

Response ID ANON-2N4W-6P7H-G

Submitted to Tree Protection Bill - Call for Evidence
Submitted on 2026-07-29 14:52:01

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.:
Peter Archdale

3 What is your email address?

Please provide information to support your answer.:
[REDACTED]

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.:
No

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:

In 2016, as Lead Verifier for the Woodland Trust's Ancient Tree Hunt in Northern Ireland, a role in which I verified in excess of 250 tree records, I identified a veteran oak east of the Old Castle Archdale ruins, County Fermanagh, and formally notified the landowner, Northern Ireland Forest Service, of its existence. The tree was subsequently entered on the Ancient Tree Inventory (tree ID 157775) as a tree of National Special Interest, verified in 2016. No protective measures were put in place by the owner over the following nine years.

In 2025, following storm damage and clear-felling of the adjoining conifer coupe, I applied to Fermanagh and Omagh District Council for a Provisional TPO, citing the tree's ATI status and its exposure to imminent forestry operations. The Council refused, citing no immediate threat, limited public visibility, and no evidence of mismanagement. As far as I can establish, no specialist advice on the tree's importance was sought at any stage.

One further point, raised as an inference rather than a documented fact: the landowner is Northern Ireland Forest Service, itself a public body, and I would ask the Committee to consider whether councils may be structurally reluctant to serve a TPO against another arm of government. Planning decisions should logically apply consistently, regardless of ownership. Since November 2025, Northern Ireland departments have a statutory duty under the Environmental Principles Policy Statement (EPPS) to give due regard to five principles, including integration, when making policy; this postdates my case, but it strengthens the forward-looking argument that veteran and ancient trees on government-owned land warrant proactive protection integrated into departmental management, not protection dependent solely on a private citizen's application to a separate public body.

This reinforces the case for the mandatory, non-discretionary duty in subsections 1A and 1C: where an arboriculturist confirms ancient status, a TPO must follow regardless of who owns the land, removing any scope, real or perceived, for ownership to influence the outcome. Under 1B, a qualified assessment could have been commissioned; none was. Under 1D, written reasons would be required for declining one; I received none. I cannot see any statutory duty on a public body owner to mitigate risk once notified of ancient status; the nine-year gap in my case illustrates the consequence.

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:

I support Clause 2. Reducing administrative uncertainty for applicants is important, and a mechanism that removes ambiguity around when a provisional order takes effect is a sound principle. I would note that the underlying issue in my case reflects the same discretion addressed in my Clause 1 evidence: a council retains full discretion to decline any form of order, provisional or otherwise, once it reaches an amenity-based refusal, and Clause 2 does not itself alter that discretion.

In my case, the Council did not serve a provisional order at all; the request was refused outright, so I have no direct evidence on the deemed-confirmation mechanism itself, since a provisional order was never in place. There was, however, considerable delay by FODC in assessing my application: acknowledged 16 June, refused 23 September, review requested 26 September, refused again on 30 October following a hastener on 22 October. Determination alone took over three months, and the full process to final refusal took some four and a half months, close to the six-month period within which a provisional order would itself lapse. This adds weight to the case for Clause 2's deemed-confirmation mechanism taking effect promptly where no objections are received. My application was, however, never published, so no member of the public had the opportunity to raise an objection or representation in the first place. A deemed-confirmation mechanism premised on "no objections received" has limited value unless councils are also required to publish applications so that objections can actually be made.

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:

Under Article 65(3) of the current framework, a TPO does not apply to the cutting down, topping or lopping of a tree that is dying, dead, or has become dangerous, or to work necessary to prevent or abate a nuisance. No consent is required to rely on this exemption. My concern is that this creates two related problems for ancient and veteran trees specifically, which Clause 3's extension of liability to "knowingly causes or permits" does not itself resolve, since it depends on what is defined as an offence in the first place.

First, ancient trees are particularly vulnerable to root plate damage from compaction and cultivation, harm that is often gradual, cumulative, and not traceable to a single act. Proving "wilful" damage, or that damage was "knowingly" caused or permitted, is inherently harder for this kind of harm than for felling or topping, where the act is visible and immediate.

Second, the same exemption that permits removal of dead or dangerous limbs without consent is where a health and safety justification can, in practice, override protection intended for an ancient tree, since no ecological input is required before acting. In my own case, storm damage and clear-felling of the adjoining coupe left the tree newly exposed; a similar safety justification could, under the current exemption, be used to remove precisely the deadwood and habitat features that make an ancient tree valuable, without any prior consultation.

Restricting public access to the hazard, rather than removing the hazard itself, is established practice in veteran tree management and would often be sufficient, but I recognise it cannot cover every case, such as trees on or near public rights of way, roads, or land with existing public access. I would ask the Committee to consider a graduated approach for ancient trees specifically: retain and monitor, then restrict access, then minimal targeted intervention that preserves habitat features, with full removal only where none of these is reasonably practicable and the reasoning recorded, consistent with the written-reasons duty proposed under 1D.

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:

Clause 5 - Council to inspect replacement trees

14 Do you agree with Clause 5 of the Bill?

Unsure

15 Please provide information to support your answer here

Accessible:

Clause 5 inserts a duty on councils to inspect replacement trees annually for five years, but leaves the form of inspection, and who carries it out, to the council's discretion under section 125A(2). My concern is that a general requirement such as "a current arboricultural qualification" is not precise enough to ensure inspections are meaningful. Arboricultural qualifications span a wide range, from operational tree-work certificates through to full professional

membership, and a person holding a basic qualification is not necessarily competent to assess establishment problems such as poor form, pest or disease pressure, drought stress, or planting defects.

I would recommend the Bill adopt the same drafting approach it already uses elsewhere, for example the definition of "heavy standard tree" under Clause 11, which references a named standard "or any successor standard, or such other specification as the Department may prescribe by regulations." Applied to Clause 5, this could anchor the initial requirement to a recognised professional benchmark, such as membership of a relevant professional body, for example the Arboricultural Association at Technician grade or above, or an equivalent qualification, while giving the Department a regulation-making power to update the standard over time as qualifications and accreditation routes evolve.

This connects to a concern I have raised elsewhere in this submission regarding the limited pool of appropriately qualified assessors currently available in Northern Ireland. Specifying a named professional benchmark now, with a regulation-making power to update it, would give councils a clear and auditable standard to work to, rather than leaving inspection quality to interpretation at a time when specialist capacity is already constrained.

Clause 6 - Enforcement of duties as to replacement of trees

16 Do you agree with Clause 6 of the Bill?

Not Answered

17 Please provide information to support your answer here

Accessible:

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:

My 2025 application to Fermanagh and Omagh District Council for a Provisional Tree Preservation Order was refused. There is currently no public record of that refusal, nor any published data on the number of TPO applications received, approved, or refused by the Council, or by any other council in Northern Ireland.

As former Lead Verifier for the Woodland Trust's Ancient Tree Hunt, I hold records of numerous ancient and veteran trees across Northern Ireland notified to landowners and, in some cases, to councils, over several years. There is no mechanism to establish whether these notifications led to protective action, or whether other applications for similar trees have been refused on comparable grounds elsewhere.

I support new sections 128A to 128D. A published Tree Protection Map, including the number of TPO applications received, approved, and rejected by each council, would have allowed my case to be compared against decisions taken elsewhere in Northern Ireland, and would give the Committee and the public a basis for assessing whether councils are applying the amenity test, and in due course the ancient tree provisions in Clause 1, consistently. In the absence of such a record, refusals of this kind remain visible only to the individual applicant and the council concerned.

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:

The veteran oak at the centre of my Clause 1 evidence stands within an area the Woodland Trust records as Long-Established Woodland, and my 2025 application to Fermanagh and Omagh District Council for a Provisional TPO was prompted directly by storm damage and clear-felling of the adjoining conifer coupe, with further forestry operations then planned for the immediate vicinity. As Lead Verifier for the Woodland Trust's Ancient Tree Hunt in Northern Ireland, I notified the landowner, Northern Ireland Forest Service, of the tree's existence and ancient status in 2016. No buffer, root protection zone, or exclusion from felling operations was established in the following nine years.

This sequence illustrates the risk the 15 metre exclusion zone in Clauses 8 and 9 is designed to prevent, and specifically the risk of root plate compaction and cultivation damage from machinery working close to the trunk, harm that is often irreversible and not always immediately visible. Protection was sought only after felling had already taken place immediately adjacent to the tree, at the point the risk became apparent rather than before it arose. A statutory buffer, applied at the point ancient or long-established woodland is identified rather than at the point of retrospective application, would have prevented this exposure before it occurred.

My case concerns a single ancient tree associated with long-established woodland rather than a woodland loss of the kind more commonly considered

under Clause 8. It nonetheless demonstrates that the absence of a statutory buffer allows forestry operations to proceed up to the base of a documented ancient tree without the wholly exceptional circumstances test being engaged, and without any prior duty on the landowner to notify the council of planned operations near a known ancient tree. I would suggest the Committee consider whether the 15 metre buffer should apply equally to individual ancient trees notified to a council, even where a woodland-scale designation has not yet been formally recorded.

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:

See answer to Clause 8

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:

My 2025 application to Fermanagh and Omagh District Council set out the tree's biodiversity and ecological value at length, including its role as habitat for specialist fungi, lichens, mosses and invertebrates, its contribution to insect predator communities, its function in nutrient cycling and carbon storage, and its use by owls, bats and small mammals for nesting and roosting. Under the current law, none of this evidence could form a direct ground for a TPO, since Section 122 permits a TPO only where it is expedient in the interests of amenity.

The Council's refusal letter did not engage with this ecological evidence; it addressed only public visibility, mismanagement, and immediate threat, the three components of the amenity test. I support Clause 10, since ecological and cultural value of this kind, corresponding closely to the cultural, regulating and supporting services categories proposed in new Schedule 1A, would then have a direct route into a council's decision.

I would, however, ask the Committee to consider whether citing ecosystem services as a ground for a TPO is sufficient on its own to protect the specific habitat features involved, particularly for saproxylic and cavity-dependent species. A TPO protects the tree as a specimen; it does not extend to the deadwood, cavities, or loose bark those species depend on, and the current exemption for dead, dying or dangerous wood permits removal of exactly this material without consent. Wildlife impact is, in addition, treated as a separate matter under the Wildlife (Northern Ireland) Order 1985, outside the planning function, with no formal link into the TPO consent process. Citing a supporting service as grounds for protection has limited practical effect if the mechanism does not also protect the features that supporting service depends on.

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:

I support the proposed definition of "ancient tree" by reference to criteria published by the Ancient Tree Forum and the Woodland Trust, or successor criteria prescribed by the Department. I have direct experience of the practical operation of this evidence base: as Lead Verifier for the Woodland Trust's Ancient Tree Hunt in Northern Ireland, I verified in excess of 250 tree records against these criteria, including the tree at the centre of my submission on Clause 1, which was entered on the Ancient Tree Inventory in 2016 as a tree of National Special Interest.

This case demonstrates that the definitional route proposed in Clause 11 already produces usable, independently verified records that councils can rely on. The tree's ATI status was available to Fermanagh and Omagh District Council at the time of my 2025 application, along with supporting documentation, yet the Council's decision was reached without reference to a qualified arboriculturist's assessment of ancient status, and instead relied solely on the general amenity test.

More broadly, my research in preparing this evidence indicates that Northern Ireland currently has very limited capacity to assess ancient trees to the standard the Bill's 1B assessment route will require. Suitably qualified arboriculturists able to determine ancient status reliably are scarce, and I am not aware of an accredited pathway specific to Northern Ireland for training or certifying assessors in this specialism. I would ask the Committee to consider whether commencement of Clause 1 should be accompanied by a workforce development strategy, potentially in partnership with the Woodland Trust, the Ancient Tree Forum, or further and higher education providers, to build the assessor capacity that 1B assessments will depend on. Without this, the definition in Clause 11 and the ancient tree route in Clause 1 both risk being underused in practice even where the legal duty exists.

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:

I support the definitions of "ancient woodland" and "long-established woodland" being inserted into the 2015 Order in the same terms as Clause 11, for consistency between the TPO regime and permitted development controls. My tree stands within an area recorded by the Woodland Trust as Long-Established Woodland. Consistent definitions across both instruments would ensure that evidence such as Woodland Trust inventory records, of the kind I supplied to Fermanagh and Omagh District Council in 2025, can be relied upon equally whether the issue before the decision-maker is a TPO application or a permitted development question. I have no separate case evidence to add beyond that submitted under Clause 11.

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:

Clause 14 - Commencement

32 Do you agree with Clause 14 of the Bill?

Yes

33 Please provide information to support your answer here

Accessible:

I support the Bill but would ask the Committee to weigh the twelve-month commencement period against cases such as mine. The tree at the centre of my evidence was notified to its owner, Northern Ireland Forest Service, in 2016. Nine years elapsed between that notification and my 2025 application, during which no mitigation was undertaken. A further period of at least twelve months between Royal Assent and commencement extends that period again, during which ancient trees already known to owners and councils remain subject only to the current amenity test.

I would ask whether transitional or interim guidance could be issued to councils and known landowners ahead of formal commencement, encouraging voluntary application of the ancient tree criteria to sites already on the Ancient Tree Inventory, so that known cases are not left unprotected for the full commencement period.