

LEGISLATIVE COUNCIL

Native Vegetation Amendment Bill 2014

First print

Proposed amendments

No. 1 **Objects**

Page 3, Schedule 1 [1], lines 3–5. Omit all words on those lines. Insert instead:

Omit “promote the management of native vegetation on a regional basis in the social, economic and environmental interests of the State” from section 3 (a). Insert instead “promote the management of native vegetation in the social, economic and environmental interests of the region concerned”.

No. 2 **Miscellaneous**

Page 3, Schedule 1 [3]–[7], lines 11–32. Omit all words on those lines.

No. 3 **Regrowth**

Page 3, Schedule 1 [8], lines 34 and 35. Omit all words on those lines. Insert instead:

Omit “in exceptional circumstances” from section 9 (2) (b).

No. 4 **Regrowth**

Page 3, Schedule 1. Insert after line 35:

[9] Section 9 (3A)

Insert after section 9 (3):

- (3A) A property vegetation plan that specifies a date for the purposes of subsection (2) (b) that is earlier than the relevant date specified in subsection (2) (a) cannot be approved under Part 4 unless the Minister is satisfied that:
- (a) the specified date is based on existing rotational farming practices and is not earlier than the following dates:
 - (i) 1 January 1943 in the case of land in the Western Division,
 - (ii) 1 January 1950 in the case of other land, and
 - (b) the property vegetation plan contains a requirement that any clearing of regrowth in accordance with the plan will not exceed clearing of vegetation in accordance with those existing rotational farming practices.

No. 5 **Miscellaneous**

Page 3, Schedule 1 [9], lines 36 and 37. Omit all words on those lines.

No. 6 **RAMAs**

Page 4, Schedule 1 [10], line 2. Omit all words on that line. Insert instead:

Omit “an imminent risk of serious personal injury or damage to property” from section 11 (1) (i). Insert instead “a more probable than not risk that the native vegetation will soon cause serious personal injury or damage to property”.

No. 7 **RAMAs**

Page 4, Schedule 1. Insert after line 2:

[11] Section 11 (1)

Insert after section 11 (1) (i):

- (j) the clearing of a paddock tree in a cultivation area (being an area that is cropped, ploughed, fallow or covered in perennial or annual non-indigenous pasture), not exceeding one tree each calendar year for each 500 hectares (or part of 500 hectares) of the total cultivation area on any landholding (within the meaning of the regulations),
- (k) any activity declared by an order by the Minister under section 11A and carried out in accordance with such an order (and if the order is subject to any conditions, in accordance with those conditions),
- (l) any activity prescribed as a routine agricultural management activity by the regulations (including by extending the matters for which an order may be made under section 11A).

Note. The Native Vegetation Regulation 2013 prescribes additional RAMAs. These include rural infrastructure, non-rural infrastructure (such as fences, sheds, trails and tracks), public infrastructure and miscellaneous other activities described in Division 5 of Part 6 of that Regulation.

[12] Section 11A

Insert after section 11:

11A Routine agricultural management activities declared by Ministerial order

- (1) The Minister may, by order, declare any of the following activities to be a routine agricultural management activity:

- (a) **Clearing of feral species**

The clearing of a species of native vegetation declared by the order to be a feral species for specified land or for all land in a specified area. Any such species of native vegetation may be so declared if:

- (i) the Minister is satisfied that the species is outside its natural range on the land or in the specified area, or
- (ii) the species of vegetation is groundcover.

- (b) **Clearing of invasive species**

The clearing of a species of native vegetation declared by the order to be an invasive species for specified land or for all land in a specified area. Any such species of native vegetation may be so declared if the Minister is satisfied that:

- (i) the species is within its natural range on the land or in the specified area, and

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- (ii) the species is densely regenerating or is invading plant communities in which the species does not generally occur, which is causing decline in the structure or composition of the vegetation community.
 - (c) **Environmental works**

The clearing of native vegetation for the purpose of environmental works declared by the order for specified land or for all land in a specified area. Any such works (which may include revegetation and rehabilitation) may be so declared if the Minister is satisfied the works will have an overall positive effect on the environment.
 - (d) **Thinning of native vegetation**

The thinning of native vegetation on specified land or on all land in a specified area. For the purposes of this paragraph, *thinning* native vegetation is the selective removal of individual trees, or parts of trees, for the purposes of reducing competition between trees, allowing growth of remaining trees, tree regeneration and groundcover growth and improving or maintaining the structure and composition of native vegetation.
 - (e) **Clearing of paddock trees**

The clearing of paddock trees in a cultivation area (being a tree within an area that is cropped, ploughed, fallow or covered in perennial or annual non-indigenous pasture).
 - (f) **Clearing of mulga**

The clearing of mulga in the Western Division for stock fodder.
- (2) Without limiting the conditions to which an order under this section may be subject, such an order may be made subject to conditions that:
 - (a) restrict how clearing of native vegetation may be carried out, including but not limited to conditions as to the time of year in which clearing may or may not be carried out, allowable methods of clearing and maximum area of clearing, or
 - (b) identify which species of vegetation may or may not be cleared under the order.
 - (3) Before making an order under this section, the Minister is, subject to the regulations, to:
 - (a) consult with the Minister for the Environment on the proposed order (if the Minister for the Environment is not the Minister administering this Act), and
 - (b) place the proposed order on public exhibition for a reasonable period and give notice of the public exhibition of the proposed order, and invite public submissions on it, by notice in a newspaper circulating generally in the region (within the meaning of the *Local Land Services Act 2013*) in which the land or area concerned is situated, and
 - (c) consider any public submissions made during the period allowed for the making of public submissions.
 - (4) The Minister is to cause each order made under this section to be published in the Gazette.
 - (5) Local Land Services must publish on its website a list of any orders in force under this section.
 - (6) A list of any orders in force under this section must also be published on the website of the Office of Environment and Heritage.
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No. 8 **Miscellaneous**
Page 4, Schedule 1 [11]–[15], lines 3-21. Omit all words on those lines.

No. 9 **Groundcover clearing**
Page 4, Schedule 1 [16], lines 22 and 23. Omit all words on those lines. Insert instead:

[16] Section 20 Clearing of certain groundcover permitted

Insert at the end of the section:

- (2) The clearing of native vegetation that comprises only groundcover is permitted if the vegetation is low conservation value groundcover that meets the criteria prescribed by, and is cleared in accordance with, a protocol published by the Minister in the Gazette.

No. 10 **Miscellaneous**
Pages 4 and 5, Schedule 1 [17]–[25], line 24 on page 4 to line 12 on page 5. Omit all words on those lines.

No. 11 **Regrowth and RAMAs**
Page 5. Insert after Schedule 1:

**Schedule 2 Amendment of Native Vegetation Regulation
2013**

[1] Clause 9 Content of PVPs

Omit “for the purposes of clause 10 of this Regulation” from clause 9 (4) (e).
Insert instead “for the purposes of section 9 of the Act”.

[2] Clause 10 PVPs that change regrowth date

Omit the clause.

[3] Part 6, Division 3 Routine agricultural management activities subject to Ministerial orders

Omit the Division.

[4] Clauses 47 (2) (c)–(e) and 48 (2) (c)–(e)

Omit “Division 3” wherever occurring. Insert instead “section 11A of the Act”.

[5] Clause 59 Limitation of routine agricultural management activities on protected riparian land

Omit “Division 3 of Part 6” from section 59 (g)–(j) wherever occurring.
Insert instead “section 11A of the Act”.

[6] Clause 62A

Insert after clause 62:

62A Provisions relating to RAMAs declared by Ministerial order

- (1) A landholder must, before carrying out or authorising another person to carry out the clearing of vegetation in accordance with an order under section 11A, notify the Minister of the proposed clearing.
Maximum penalty: 50 penalty units.

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- (2) The notification is to be given within such time, and is to contain such information about the intended clearing, as is reasonable in the circumstances (including within such time and containing such information as the Minister may require by notice published in the Gazette).
 - (3) Subclause (1) does not apply in relation to the clearing of mulga in the Western Division for stock fodder.
 - (4) The Minister may amend an order made under section 11A of the Act without complying with the consultation requirements specified in section 11A (3) of the Act if:
 - (a) the Minister is of the opinion that the amendment is of a minor nature, and
 - (b) the Minister certifies in writing that the amendment is of a minor nature.
 - (5) Without limiting the circumstances in which an amendment can be regarded as being of a minor nature, amendments of a minor nature include amendments that:
 - (a) correct any minor error or omission in the order, such as a spelling or grammatical error, a redundant or obsolete reference, obviously missing words, or wrong cross-references, or
 - (b) make any other change necessary to address matters that are of a consequential, transitional, machinery or other minor nature.

[7] Clause 65 Savings and transitional provisions

Omit “clause 37 (1) of this Regulation” from clause 65 (3).

Insert instead “section 11A of the Act”.

[8] Clause 65 (3A)

Insert after clause 65 (3):

- (3A) An order made by the Minister under Division 3 of Part 6 of this Regulation and in force immediately before the repeal of that Division by the *Native Vegetation Amendment Act 2014* is taken to be an order made under section 11A of the Act and continues to have effect until it is revoked by the Minister.

[9] Schedule 1 Penalty notice offences

Omit “clause 43 (1)” from Column 1. Insert instead “clause 62A (1)”.