

Australian Capital Territory

Urban Forest (NBN Co) Declaration 2025 (No 1)

Disallowable instrument DI2025-290

made under the

Urban Forest Act 2023, section 137 (Power to apply or disapply Act to entities or activities).

EXPLANATORY STATEMENT

Subsection 137 (1)(b) of the *Urban Forest Act 2023* (the Act) allows for the Minister to declare that a provision or provisions of the Act does not apply to a stated entity or activity. Subsection 137 (2) of the Act makes such a declaration a disallowable instrument.

Overview

The purpose of this instrument is to remove administrative barriers to the connection of NBN services across Canberra, where the connection works may impact protected trees.

The NBN Co have a project to build the NBN in Canberra, including the connection of approximately 97,000 services across Canberra from 2025 to 2030. Of these connections, approximately 10,000 backyard installations will be required, with the remainder being installed through front yards and verges. These works have the potential to impact protected trees on leased and unleased land.

When there are protected trees in the vicinity of the installation works, the operation of the Act will require the NBN Co to apply for approval to undertake tree damaging activity or seek approval for a Tree Management Plan for each impacted tree. This would place an enormous administrative burden on the NBN Co and the Territory.

This declaration moderates the requirements of the Act in order to facilitate the connection of the NBN services. In doing this, the declaration disapplies as few provisions as possible. It also aligns the requirements on the NBN Co with the requirements on utility companies.

Sections 16 and 17 of the Act make it an offence to do an activity that would or may damage a protected tree or undertake prohibited groundwork in the protection zone for a protected tree. This declaration disapplies these offences if the tree damaging activity or prohibited groundwork is undertaken by NBN Co. However, these offences are disapplied only if the activity or groundwork is undertaken in accordance with the

Tree Management Standards (the Standards) set out in a schedule to the declaration. This means these offences will continue to apply to activities undertaken by NBN Co other than in accordance with the Standards. In turn, this means the NBN Co will need to seek approval to carry out any activity or groundwork other than in accordance with the Standards. Requiring the NBN Co to comply with the Standards ensure the objects of the Act continue to be met notwithstanding the disapplication of the offences.

Human Rights

This declaration supports human rights by helping to protect the right to freedom of expression and the right to work. The instrument removes barriers to accessing telecommunications services enabling access to information and remote employment work opportunities, without compromising the objects of the *Urban Forest Act 2023*.

Climate Change

The City and Environment Directorate considers that retaining the decision-makers powers for high impact activities will have a measurable impact on climate change and the long-term liveability of Canberra.

Outline of Provisions

Section 1 names the instrument the *Urban Forest (NBN Co) Declaration 2025 (No 1)*.

Section 2 states that the instrument commences on the day after its notification.

Section 3 disapplies sections 16 and 17 of the *Urban Forest Act 2023* for the activities listed in clause 4.

Section 4 outlines the activities to which the declaration in clause 3 applies. It limits the exemption to activities undertaken by the NBN Co, that are consistent with the Tree Management Standards.

Section 5 defines the NBN Co.

Schedule 1 sets out the Tree Management Standards. The Standards provide a clear, consistent approach to tree management and protection in relation to the specific works being undertaken by the NBN Co in Canberra. The Standards have been developed in collaboration between the NBN Co and decision-makers under the *Urban Forest Act 2023*.