

## **Brigalow and Nandewar Community Conservation Area Bill 2005**

This explanatory note relates to this Bill as introduced into Parliament.

### **Overview of Bill**

The objects of this Bill are:

- (a) to reserve forested land in the Brigalow and Nandewar area to create a Community Conservation Area that provides for permanent conservation of land, protection of areas of natural and cultural heritage significance to Aboriginal people and sustainable forestry, mining and other appropriate uses, and
- (b) to give local communities a strong involvement in the management of that land.

For that purpose, the Bill:

- (a) transfers certain lands to the national park estate in the Brigalow and Nandewar area, and
- (b) establishes a Community Conservation Area in respect of certain of those transferred lands and certain State forests in the area, and
- (c) establishes a Community Conservation Council and Community Conservation Advisory Committees in respect of those lands, and
- (d) provides for the preparation by the Community Conservation Council of a Community Conservation Agreement in respect of the Community Conservation Area, containing principles for the management of land in the Area, and
- (e) enables payments to be made to the Consolidated Fund from the Environmental Trust Fund, established under the *Environmental Trust Act 1998*, to offset payments from the Consolidated Fund for the purpose of implementing forestry restructure and assistance programs and schemes in the Brigalow and Nandewar and adjacent regions, and
- (f) expands the range of matters for which funds can be provided, on a State wide basis, by the Environmental Trust from the Environmental Trust Fund, and
- (g) abolishes the Waste Fund established under the *Waste Avoidance and Resource Recovery Act 2001* and requires the money from that fund to be transferred to the Environmental Trust Fund.

Outline of provisions

### **Part 1 Preliminary**

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of most of the proposed Act on 1 December 2005. Amendments to other Acts to give effect to the objects referred to in paragraphs (e)–(g) of the Overview are to commence on 1 July 2005.

**Clause 3** sets out the objects of the proposed Act.

**Clause 4** defines certain words and expressions used in the proposed Act, including **Community Conservation Area**, which is described in the map appearing at the end of the clause.

### **Part 2 The Community Conservation Area**

**Clauses 5–7** reserve certain lands as national park, which comprise the conservation and recreation zone of the Community Conservation Area (**Zone 1**). The lands concerned are revoked State forests, and Crown land and land vested in the Minister for the Environment for the purposes of Part 11 of the *National Parks and Wildlife Act 1974*. The lands concerned are set out in Schedule 1.

**Clause 8** reserves certain lands in revoked State forests as Aboriginal area, which comprise the conservation and Aboriginal culture zone of the Community Conservation Area (**Zone 2**). The lands concerned are set out in Schedule 2.

**Clauses 9 and 10** reserve certain lands as state conservation area, which comprise the forestry, recreation and mineral extraction zone of the Community Conservation Area (**Zone 3**). The lands concerned are revoked State forests, and Crown land, and are set out in Schedule 3.

**Clause 11** identifies land within the forestry, recreation and mineral extraction zone of the Community Conservation Area (**Zone 4**). The lands concerned are State forests and are set out in Schedule 4.

**Clause 12** vests certain lands in revoked State forests in the Minister for the Environment for the purposes of Part 11 of the *National Parks and Wildlife Act 1974*. The lands concerned are set out in Schedule 5.

**Clause 13** reserves certain lands as part of existing national parks. The lands concerned are set out in Schedule 6.

**Clause 14** reserves certain Crown land as part of existing nature parks or nature reserves. The lands concerned are set out in Schedule 7.

**Clause 15** reserves certain land vested in the Minister for the Environment for the purposes of Part 11 of the *National Parks and Wildlife Act 1974* as part of existing or as new national park or nature reserve. The lands concerned are set out in Schedule 8.

**Clause 16** provides for the expansion of the zones in the Community Conservation Area from time to time. In particular, it enables the Governor by proclamation to do so by adding descriptions of reserved land to Zones 1–3 in Schedules 1–3, and State forest land to Zone 4 in Schedule 4.

**Clause 17** provides for land in any zone of the Community Conservation Area to cease being in that zone on the revocation of its reservation under the *National Parks and Wildlife Act 1974* or its dedication as a State forest (as the case may be).

**Clause 18** prevents official proposals for wilderness areas and the declaration of wilderness areas over any land in the Community Conservation Area.

**Clause 19** provides that land in Zone 1, 2 or 3 of the Community Conservation Area is not eligible to be officially proposed for listing in Schedule 14 to the *National Parks and Wildlife Act 1974* (Lands of cultural significance to Aboriginals).

**Clause 20** revokes the dedication as State forest of lands that are to be reserved as national park, Aboriginal area or state conservation area, or vested in the Minister for the Environment for the purposes of Part 11 of the *National Parks and Wildlife Act 1974*.

**Clause 21** revokes timber reserves in Crown land that is reserved as national park, state conservation area or nature reserve.

**Clause 22** enables the Director-General of the Department of Environment and Conservation to adjust the descriptions of land in Schedule 1, 2 or 3, or 5–8, in order to alter the boundaries of the land for the purposes of the more effective management of national park estate land and State forest land and to adjust boundaries to public roads (so long as the adjustment will not result in any significant reduction in the size or value of any such land). Adjustments are also authorised in connection with easements and to provide a more detailed description of land.

**Clause 23** gives effect to Schedule 9, which contains ancillary and special provisions with respect to the land transfers under this Part.

### **Part 3 Community Conservation Council and Advisory Committees**

**Clauses 24–26** provide for the establishment, membership and procedure, and functions of the Brigalow and Nandewar Community Conservation Council.

The membership of the Council, as provided in clause 25, is to comprise the Director-Generals of the Premier's Department (who is to be the Chairperson of the Council), the Department of Environment and Conservation, the Department of Primary Industries and the Department of Infrastructure, Planning and Natural Resources.

The functions of the Council, set out in clause 26, are to develop a Community Conservation Area Agreement and to implement, or co-ordinate the implementation of, and monitor the achievements of, government policy objectives in respect of the Community Conservation Area.

**Clauses 27–29** provide for the establishment, membership and procedure, and functions of the following Community Conservation Advisory Committees:

- (a) the Border Rivers/Gwydir Community Conservation Advisory Committee,
- (b) the Namoi Community Conservation Advisory Committee,
- (c) the Central West Community Conservation Advisory Committee.

The membership of each of the committees, as provided in clause 28, is to comprise 13 members appointed by the Minister for the Environment and the Minister for Primary Industries. The members are to include the Chairperson of the relevant Catchment Management Authority, a member of the relevant National Parks and Wildlife Regional Advisory Committee and persons representing the interests of local government, the forestry, mining and apiary industries, Aboriginal people and local environmental groups.

The function of a Community Conservation Advisory Committee, as set out in clause 29, is to advise the Community Conservation Council on the provisions of the Community Conservation Area Agreement applicable to the relevant area for which the Committee is constituted.

#### **Part 4 Community Conservation Area Agreement**

**Clauses 30–33** provide for the making and content of a Community Conservation Area Agreement, relating to the management of land in the Community Conservation Area. The Community Conservation Council is to develop the Agreement in consultation with the Advisory Committees (clause 30) and the Minister for the Environment, Minister for Primary Industries and Minister for Natural Resources are required to approve it (clause 31).

The Agreement may contain principles for the management of national parks, Aboriginal areas and state conservation areas in the Community Conservation Area, and the integrated forestry operations approval for the carrying out of forestry operations in the State forests comprising Zone 4 of the Area (clause 32).

**Clause 34** requires a plan of management under the *National Parks and Wildlife Act 1974* for the national parks, Aboriginal areas and state conservation areas in the Community Conservation Area to be prepared having regard to the management principles set out in the Agreement.

**Clause 35** provides for the review of the Agreement every 7 years.

#### **Part 5 Miscellaneous**

**Clause 36** provides that the proposed Act binds the Crown.

**Clause 37** enables the Governor to make regulations for the purposes of the proposed Act.

**Clause 38** is a formal provision that gives effect to the amendments to other Acts as set out in Schedule 12.

**Clause 39** provides for the review of the proposed Act in 5 years.

#### **Schedule 1 Zone 1—Conservation and recreation**

This Schedule sets out land comprising Zone 1 of the Community Conservation Area. The land concerned is reserved as national park by the proposed Act.

#### **Schedule 2 Zone 2—Conservation and Aboriginal culture**

This Schedule sets out land comprising Zone 2 of the Community Conservation Area. The land concerned is reserved as Aboriginal area by the proposed Act.

#### **Schedule 3 Zone 3—Conservation, recreation and mineral extraction**

This Schedule sets out land comprising Zone 3 of the Community Conservation Area. The land concerned is reserved as state conservation area by the proposed Act.

**Schedule 4 Zone 4—Forestry, recreation and mineral extraction**

This Schedule sets out land comprising Zone 4 of the Community Conservation Area. The land concerned is State forest.

**Schedule 5 State forest vested in NPW Minister**

This Schedule sets out land (being land whose dedication as State forest is revoked) that is vested in the Minister for the Environment for the purposes of Part 11 of the *National Parks and Wildlife Act 1974*.

**Schedule 6 State forests added to existing national parks**

This Schedule sets out land (being land whose dedication as State forest is revoked) that is reserved as part of existing national parks, but not as part of a zone to which the proposed Act applies.

**Schedule 7 Crown lands added to existing national parks and nature reserves**

This Schedule sets out Crown land that is added to existing national parks and nature reserves, but not as part of a zone to which the proposed Act applies.

**Schedule 8 NPW Minister land reserved as national park or nature reserve**

This Schedule sets out land (being land vested in the Minister for the Environment for the purposes of Part 11 of the *National Parks and Wildlife Act 1974*) that is reserved as, or as part of, national park or nature reserve, but not as part of a zone to which the proposed Act applies.

**Schedule 9 Land transfers—ancillary and special provisions**

This Schedule makes ancillary and special provisions with respect to land transferred under the proposed Act.

**Schedule 10 Provisions relating to members and procedure of Council**

This Schedule contains provisions with respect to the members and procedure of the Community Conservation Council.

**Schedule 11 Provisions relating to members and procedure of Advisory Committees**

This Schedule contains provisions with respect to the members and procedure of Community Conservation Advisory Committees.

**Schedule 12 Amendment of other Acts**

**Schedule 12.3** amends the *Forestry Restructuring and Nature Conservation Act 1995* to enable payments to be made to the Consolidated Fund from the Environmental Trust Fund, established under the *Environmental Trust Act 1998*, to offset expenditure from the Consolidated Fund for the purpose of implementing forestry restructure and assistance programs and schemes in the Brigalow and Nandewar and adjacent areas.

**Schedule 12.1** amends the *Environmental Trust Act 1998* to enable the Environmental Trust to fund the following across the State:

- (a) the declaration of areas for marine parks and for related purposes, and
- (b) waste avoidance, resource recovery and waste management (including funding enforcement and regulation), and
- (c) environmental community groups, and
- (d) the purchase of water entitlements for the purposes of increasing environmental flows for the State's rivers and restoring or rehabilitating major wetlands.

**Schedule 12.6** amends the *Waste Avoidance and Resource Recovery Act 2001* to abolish the Waste Fund, transfer money from that fund to the Environmental Trust Fund and make amendments consequential on the abolition of the Waste Fund.

**Schedule 12.2** amends the *Forestry and National Park Estate Act 1998* to:

(a) update references to Ministers to reflect current administrative arrangements (as set out in the *Public Sector Employment and Management (Department of Primary Industries) Order 2004*, and

(b) remove the requirement for a forest agreement to be prepared under the *Forestry and National Park Estate Act 1998* before an integrated forestry operations approval can be prepared under that Act in respect of the Community Conservation Area.

**Schedule 12.4** amends the *National Parks and Wildlife Act 1974* to remove any functions that a regional advisory committee under that Act has in respect of the Community Conservation Area and make amendments consequential on the removal of those functions.

Schedule 12.4 contains amendments consequential on clause 19 of the proposed Act, which makes land in Zone 1, 2 or 3 of the Community Conservation Area ineligible to be proposed for listing in Schedule 14 to the *National Parks and Wildlife Act 1974* (Lands of cultural significance to Aboriginals). It also contains amendments consequential on clause 34 of the proposed Act.

**Schedule 12.5** amends the *Native Title (New South Wales) Act 1994* to preserve native title rights and interests in respect of a reservation or vesting of land or waters by the operation of the proposed Act.