

LEGISLATIVE COUNCIL

SUSTAINABLE FORESTS (TIMBER) REPEAL BILL 2024

(Amendments and New Clauses to be proposed in Committee by MELINA BATH)

1. Clause 20, line 12, before "After" insert "(1)".
2. Clause 20, after line 16 insert—
 - '(2) After section 52(1A)(i) of the **Forests Act 1958** insert—
 - "(ia) in the case of a licence or permit granted to a member of a traditional owner group, or a traditional owner group, within the meaning of the **Traditional Owner Settlement Act 2010**, to take away forest produce and to offer that produce for sale;
 - (ib) to take away forest produce, to use that produce in the manufacture of any thing and to offer that thing for sale;
 - (ic) to cut and take away a commercial quantity of forest produce for the purposes of offering that produce for sale for use as firewood, being a commercial quantity that either individually or together with one or more other licences or permits granted under this section for the purposes of this paragraph, is not less than the quantity required to sustain demand for firewood in Victoria;"
 - (3) After section 52(1B)(b) of the **Forests Act 1958** insert—
 - "(ba) in the case of a licence or permit granted to a member of a traditional owner group, or a traditional owner group, within the meaning of the **Traditional Owner Settlement Act 2010**, to take away forest produce and to offer that produce for sale;
 - (bb) to take away forest produce, to use that produce in the manufacture of any thing and to offer that thing for sale;
 - (bc) to cut and take away a commercial quantity of forest produce for the purposes of offering that produce for sale for use as firewood, being a commercial quantity that either individually or together with one or more other licences or permits granted under this section for the purposes of this paragraph, is not less than the quantity required to sustain demand for firewood in Victoria;"
3. Clause 21, page 13, after line 20 insert—

"57NAA Interpretation

In sections 57NB and 57NC, *imminent damage* means loss of viable populations throughout a species range but does not include loss of viable populations arising from an activity performed for the purposes of preventing or suppressing disease, dieback or fire,

including thinning, cutting and removing timber, planned burning and creating or maintaining firebreaks, fire access tracks or public roads."

NEW CLAUSE

4. Insert the following clause to follow clause 21—

'21A New sections 73A to 73L inserted

After section 73 of the **Forests Act 1958** insert—

"State forest safety zones

73A Definitions

In sections 73B to 73L—

authorised person means the following—

- (a) the Secretary, when performing a function, or exercising a power, of the Secretary;
- (b) an authorised officer, when performing a function, or exercising a power, of an authorised officer;
- (c) a utility performing functions in a State forest and any employee, agent or contractor of that utility when acting in accordance with the terms of the employee's, agent's or contractor's employment, agency or contract;
- (d) a transport authority performing functions in a State forest and any employee, agent or contractor of that transport authority when acting in accordance with the terms of the employee's, agent's or contractor's employment, agency or contract;
- (e) a person undertaking timber harvesting operations in accordance with an authorisation specified in section 45(2) and any employee, agent or contractor of that person when acting in accordance with the terms of the employee's, agent's or contractor's employment, agency or contract;
- (f) a person who is the holder of a licence or permit under section 52 of the **Forests Act 1958** granted for the purposes set out in subsection (1A)(c), (d), (e), (f) or (g) of that section and any employee, agent or contractor of that person when acting in accordance with the terms of the employee's, agent's or contractor's employment, agency or contract and with the terms of the licence or permit;
- (g) a person who is the holder of a licence under section 141 or 147, or of a right under section 149, of the **Land Act 1958**, when undertaking an activity authorised by that licence or right, or an employee, agent or contractor of

- that person when acting in accordance with the terms of the employee's, agent's or contractor's employment, agency or contract and with the terms of the licence or right;
- (h) a person who is an employee, agent or contractor of the Department when acting in accordance with the terms of the employee's, agent's or contractor's employment, agency or contract employment, agency or contract;
 - (i) a person who is an employee, agent or contractor of Fire Rescue Victoria, WorkSafe Victoria, the Department of Transport, the Environment Protection Authority or the State Emergency Service, when acting in accordance with the terms of the employee's, agent's or contractor's employment, agency or contract;
 - (j) a person who is a police officer, when performing a function, or exercising a power, of a police officer;
 - (k) a person who is an environmental auditor within the meaning of the **Environment Protection Act 2017**, when performing the function of an environmental auditor;
 - (l) a person appointed by the Secretary to observe the conduct of an environmental audit within the meaning of the **Environment Protection Act 2017**, when performing that function and in the company of a person referred to in paragraph (k);
 - (m) a person who is the holder of a lease, licence, permit or other authority under the **Mineral Resources (Sustainable Development) Act 1990** (other than a miner's right or a tourist fossicking authority) and any employee, agent or contractor of that person when acting in accordance with the terms of the employee's, agent's or contractor's employment, agency or contract and with the terms of the lease, licence, permit or other authority;
 - (n) a person who is the holder of a lease, licence, permit or other authority under the **Geothermal Energy Resources Act 2005**, **Greenhouse Gas Geological Sequestration Act 2008** or **Petroleum Act 1998** and any employee, agent or contractor of that person when acting in accordance with the terms of the employee's, agent's or contractor's employment, agency or contract and with the terms of the lease, licence, permit or other authority;
 - (o) a person who is a member of a traditional owner group when that person is acting under and in accordance with an agreement under Part 6 of the **Traditional Owner Settlement Act 2010**;

timber harvesting operations means any of the following kinds of activities carried out by a person or body—

- (a) for the primary purpose of the sale, or the processing and sale—
 - (i) felling or cutting trees or parts of trees;
 - (ii) taking or removing timber;
 - (iii) delivering timber to a buyer or transporting to a place for collection by a buyer or sale to a buyer;
 - (iv) any works, including road works, ancillary to any of the activities referred to in subparagraphs (i) to (iii);
- (b) the provision or use of machinery or equipment for timber harvesting in a state forest safety zone;
- (c) engaging in timber harvesting operations in a state forest safety zone as an authorised person;
- (d) regeneration burning—

but does not include the collection of firewood for domestic use;

state forest safety zone has the meaning given by section 73C.

73B Power to declare certain areas for the purposes of sections 73B to 73L

For the purposes of section 73C(a), the Minister, by order published in the Government Gazette, may declare an area specified in a licence granted under section 52 for a purpose referred to in subsection (1A)(c), (d), (e), (f) or (g) of that section to be a coupe for the purposes of sections 73B to 73L.

73C What is a state forest safety zone?

A state forest safety zone is—

- (a) a coupe; and
- (b) any road that is within that coupe that has been closed for the purposes of timber harvesting operations; and
- (c) any area of State forest that is within 150 metres from the boundary of that coupe.

73D Notice of state forest safety zone to be given

- (1) Before the initial commencement of timber harvesting operations in a particular state forest safety zone, the person conducting the operations must ensure that a notice that complies with subsection (2) is conspicuously displayed on or near the zone including on any road that is an entry point to the zone.
- (2) A notice under subsection (1) must—
 - (a) specify the location of the state forest safety zone; and

- (b) specify the commencement date of timber harvesting operations in that zone; and
- (c) state that offences and penalties apply in that zone.

73E Direction to leave a state forest safety zone

- (1) An authorised officer may direct a person to leave a state forest safety zone (and not re-enter the zone) in a manner specified in the direction.
- (2) A person must not refuse or fail to comply with a direction under subsection (1).

Penalty: 60 penalty units.

73F Direction to stop or move a vehicle in a state forest safety zone

- (1) An authorised officer may direct a person operating a vehicle in a state forest safety zone to stop or manoeuvre the vehicle in a manner specified in the direction.
- (2) A person must not refuse or fail to comply with a direction under subsection (1).

Penalty: 60 penalty units.

73G Direction to remove a dog from a state forest safety zone

- (1) An authorised officer may direct a person in apparent control of a dog in a state forest safety zone notice of which has been given in accordance with section 73D to remove the dog from the zone.
- (2) A person must not refuse or fail to comply with a direction under subsection (1).

Penalty: 60 penalty units.

73H Offence to enter or remain in a state forest safety zone

A person (other than an authorised person) must not enter, or remain in, a state forest safety zone notice of which has been given in accordance with section 73D.

Penalty: 60 penalty units.

73I Offence to be in possession of a prohibited thing in a state forest safety zone

A person (other than an authorised person) must not be in possession of a prohibited thing in a state forest safety zone notice of which has been given in accordance with section 73D.

Penalty: 60 penalty units.

73J Offence to allow a dog to enter a state forest safety zone

A person must not allow a dog to enter a state forest safety zone notice of which has been given in accordance with section 73D.

Penalty: 60 penalty units.

73K Offence to remove or destroy a barrier or fence

A person must not unlawfully break down, damage or destroy a barrier or fence which has been erected to prohibit or restrict access to a state forest safety zone.

Penalty: 60 penalty units.

73L Offence to remove or destroy notice

A person must not unlawfully alter, obliterate, deface, remove or destroy a notice displayed in accordance with section 73D.

Penalty: 60 penalty units."

NEW CLAUSE

5. Insert the following New Clause to follow clause 27—

'27A New section 97A inserted

After section 97 of the **Forests Act 1958** insert—

"97A Civil proceedings

A civil proceeding may not be commenced in relation to an actual, apprehended or threatened contravention of—

- (a) this Act; or
- (b) the regulations; or
- (c) an instrument made under this Act; or
- (d) a licence or permit granted under this Act—

other than by or on behalf of the Crown or an entity that represents the Crown."