency work relating to a registered or remnant tree under this section.

Clause 1.114 Section 41I (9)

This clause removes reference to registered trees under the *Tree Protection Act 2005* and relevant sections of that Act. The clause inserts reference to protected trees under the *Urban Forest Act 2023* and applicable section numbers.

This clause also adds a note outlining the exemptions for tree damaging and prohibited groundwork offences under the *Urban Forest Act 2023*, including both a general exemption for works done to public or regulated trees under this section of the *Utilities (Technical Regulation) Act 2014* and a targeted exemption for urgent emergency work relating to a registered or remnant tree under this section.

Clause 1.115 Dictionary, new definition of *protected tree*

This clause adds reference to the definition of protected tree in the *Urban Forest Act 2023* in line with the terminology used in the new legislation.

Part 1.14 Utility Networks (Public Safety) Regulation 2001

Clause 1.116 Section 25 (1), new note

This clause adds a note explaining relevant offences and exemptions under the *Urban Forest Act 2023*.