

# Review of the Urban Forest Act 2023

## Urban Forest and Planning Amendment Bill 2026

The purpose of the Bill is to deliver on the Government's 2024 election commitment and better align the *Urban Forest Act 2023* (Urban Forest Act) with the delivery of Government priorities such as housing and infrastructure, whilst still meeting the objects of the legislation.

The Bill responds to feedback and it streamlines applications and decision-making process under the Urban Forest Act and better aligns it with related legislative frameworks, including the *Planning Act 2023* (Planning Act).

A summary of the key amendments in the Bill include:

- Providing for a new pathway to remove a regulated or public tree on design grounds outside of the Development Application (DA) and approval process in the *Planning Act 2023*;
- Introducing groundwork exemptions in the *Urban Forest Regulation 2023*, for certain low/medium impact activities that can be undertaken without approval, including:
  - excavation using hydro-vacuuming, air spading, or hand excavation 450mm depth;
  - directional boring 650mm below tree roots; and
  - an increase to the prohibited groundwork thresholds if undertaken in accordance with Australian Standards.
- Increasing flexibility for minor works under section 32A of the *Urban Forest Act 2023* with approvals being issued on-the-spot or within 10 business days for works that have a minor impact on the health or stability of a protected tree;
- Reducing legislated processing timeframes for applications to undertake damaging activities and prohibited groundwork (including tree management plans) in the *Urban Forest Act 2023*;
- Introducing a new power for authorised officers to direct a person to remove trees to safeguard people, animals, or property and other amendments to enhance enforcement under the *Urban Forest Act*;
- Introducing a new power for the Minister for City and Government Services to determine conditions for Canopy Contribution Agreements under the 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 under s 133 of the *Urban Forest Act 2023*; and
- Other minor and technical amendments to improve the operation of the urban forest and planning legislation.

Further information about the amendments are outlined below.

## Removal of a tree on design grounds

The Bill will amend the Planning Act to provide that a proponent of a development proposal may apply to the territory planning authority for approval to remove a regulated tree or a public tree affected by the

proposed development on design grounds. The removal of a tree must facilitate the achievement of a desired planning outcome that is consistent with the territory plan.

The Minister for Planning and Sustainable Development will make guidelines setting out matters that may or must be considered by the territory planning authority when deciding whether to approve the removal of a tree. The instrument will codify the decision making process that is undertaken when the removal of trees are approved on design grounds during the development approval process. The guidelines will be released on YourSay Conversations for feedback.

A decision will be made within 10 business days. The applicant must enter into a Canopy Contribution Agreement and a building approval or commencement under the *Building Act 2004* must be issued before the tree can be removed. If a building approval is not required, the tree can be removed when the construction work commences. A tree management plan may be required. This means that developments that would otherwise be exempt from a development approval will no longer have to submit a development application. This will provide applicants with certainty earlier and save time and money.

### Minor works pathway

The Bill will update the minor works approval pathway in s 32 of the Urban Forest Act with the aim to support more approvals being issued on-the-spot, or within 10 business days. An application can be approved if the activity will have a minor impact on the health or stability of the tree.

It is also proposed that minor works, and groundwork applications on the developable block can be accepted without the consent requirement if the tree is on the adjoining block if the work will have a minor impact to the tree.

### Groundwork Exemptions

The Bill will amend the definition of prohibited groundwork in section 15 of the Urban Forest Act to introduce a regulation making power to prescribe groundwork that is not prohibited. This means that low/moderate impact groundwork can be undertaken within the protection zone of a protected tree in certain circumstances.

The Bill amends the *Urban Forest Regulation 2023*, to exempt certain low/medium impact activities that can be undertaken without approval, including:

- to undertake a development that is compliant with the Planning Act, excavation to a depth of 450mm is permitted if low-moderate impact techniques are used such as hydro-vacuuming, air-spading and hand excavation
- directional boring at a depth of 650mm under the root system is permitted
- an increase to the prohibited groundwork thresholds if undertaken in accordance with Australian Standards (AS4970:2025), specifically:
  - increasing the depth of excavation from 100mm to 200mm
  - raising the soil compaction threshold from 10% to 20% of the tree protection zone.

The Urban Forest Regulation prescribes the conditions that are usually placed on approvals under the Act to mitigate any damage to trees. These works must be undertaken in accordance with conditions outlined in the regulation to protect the structural root zone and stability of the tree.

Please note: a person could still be found to have committed an offence if they damage the tree's root system with a maximum court penalty of 500 penalty units. A suitably qualified project arborist should be engaged to ensure compliance.

An application is required for all other activities that meet the definition of *prohibited groundwork* under section 15 of the Urban Forest Act because it is likely to have an impact on the health and stability of the tree.

## Faster approvals

The Bill will update the legislative timeframe for making decisions to provide certainty as soon as possible. It is proposed that the following timeframes will be updated in the Urban Forest Act and the Planning Act, introducing a hierarchy for tree related approvals that consider the health of the tree:

- Minor works: on-the-spot or within 10 days
- Design grounds: 10 days
- Tree activity applications and tree management plans:
  - 25 days (no referral)
  - 35 days (with referral)

## Enhanced enforcement

The Bill will seek to enhance enforcement powers in the Urban Forest Act to protect the urban forest and public safety, it will:

- Introduce a new power to direct a person to remove a tree that endangers the health or safety of people or animals or is causing, or may cause, substantial damage to public or private property (rectification direction).
- Extend the time to begin prosecution for offences from 1 to 2 years to ensure that damage to trees can be appropriately investigated
- Reduce the infringement notice penalty for minor damage to a protected tree by introducing a new targeted strict liability offence

## Other proposals

The Bill will also introduce other legislative amendments and process improvements, including:

- Clarifying the objects of the Urban Forest Act to integrate health, liveability, stewardship and other long term strategies for renewing and maintaining trees
- Amendments to clarify the application of the Urban Forest Act for future urban areas and areas subject to a subdivision design applications
- Introduce more flexibility into the Canopy Contribution Framework in the Urban Forest Act, including:
  - Capturing more activities in the lower tier contribution category where there is no development (flat fee rather than calculated fee)
  - Introduce a new power to waive or amend canopy contribution conditions in exceptional cases, including for Territory Priority Projects
  - Reduce on-site canopy replacement planting requirements for homeowners on leased land, where the decision-maker is satisfied that 7 or more protected trees were originally planted to form a hedge. A maximum of 12 trees must be considered for the development of the Canopy Contribution Agreement conditions
- Extend the internal review period under section 133 from 14 working days to 3 months where an application is refused and retain the 14 working day period for approved applications.

- Minor and technical amendments to improve the operation of the Urban Forest Act.