

# Natural Resources Legislation Amendment Bill 2004

## Amendments agreed to during Consideration

### 1 Clause 21—

At page 13, after line 12—

*insert—*

### **‘Part 2A                      Amendment of Petroleum and Other Legislation Amendment Act 2004**

#### **21A Act amended in pt 2A**

This part amends the *Petroleum and Other Legislation Amendment Act 2004*.

#### **21B Amendment of s 19 (Replacement of s 25 (Limit to number of permits and leases))**

Section 19, inserted section 25L(2)(a), ‘renewed’—

*omit, insert—*

‘replaced’.

#### **21C Amendment of s 104 (Amendment of s 159 (Obligation to lodge proposed later development plan))**

Section 104(2), ‘*omit*,’—

*omit*.

#### **21D Amendment of s 153 (Amendment of s 409 (Requirements for making application))**

Section 153(1), ‘*omit*,’—

*omit*’.

**2 Clause 42—**

At page 22, after line 3—

*insert—*

**‘Part 6 Amendment of Vegetation Management Act 1999****43 Act amended in pt 6**

This part amends the *Vegetation Management Act 1999*.

**44 Amendment of s 22H (Modifying Planning Act effect on changing broadscale application)**

Section 22H(b), after ‘increases’—

*insert—*

‘the size of’.

**45 Replacement of ss 76 and 77**

Sections 76 and 77—

*omit, insert—*

**‘76 Existing applications (pre VACA) and development approvals**

‘(1) Despite the Planning Act—

- (a) before an existing application (pre VACA)<sup>1</sup> is decided, the application can not be changed in any way that increases the size of the area proposed to be cleared; and
- (b) from the day the application is decided until the day the development approval for the application has effect,<sup>2</sup> the application can not be changed in any way that—
  - (i) increases the size of the area proposed to be cleared; or

---

1 References to VACA relate to the *Vegetation (Application for Clearing) Act 2003*, repealed by Act No. 1 of 2004.

2 See the Planning Act, section 3.5.19 (When approval takes effect).

- (ii) changes the location of the area proposed to be cleared; and
- (c) from the day the development approval has effect, the approval can not be changed in any way that—
  - (i) increases the size of the area approved to be cleared; or
  - (ii) changes the location of the area approved to be cleared; or
  - (iii) extends the currency period for the approval.
- ‘(2) Subsection (1)(b)(ii) does not apply to an application decided before the commencement of this section if an appeal against the decision was started before the commencement.
- ‘(3) Subsection (1)(c) applies to a development approval even if the approval had effect before the commencement of this section.
- ‘(4) Despite the Planning Act, section 3.5.21,<sup>3</sup> the currency period for a development approval for an existing application (pre VACA) must end no later than 31 December 2006.
- ‘(5) In this section—
 

*existing application (pre VACA)* means a development application, as defined under the Planning Act, involving the clearing of vegetation and made before midday 16 May 2003.

*location*, of an area proposed to be cleared in an existing application (pre VACA), means—

  - (a) the boundary delineating the area in the property vegetation management plan for the application; or
  - (b) if the application was amended before it was decided—the boundary of the area described in the amendment.

---

3 Planning Act, section 3.5.21 (When approval lapses)

**‘77 Existing applications (pre VACA) and permits under the Land Act 1994**

- ‘(1) An existing application (pre VACA) must be dealt with under the *Land Act 1994*, as in force on 20 May 2004.
- ‘(2) Despite subsection (1)—
- (a) before an existing application (pre VACA) is decided, the application can not be changed in any way that increases the size of the area proposed to be cleared; and
  - (b) from the day the application is decided until the end of the appeal period, the application can not be changed in any way that—
    - (i) increases the size of the area proposed to be cleared; or
    - (ii) changes the location of the area proposed to be cleared; and
  - (c) from the end of the appeal period, the permit can not be changed in any way that—
    - (i) increases the size of the area approved to be cleared; or
    - (ii) changes the location of the area approved to be cleared; or
    - (iii) extends the term of the permit.
- ‘(3) Subsection (2)(b)(ii) does not apply to an application decided before the commencement of this section if an appeal against the decision was started before the commencement.
- ‘(4) Subsection (2)(c) applies to a tree clearing permit even if the appeal period, in relation to the permit, ended before the commencement of this section.
- ‘(5) Despite the *Land Act 1994*, section 264,<sup>4</sup> the term of a tree clearing permit for an existing application (pre VACA) must end no later than 31 December 2006.
- ‘(6) In this section—
- end of the appeal period* means—

---

<sup>4</sup> *Land Act 1994*, section 264 (Terms of tree clearing permit)

- (a) for an application for an internal review of a decision under the *Land Act 1994*, section 263—the day the Minister makes a review decision under the *Land Act 1994*, section 426; and
- (b) for an appeal against a review decision—the day the court decides the appeal under the *Land Act 1994*, section 429; and
- (c) otherwise—42 days after notice of the decision is given to the applicant.

***existing application (pre VACA)*** means an application for a tree clearing permit, made before midday 16 May 2003 under the *Land Act 1994*, chapter 5, part 6, as in force at that time.

***location***, of an area proposed to be cleared in an existing application (pre VACA), means—

- (a) the boundary delineating the area in—
  - (i) the property vegetation management plan for the application; or
  - (ii) the map requested by the chief executive under the *Land Act 1994*, section 260(2)(b)<sup>5</sup> for the application; or
- (b) if the application was amended before it was decided—the boundary of the area described in the amendment.<sup>6</sup>

#### **46 Amendment of s 78 (Existing applications (post VACA) under the Land Act 1994)**

Section 78(2)—

*omit, insert—*

- ‘(2) Despite subsection (1), the chief executive must refuse to issue the tree clearing permit, without considering the issues stated in the *Land Act 1994*, section 262<sup>6</sup>, unless the applicant satisfies the chief executive—

---

<sup>5</sup> *Land Act 1994*, section 260 (How application for tree clearing permit made)

<sup>6</sup> *Land Act 1994*, section 262 (Issues chief executive must consider)

- (a) the proposed tree clearing is necessary for 1 or more of the following—
  - (i) a project declared to be a significant project under the *State Development and Public Works Organisation Act 1971*, section 26;<sup>7</sup>
  - (ii) a project that is of major significance because of its regional, State or national benefit;
  - (iii) supplying fodder for stock in a drought declared area;
  - (iv) weed control;
  - (v) ensuring public safety;
  - (vi) establishing a necessary fence, road or other built infrastructure if there is no suitable alternative site for the fence, road or infrastructure; or
- (b) the area proposed to be cleared is an area of regrowth vegetation.

‘(3) In this section—

***existing application (post VACA)*** means an application for a tree clearing permit made at or after midday 16 May 2003 under the *Land Act 1994*, chapter 5, part 6, as in force at that time.

***tree*** has the same meaning as in the *Forestry Act 1959*.’.

---

<sup>7</sup> *State Development and Public Works Organisation Act 1971*, section 26 (Declaration of significant project)