

Legislative Council

Native Vegetation Bill

Schedule of Government amendments agreed to in Committee of the Whole
on Friday 5 December 2003 pm.

No. 1 Page 2, clause 3 (b), lines 13–15. Omit all words on those lines. Insert instead:

(b) to prevent broadscale clearing unless it improves or maintains
environmental outcomes, and

No. 2 Page 5, clause 7 (c), lines 22 and 23. Omit all words on those lines.

No. 3 Page 5, clause 7. Insert after line 23:

Note. See Division 3 of Part 3 for the exclusion of routine agricultural management and other farming activities from constituting the clearing of native vegetation if the landholder can establish that any clearing was carried out for the purpose of those activities.

No. 4 Page 6, clause 9, lines 3–5. Omit all words on those lines. Insert instead:

(b) the date specified in a property vegetation plan for the purposes of this definition (in exceptional circumstances being a date based on existing rotational farming practices).

(3) In subsection (2) (b), *existing rotational farming practices* means rotational farming practices:

(a) that are reasonable and in accordance with accepted farming practice, and

(b) that have been in place since the date specified in the plan.

No. 5 Page 6, clause 9, lines 6–8. Omit all words on those lines. Insert instead:

(4) Regrowth does not include any native vegetation that has regrown following unlawful clearing of remnant native vegetation or following clearing of remnant native vegetation caused by bushfire, flood, drought or other natural cause.

No. 6 Page 6, clause 10. Insert after line 17:

- (2) For the purposes of this Act, ***protected regrowth*** also includes any native vegetation that is regrowth and that has been grown or preserved (whether before or after the commencement of this Act) with the assistance of public funds granted for biodiversity conservation purposes.
- (3) Before native vegetation is identified as protected regrowth in an instrument referred to in subsection (1) (a)–(c), the person or body making or approving the instrument must be satisfied that, based on available scientific evidence, the preservation of the vegetation is consistent with State-wide natural resource management standards and targets adopted for the purposes of the *Catchment Management Authorities Act 2003*.
- (4) Before native vegetation is identified as protected regrowth in a property vegetation plan, the Minister is to have regard to the social and economic implications of the preservation of the vegetation.

No. 7 Page 6, clause 11 (1) (a), lines 31–33. Omit all words on those lines.

No. 8 Pages 6 and 7, clause 11 (1) (b), line 34 on page 6 to line 12 on page 7. Omit all words on those lines. Insert instead:

- (b) the construction, operation and maintenance of rural infrastructure:
 - (i) including (subject to the regulations) dams, permanent fences, buildings, windmills, bores, air strips (in the Western Division), stockyards, and farm roads, but
 - (ii) not including rural infrastructure in areas zoned as rural-residential under environmental planning instruments or on small holdings (as defined in the regulations).

No. 9 Page 7, clause 11 (1). Insert after line 12:

- (c) the removal of noxious weeds under the *Noxious Weeds Act 1993*,
- (d) the control of noxious animals under the *Rural Lands Protection Act 1998*,

No. 10 Page 7, clause 11 (1) (e), lines 17 and 18. Omit all words on those lines. Insert instead “uprooting mulga in the Western Division in areas officially declared to be drought affected),”.

No. 11 Page 7, clause 11 (2), line 27. Omit “regulations may extend, limit or vary”. Insert instead “regulations may make provision for or with respect to

extending, limiting or varying”.

No. 12 Page 8, clause 12 (2), line 7. Omit all words on that line.

No. 13 Page 8, clause 12. Insert after line 11:

- (4) It is a defence in any proceedings for an offence against this section if it is established that the clearing was permitted under Division 2 or 3 or was excluded from this Act by Division 4.

No. 14 Page 8, clause 12, lines 12–16. Omit all words on those lines.

No. 15 Page 8, clause 14 (3), line 31. Omit “unless the Minister is satisfied that”. Insert instead “by the Minister unless”.

No. 16 Page 9, clause 15. Insert after line 16:

- (2) The regulations may also make provision, consistent with Part 4 of the EPA Act, for or with respect to the determination of applications for development consent for development comprising:
- (a) the clearing of native vegetation, and
 - (b) any other form of development that requires development consent pursuant to an environmental planning instrument.
- Any such regulation has effect despite anything in this Part.

No. 17 Page 9. Insert after line 20:

17 Clearing not affected by subsequent environmental planning instruments

If native vegetation is, or is about to be, cleared in accordance with:

- (a) development consent granted in accordance with this Act, or
 - (b) a property vegetation plan,
- that clearing cannot be prohibited, restricted or otherwise affected by a provision of any environmental planning instrument made after the consent was granted or the plan was approved (as the case requires).

No. 18 Page 10, clause 19, lines 1–9. Omit all words on those lines.

No. 19 Page 10, clause 20 (b), lines 15 and 16. Omit all words on those lines. Insert instead:

- (b) not less than 10% of the area is covered with vegetation (whether dead or alive), and
- (c) those percentages are calculated in accordance with the regulations.

No. 20 Page 10. Insert after line 16:

Division 3 Permitted activities

21 Application

- (1) This Division sets out the activities that do not constitute the clearing of native vegetation for the purposes of this Part and, accordingly, are permitted to be carried out without the authority conferred by a development consent or property vegetation plan.
- (2) This Division does not permit an activity without an approval or other authority required by another Act or in contravention of another Act.

22 Routine agricultural management activities

- (1) Clearing for routine agricultural management activities is permitted.
- (2) This section does not authorise any clearing of native vegetation:
 - (a) if it exceeds the minimum extent necessary for carrying out the activity, or
 - (b) if it is done for a work, building or structure before the grant of any statutory approval or other authority required for the work, building or structure.

23 Continuation of existing farming activities

- (1) The continuation of existing cultivation, grazing or rotational farming practices is permitted if it does not involve the clearing of:
 - (i) remnant native vegetation, or
 - (ii) in the case of the Western Division—native vegetation comprising trees not less than 3 metres high of any of the following species: *Eucalyptus camaldulensis* (river red gum), *Casuarina cristata* (belah), *Casuarina pauper* (belah) or *Callitris glaucophylla* (white cypress pine).
- (2) In this section, **existing** means existing at the commencement of this Act.

24 Sustainable grazing

Sustainable grazing that is not likely to result in the substantial long-term decline in the structure and composition of native vegetation is permitted.

- No. 21 Page 10, clause 21 (d), line 29. Omit all words on that line.
- No. 22 Page 11, clause 21 (s), lines 33–35. Omit all words on those lines.
- No. 23 Page 13, clause 22 (3), line 11. Insert “as to the form and content of the plan that are” after “requirements”.
- No. 24 Page 13, clause 23. Insert after line 17:
- (2) In determining whether to approve a draft plan, the Minister is to have regard to any relevant provisions of catchment action plans of catchment management authorities, and to the matters required by the regulations.
- No. 25 Page 13, clause 24, line 19. Insert “submitted by a landholder” after “plan”.
- No. 26 Page 13, clause 24, lines 22 and 23. Omit “(called a “development PVP”)”.
- No. 27 Page 13, clause 24 (b), line 24. Insert “, as referred to in section 9 (2),” after “regrowth”.
- No. 28 Page 13, clause 24, line 25. Omit “(called a “continuing use PVP”)”.
- No. 29 Page 13, clause 24. Insert after line 25:
- (c) proposals relating to the thinning of native vegetation in the central area of the State that has regrown between 1 January 1983 and 1 January 1990,
- No. 30 Page 13, clause 24, line 26. Omit “proposals”. Insert instead “proposals to enable landholders to obtain financial incentives for the management of natural resources, being proposals”.
- No. 31 Page 13, clause 24, line 28. Omit “(called an “incentive PVP”)”.
- No. 32 Page 13, clause 24. Insert after line 28:
- (d) proposals relating to the continuation of existing farming or other rural practices,
- No. 33 Page 13, clause 24, line 30. Insert “or other” before “activities”.
- No. 34 Page 14, clause 26 (2) (b), line 12. Insert “(being reasons relating to a contravention by the landholder of the plan)” after “reasons stated in the notice”.

- No. 35 Page 14, clause 26 (3), line 14. Omit “or another specified period”.
- No. 36 Page 15, clause 28 (a), line 15. Insert “clearing principles or other” before “matters”.
- No. 37 Page 15, clause 28 (b), line 17. Insert “broadscale” before “clearing”.
- No. 38 Page 15, clause 28. Insert after line 24:
- (e) the keeping of a public register by the Director-General relating to any such plans approved by the Minister under this Act that authorise the clearing of native vegetation or provide financial incentives, and applications for such approvals.
- No. 39 Pages 16 and 17, clause 31 (1), line 28 on page 16 to line 3 on page 17. Omit all words on those lines. Insert instead:
- (1) An authorised officer may enter land for the purpose of determining whether a person is contravening or has contravened this Act, but only if:
 - (a) the landholder consents, or
 - (b) the Director-General has authorised the entry onto the land concerned.
- No. 40 Page 18, clause 32. Insert after line 32:
- Note.** Section 30 (4) requires an authorised officer exercising functions under this section to produce his or her identification card if requested to do so.
- No. 41 Page 19, clause 33 (5), lines 24–27. Omit all words on those lines. Insert instead:
- (a) in the case of a corporation—2,000 penalty units and 200 penalty units for each day the offence continues, or
 - (b) in any other case—1,000 penalty units and 100 penalty units for each day the offence continues.
- No. 42 Page 20, clause 34 (4), lines 22–25. Omit all words on those lines. Insert instead:
- (a) in the case of a corporation—2,000 penalty units and 200 penalty units for each day the offence continues, or
 - (b) in any other case—1,000 penalty units and 100 penalty units for each day the offence continues.

No. 43 Page 23, clause 40, lines 25–34. Omit all words on those lines. Insert instead:

40 Evidentiary provision

No. 44 Page 25, Part 6. Insert after line 1:

42 Regulation of collection of timber for commercial firewood

- (1) In this section, *dead wood* means any dead tree or part of a dead tree, whether or not:
 - (a) it is standing, or
 - (b) it is of an indigenous species.
- (2) The regulations may regulate or prohibit the clearing or the removal of dead wood from any land, by the landholder or any other person, if it is done for the purposes of commercial firewood collection.
- (3) This section is not limited by the objects set out in section 3.

No. 45 Page 28, Schedule 1. Insert after line 8:

- 3** Land identified under *State Environmental Planning Policy No 44—Koala Habitat Protection* as core koala habitat.

No. 46 Page 29, Schedule 1. Insert after line 18:

- 14** The Director-General may, for the purposes of resolving any dispute, determine whether a zone not referred to in clause 13 has the substantial character of such a zone.

No. 47 Page 32, Schedule 3, clause 4 (2), lines 5–10. Omit all words on those lines. Insert instead:

- (2) The provisions of the former Act continue to have effect (despite its repeal) to and in relation to State protected land until a State environmental planning policy under the EPA Act otherwise provides.