

South Australia

**Native Vegetation (Miscellaneous) Amendment  
Bill 2005**

A BILL FOR

An Act to amend the *Native Vegetation Act 1991*.

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## The Parliament of South Australia enacts as follows:

### Part 1—Preliminary

#### 1—Short title

This Act may be cited as the *Native Vegetation (Miscellaneous) Amendment Act 2005*.

#### 2—Amendment provisions

- 5 In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

### Part 2—Amendment of *Native Vegetation Act 1991*

#### 3—Amendment of section 3—Interpretation

Section 3(1), definition of *clearance*, (d)—delete paragraph (d)

#### 10 4—Amendment of section 8—Membership of the Council

- (1) Section 8(1)—after paragraph (g) insert:

and

- (h) one must be a practising pastoralist who resides outside local government boundaries nominated by the Minister; and
- 15 (i) one must be a person with experience in the valuation industry nominated by the Minister.

(2) Section 8—after subsection (2) insert:

(2a) The person nominated by the Minister to be the presiding member of the Council must have extensive experience in agriculture and should preferably (but not necessarily) be a person who has been involved in broad acre farming.

(3) Section 8(3)—delete "Four" and substitute:

Five

### **5—Amendment of section 27—Clearance of native vegetation**

(1) Section 27(1)—after paragraph (b) insert:

(c) native vegetation may, subject to subsection (5)(c), be cleared without any other restriction under this Act if the clearance falls within the ambit of subsection (4a).

(2) Section 27—after subsection (4) insert:

(4a) The clearance of native vegetation falls within the ambit of this subsection if—

(a) the clearance is reasonably necessary for the creation of a housing allotment or the construction of a dwelling that has been approved under the *Development Act 1993* and the clearance has been authorised under that Act as part of that approval; or

(b) the clearance occurs on pastoral land and is for the purposes of grazing stock or providing watering points for stock; or

(c) —

(i) the clearance involves vegetation situated on land used for cultivation, pasture or forestry within the immediately preceding period of 10 years; and

(ii) the clearance is necessary to allow the land to be used for cultivation, pasture or forestry to any extent that has applied within that preceding period; and

(iii) the vegetation to be cleared consists only of plants or parts of plants that have grown or regrown during that preceding period; and

(iv) either—

(A) the vegetation has a stem diameter at the lowest point on the stem above ground level of 250 millimetres or less; or

(B) the vegetation is of the genus *Xanthorrhoea*; or

(d) the clearance is being undertaken in order to re-establish land for cropping proposes after a break not exceeding 20 years; or

(e) the clearance is being undertaken by a person engaged in the business of primary production in order to establish or maintain a fuel break, or to reduce the fuel-load on land, for fire-control purposes and involves—

(i) the clearance of vegetation within 20 metres of an existing fence-line that runs along a boundary between 2 properties that are not owned or occupied by the same person; or

(ii) the clearance of vegetation within an area not exceeding 100 hectares through the process commonly known as a *cold burn*.

(3) Section 27(5)—after paragraph (b) insert:

(c) under subsection (1)(c) unless the Minister has given his or her consent to the clearance.

(4) Section 27—after subsection (6) insert:

(7) In this section—

*fire-control purposes*—these are purposes associated with preventing or controlling the spread of fires or potential fires.

## **6—Amendment of section 40—General defences**

Section 40—after its present contents (now to be designated as subsection (1)) insert:

(2) It is a defence to a charge of an offence against this Act involving the clearance of native vegetation if the defendant proves that the clearance was reasonably necessary in order to—

(a) give effect to modern farming practices; or

(b) provide for the safety of any person or property; or

(c) prevent or control the spread of bushfires or potential bushfires.

## **Schedule 1—Transitional provisions**

### **1—Interpretation**

In this Schedule—

*principal Act* means the *Native Vegetation Act 1991*.

### **2—Quorum of Council**

The quorum of the Native Vegetation Council will remain at four members until an appointment is made under paragraph (h) or (i) of section 8(1) of the principal Act (as inserted by this Act).

### **3—Presiding member of the Council**

Subsection (2a) of section 8 of the principal Act (as inserted by this Act) does not apply to or in relation to the person holding office as the presiding member of the Native Vegetation Council immediately before the commencement of this Act.