

[Act 1999 No 97]



New South Wales

# Plantations and Reafforestation Bill 1999

## Explanatory note

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

### Overview of Bill

The objects of this Bill are:

- (a) to facilitate the reafforestation of land, and
- (b) to promote and facilitate development for timber plantations on essentially cleared land, and
- (c) to codify environmental standards, and provide a streamlined and integrated scheme, for the establishment, management and harvesting of timber and other forest plantations, and
- (d) to make provision relating to regional transport infrastructure expenditure in connection with timber plantations,

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\* Amended in committee—see table at end of volume.

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consistently with the principles of ecologically sustainable development.

The principal features of this Bill are as follows:

- (a) The Bill applies to all plantations except those established principally for the purpose of the production of food or any other farm produce other than timber. Accordingly, the Bill extends to plantations established for the purposes of timber production, reducing the salinity of land, biodiversity conservation or acquiring or trading in carbon sequestration rights.
- (b) The Bill applies to private plantation operations as well as plantation operations of the Forestry Commission in State forests and other areas.
- (c) The Bill does not apply to certain urban areas and environmentally sensitive areas.
- (d) Plantation operations (except those designated as exempt farm forestry) will be subject to an integrated system of authorisation by the Minister, with provision for that form of development to be excluded from the application of the *Environmental Planning and Assessment Act 1979* and other legislative provisions that are to be integrated into the system of authorisation. At present, only harvesting operations on timber plantations are subject to a separate regulatory system under the *Timber Plantations (Harvest Guarantee) Act 1995*.
- (e) The Bill exempts farm forestry from the requirement for authorisation under the Bill and from the application of the *Environmental Planning and Assessment Act 1979*. Plantation operations on a single farm that do not exceed 30 hectares will qualify for exemption so long as any clearing involved is exempt from the requirement for consent under the *Native Vegetation Conservation Act 1997*.
- (f) A Code is to be made by regulation for the purposes of the proposed integrated system of authorisation. The Code will codify environmental standards that would otherwise apply under the legislative provisions being replaced by the Bill. In particular, the Code is to prescribe standards for complying plantations that can be authorised without further assessment.
- (g) The Bill preserves existing requirements for the preparation and consideration of a species impact statement for authorisation of a plantation (particularly in connection with any clearing required to establish the plantation).
- (h) The Bill repeals the *Timber Plantations (Harvest Guarantee) Act 1995* and incorporates the timber harvesting guarantee provisions of that Act (in particular, the exclusion of legislative provisions that might prevent or interfere with the ultimate harvesting of timber and the payment of compensation for action taken to protect any special or unique wildlife values that might be found in a timber plantation after it is established).

- (i) The Bill provides, in connection with regional transport infrastructure expenditure for timber plantations, a system of contributions to be levied on the owners of timber plantations at the time the plantations are authorised and for payment to be delayed until the expenditure is required in connection with harvesting operations. Regional committees (that include local government representatives) are to be established to prepare contribution plans for that purpose and exercise related functions. Contributions are to be paid to the relevant local authorities in the region.

## 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 the proposed Act on a day or days to be appointed by proclamation.

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

**Clause 4** defines expressions used in the proposed Act. In particular, the clause defines *plantation operations* to include the clearing of land for planting and other establishment operations for a proposed plantation, maintenance or other management operations (which may include a limited amount of harvesting permitted by the proposed Code) and timber harvesting operations.

**Clause 5** defines *plantation* for the purposes of the proposed Act.

**Clause 6** defines *exempt farm forestry* for the purposes of the proposed Act.

**Clause 7** excludes certain urban areas (described in Schedule 1) and certain environmentally sensitive areas (described in that clause and in Schedule 1) from the operation of the proposed Act.

### Part 2 Authorisation of plantations

This Part (**clauses 8–24**) deals with the integrated system for the authorisation of plantations.

The Part provides that plantations are required to be authorised. Exempt farm forestry, plantation operations on existing plantations and ancillary plantation operations are not required to be authorised unless the owner chooses to seek authorisation. Plantations may be authorised as timber plantations (on which harvesting is permitted) or as non-timber plantations.

The Minister is the authority authorised to grant authorisations of plantations or proposed plantations. The Code will provide environmental and other standards applicable for expedited authorisation of complying plantations, so long as a species impact statement is not required to be prepared in connection with an application for authorisation.

The Part includes related and ancillary provisions, such as conditions of authorisation, cancellation of authorisation and appeals to the Land and Environment Court.

### **Part 3 Plantations and Reafforestation Code**

Part 3 (**clauses 25–31**) provides for the making, by regulation, of a Code for the purposes of the proposed Act. The Code is to contain provisions that codify environmental standards that would otherwise apply under the legislative provisions being replaced by the proposed Act. In particular, the Code is to prescribe standards for complying plantations that can be authorised without further assessment. Clause 27 sets out the matters to be covered by the Code.

### **Part 4 Protection of unique or special wildlife values of authorised plantations**

Part 4 (**clauses 32–38**) transfers to the proposed Act provisions contained in the Code made under the *Timber Plantations (Harvest Guarantee) Act 1995* to protect any special or unique wildlife values of land that is part of an authorised plantation. In the event of a likely adverse impact on such values by plantation operations, the Minister is required to arrange for an evaluation and report. Plantation operations may be delayed, restricted or precluded altogether by the Minister in order to protect any such wildlife values. However, the owner of a timber plantation is entitled to compensation for any direct financial loss suffered by the owner as a result of any such action of the Minister.

## **Part 5 Financial contribution for transport infrastructure expenditure for timber plantations**

Part 5 (**clauses 39–46**) makes provision on a regional basis for contributions by the owners of authorised timber plantations to meet the costs of regional transport infrastructure expenditure associated with timber plantation operations. The obligation to make the contribution will be imposed at the time a plantation is authorised but payment will be delayed until the expenditure is required in connection with harvesting operations. Regional committees (that include local government representatives) are to be established to prepare contribution plans for that purpose and exercise related functions. Contributions are to be paid to the relevant local authorities in the region.

## **Part 6 Application of other legislation**

Part 6 (**clauses 47–56**) deals with the application of other legislation in connection with plantation operations. The Part excludes the application of the *Environmental Planning and Assessment Act 1979* in respect of authorised plantations and exempt farm forestry. In addition, the Part ensures that other relevant legislation that is to be integrated into the authorisation system cannot prevent or interfere with plantation operations on authorised plantations (eg threatened species conservation legislation, heritage legislation and soil conservation legislation).

The requirement for certain authorities that may only be applicable in the case of some plantations are not excluded (eg licences under the *Water Act 1912*, environment protection licences under the *Protection of the Environment Operations Act 1997*, excavation permits under section 141 of the *Heritage Act 1977* and authorities in connection with Aboriginal relics or places under the *National Parks and Wildlife Act 1974*).

## **Part 7 Enforcement**

Part 7 (**clauses 57–64**) contains enforcement provisions with respect to the requirements of the proposed Act, the conditions of authorisations of plantations and the requirements of the Code. In particular, the Minister may bring civil enforcement proceedings in the Land and Environment Court, issue stop work orders and issue directions for remedial work. Provision is made under the Part for the appointment of officers to investigate compliance and to issue penalty notices for alleged offences, and for the bringing of criminal proceedings.

## **Part 8 Miscellaneous**

Part 8 (**clauses 65–74**) contains miscellaneous provisions, including provisions to enable the Minister to delegate his or her functions under the proposed Act, provisions for the issue of certificates relating to authorisations and financial contributions due under the proposed Act and provisions for the repeal of the *Timber Plantations (Harvest Guarantee) Act 1995* and the Code under that Act.

### **Schedule 1 Areas excluded from Act**

The Schedule describes urban areas and certain areas under the *Environmental Planning and Assessment Act 1979* that are excluded from the Act.

### **Schedule 2 Amendment of other Acts**

The Schedule contains consequential amendments to other Acts.

### **Schedule 3 Savings, transitional and other provisions**

The Schedule contains savings and transitional provisions, including provisions to continue existing accredited timber plantations under the *Timber Plantations (Harvest Guarantee) Act 1995* as authorised plantations under the proposed Act.