

Response ID ANON-7F6N-9C7A-N

Submitted to Tree Protection Bill - Call for Evidence
Submitted on 2026-09-15 16:07:52

Introduction

1 Confirmation of having read the Northern Ireland Assembly Committee's Privacy Notice.

I confirm that I have read the privacy notice.

2 What is your name?

Please provide information to support your answer.:
Christopher McAteer

3 What is your email address?

Please provide information to support your answer.:
christopher@nienvironmentlink.org

4 If you are providing a submission on behalf of an organisation or business, please state its name.

Please provide information to support your answer.:
Northern Ireland Environment Link

5 The Committee for Infrastructure has agreed to publish all responses as part of the survey results. If you would like to have your survey results anonymised and for us not to publish your name or organisation, please indicate so here.

I am content for my information, including details of my name and organisation, to be published in the survey results.

Clause 1 - Tree preservation orders: councils

6 Do you agree with Clause 1 of the Bill?

Yes

7 Please provide information to support your answer here:

Accessible:

Northern Ireland Environment Link (NIEL) strongly supports all the proposed amendments to the Planning Act (Northern Ireland) 2011 contained within Clause 1 of the Bill.

Existing legislation enabling a TPO to be made puts considerable emphasis on the public amenity value of a tree. Assessment is made by considering criteria including the tree's condition, its future longevity, visibility to the public. Other factors can influence the granting of a TPO, but public amenity takes precedence.

While we recognise and support the importance of public amenity, we believe more weight should be given to other factors. In particular, we believe a tree's ecosystem services must be considered as central in assessing the appropriateness of granting a TPO. These services include carbon sequestration, biodiversity, air quality improvement, flood mitigation, urban cooling, soil stabilisation, and other benefits for nature, human health and public wellbeing.

As Woodland Trust NI have noted in their response to this consultation, including ecosystem services as a primary factor in assessment of TPOs would bring legislation into alignment with the Strategic Planning Policy Statement for Northern Ireland.

Additionally, we strongly support the proposal to include "cause of permit" within the scope of TPOs. Our understanding of this issue is shaped by Woodland Trust NI, which has argued that the existing legislation does not sufficiently capture all circumstances where unlawful works may be authorised, facilitated or permitted.

Including 'cause or permit' will better ensure that TPOs are more aligned with the reality of how unlawful work tends to occur. This would reduce ambiguity regarding responsibility for taking actions affecting protected trees.

We also strongly support proposals to introduce specific statutory protections for ancient trees. The value of ancient trees must be considered extremely high and is influenced by their irreplaceability, ecological, cultural, and historical significance. The existing TEMPO approach does somewhat account for tree longevity, but assesses this through an amenity framework. The value of ancient trees goes well beyond amenity.

The changes proposed will also align better with existing planning policy in Northern Ireland, not least of all by mirroring the intrinsic value placed on historic buildings and monuments going beyond amenity.

Finally, we support the proposed amendment relating to the commencement of TPOs. Protection should take effect at the earliest stage to reduce ambiguity and ensure a TPOs effectiveness.

Clause 2 - Provisional tree preservation orders

8 Do you agree with Clause 2 of the Bill?

Yes

9 Please provide information to support your answer here

Accessible:

NIEL supports Clause 2 of the Bill. This provision will provide a more streamlined approach to confirming TPOs that are not contested. The proposals allow TPOs to take immediate effect while equally allowing a 6-month period in before they are officially confirmed. This is fair and proportionate for landowners and others while maintain the best possible precautionary protection for the relevant tree.

The proposals do not in our view impinge on council powers that presently exist as they can still revoke TPOs as appropriate. The clause is therefore a proportionate and important safeguard.

Clause 3 - Penalties for contravention of tree preservation orders

10 Do you agree with Clause 3 of the Bill?

Yes

11 Please provide information to support your answer here

Accessible:

In line with our support of Clause 1, we support Clause 3 of the Bill as it brings alignment around the broader protections introduced by the former. This clause is essential as it ensures that anyone who knowingly permits work that breaches a TPO may also be held liable for an offence. The necessity of Clause 3 is that it links what conduct is prohibited with what conduct may give rise to an prosecution.

This clause will address the stark findings of the NI Public Service Ombudsman's report Strengthening our Roots that evidenced the gap between reported tree protection breaches and enforcement action in the period 2019-2022. Namely, that 369 breaches were reported and yet only one case resulted in enforcement. Furthermore, there were no prosecutions.

Clause 4 - Replacement of trees

12 Do you agree with Clause 4 of the Bill?

Yes

13 Please provide information to support your answer here

Accessible:

Replacement requirements for removed, damaged or destroyed trees that are subject to TPOs must be robust to ensure the purpose of the TPO (whether amenity or ecosystem service, etc.) is maintained.

We are content that Clause 4 will address this concern. It also satisfies the need for landowners to inform the relevant council.

The proposal for a five-year replacement period grants further consistency and fulfils the arboricultural principles relating to establishing new trees. The responsibility for replacement provisions are also satisfactory.

Clause 5 - Council to inspect replacement trees

14 Do you agree with Clause 5 of the Bill?

Yes

15 Please provide information to support your answer here

Accessible:

The purpose of a provision for replacement trees is that they fulfil the aims of a TPO in the event that the original tree is damaged, removed, or destroyed. This purposed can only be achieved if the replacement tree is successfully established. If it is not then it must be replaced itself to maintain the purpose of the TPO. Successful establishment must therefore be monitored to make such as assessment.

Clause 5 is therefore crucial as it introduces a new duty on councils to carry out inspections of replacement trees within the first five years. This clause complements Clause 4 and is essential to fulfil the purpose of Clause 4.

It is also appropriate that Clause 5 allows flexibility for councils in how inspections are carried out. Being too prescriptive and onerous on councils will be counterproductive. Rather, the clause correctly allows councils to undertake site visits or review evidence provided by landowners.

Provisions relating to remedial action are crucial too. Responsibility for remediation should rest with the party who has caused the breach.

Clause 6 - Enforcement of duties as to replacement of trees

16 Do you agree with Clause 6 of the Bill?

Yes

17 Please provide information to support your answer here

Accessible:

Clause 6 complements Clauses 4 and 5 by ensuring councils have the powers needed to enforce replacement and monitoring requirements where obligations are not met.

We support allowing councils to carry out replacement planting when responsible persons fail to do so, helping ensure replacement duties result in actual planting rather than unfulfilled commitments.

We also welcome provisions enabling councils to act where the responsible person cannot be identified, located or cannot meet their obligations. This closes potential loopholes, ensuring replacement planting can still be secured and costs recovered where appropriate.

Overall, Clause 6 strengthens the enforceability of the replacement regime and helps ensure the unlawful loss of protected trees is addressed through the delivery of replacement planting.

Clause 7 - Tree Protection Map

18 Do you agree with Clause 7 of the Bill?

Yes

19 Please provide information to support your answer here

Accessible:

Public access to information is essential to the effective operation of the tree protection system. As unauthorised works to protected trees can be a criminal offence, landowners, developers, contractors and the public need to be able to easily identify whether a tree is protected by a TPO or located within a Conservation Area.

We support the proposal to establish a single Tree Protection Map for Northern Ireland. While many councils already provide TPO information online, coverage and accessibility remain inconsistent. A centralised map would provide a clear, consistent source of information, making it easier to access details on protected trees regardless of council boundaries.

Importantly, the proposal would not prevent councils from maintaining their own records or mapping systems. Instead, it would establish a common baseline for transparency and accessibility across Northern Ireland while allowing councils to provide additional local information.

The Tree Protection Map could also support the recording of further information over time. If the Bill's provisions on ancient trees are enacted, consideration should be given to identifying TPO-protected ancient trees within the system. This would raise awareness, support their long-term protection and improve public understanding of these important heritage assets

Clause 8 - Determination of planning applications

20 Do you agree with Clause 8 of the Bill?

Yes

21 Please provide information to support your answer here

Accessible:

Ancient woodland, long-established woodland and ancient trees are irreplaceable assets that cannot be recreated once lost. Given their rarity in Northern Ireland, we strongly support the proposed presumption against development that would result in their loss or deterioration.

Clause 8 does not impose a blanket ban on development. Rather, it establishes stronger protection for a limited number of highly significant habitats and trees, requiring any harmful development to be justified by wholly exceptional circumstances.

We also support the proposed protection of ancient trees subject to TPOs and the introduction of a 15-metre buffer around ancient and long-established woodland. This recognises that damage can occur through indirect impacts such as root disturbance, hydrological changes and other edge effects, even where woodland is not directly removed.

Recent losses of ancient woodland and planning cases affecting inventoried sites demonstrate the need for stronger statutory safeguards alongside existing planning policy. To ensure consistent application, consideration should be given to defining “wholly exceptional circumstances” in legislation or guidance, with applicants required to demonstrate that harm is unavoidable and that no reasonable alternative exists.

Clause 9 - Permitted Development

22 Do you agree with Clause 9 of the Bill?

Yes

23 Please provide information to support your answer here

Accessible:

Ancient and long-established woodland are irreplaceable habitats that cannot be recreated once lost. We therefore support requiring proper planning scrutiny for development that would cause their loss or deterioration, rather than allowing it to proceed automatically under permitted development rights.

Clause 9 complements Clause 8 by extending protection to ancient and long-established woodland where development would otherwise benefit from permitted development rights. Importantly, it does not remove those rights generally, but only where development would affect these habitats or fall within the proposed 15-metre buffer zone.

The amendment is therefore targeted at safeguarding some of Northern Ireland's most environmentally significant habitats while preserving permitted development rights in other circumstances.

We also note that Clause 8 extends protection to TPO-protected ancient trees. Consideration should be given to applying equivalent protections under permitted development to ensure consistency between developments requiring planning permission and those proceeding under permitted development rights.

Clause 10 - Ecosystem services

24 Do you agree with Clause 10 of the Bill?

Yes

25 Please provide information to support your answer here

Accessible:

Clause 10 is a welcome complement to Clause 1, providing greater clarity on how ecosystem services can be considered when determining whether a tree merits TPO protection.

We support the proposed Schedule, which establishes a clear framework for assessing cultural, regulating and supporting ecosystem services. This should improve understanding of the role ecosystem services play in the TPO process and promote greater consistency in decision-making across Northern Ireland.

The Schedule will also improve transparency by ensuring that requests for TPOs based on ecosystem services are assessed against a defined set of criteria, providing greater certainty regarding the environmental, social and ecological benefits that may justify statutory protection.

Clause 11 - Interpretation: 2011 Act

26 Do you agree with Clause 11 of the Bill?

Yes

27 Please provide information to support your answer here

Accessible:

We welcome the inclusion of definitions for ancient woodland, long-established woodland and heavy standard trees, as clear definitions are essential to the effective operation of the Bill.

We support the proposed definitions of ancient woodland and long-established woodland, which are consistent with Northern Ireland's Ancient Woodland Inventory and established practice elsewhere in the UK. We also support defining "heavy standard tree" by reference to BS 8545, providing a clear and recognised technical standard.

However, we are less certain about defining an "ancient tree" by reference to guidance produced by specific organisations. Consideration should be given to setting the criteria through regulations instead, providing greater legal certainty and flexibility as arboricultural knowledge evolves.

A regulatory approach could also better reflect the relationship between ancient and veteran trees, which share many ecological and heritage characteristics and are often protected through a common framework elsewhere. This may provide a more robust and future-proof legislative basis while achieving the same policy objective.

Clause 12 - Interpretation: 2015 Order

28 Do you agree with Clause 12 of the Bill?

Yes

29 Please provide information to support your answer here

Accessible:

As outlined in response to Clause 11, we support the proposed definitions in the Bill. Applying these to the Planning (General Permitted Development) Order (Northern Ireland) 2015 would create greater consistency.

Clause 13 - Interpretation: general

30 Do you agree with Clause 13 of the Bill?

Yes

31 Please provide information to support your answer here

Accessible:

We are supportive of the interpretation provisions within the Bill.

Clause 14 - Commencement

32 Do you agree with Clause 14 of the Bill?

Yes

33 Please provide information to support your answer here

Accessible:

We recognise that councils and the Department will need time to implement the Bill, including updating procedures, issuing guidance and training staff. A commencement period is therefore justified.

However, any delay risks the loss or damage of trees and woodlands that could benefit from the new protections, particularly ancient woodland, long-established woodland and ancient trees. We therefore encourage consideration of a phased commencement approach, allowing key protection measures to take effect sooner while more complex provisions are implemented later.

Consideration should also be given to how the new provisions will apply to planning applications, appeals and other matters already in progress at commencement.

Overall, we support allowing sufficient time for implementation, but the commencement arrangements should balance administrative preparedness with the need to avoid unnecessary losses before the legislation takes effect.