

Western Australia

**Environmental Protection (Land Clearance)
Amendment Bill 2001**

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Western Australia

LEGISLATIVE COUNCIL

(Introduced by Christine Sharp)

**Environmental Protection (Land Clearance)
Amendment Bill 2001**

A Bill for

**An Act to amend the *Environmental Protection Act 1986* by
requiring land clearing under the *Soil and Land Conservation Act
1945* to be assessed by the Authority.**

The Parliament of Western Australia enacts as follows:

1. Short title

5 This Act may be cited as the *Environmental Protection (Land
Clearance) Amendment Act 2001*.

2. Commencement and application

5 This Act comes into operation on the day on which it receives the Royal Assent and applies to a specified notice defined in section 40A(1) that is given under section 40A(2) at any time after the day on which the bill for this Act was read a first time in the Legislative Council.

3. Principal Act

In this Act the *Environmental Protection Act 1986* is referred to as the principal Act.

10 **4. New sections inserted in principal Act**

The principal Act is amended by inserting after section 40 the following sections —

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15 **40A. Land clearances to be assessed**

(1) In this section and sections 40B – 40E —

20 “**decision-making authority**” means the Commissioner of Soil and Land Conservation acting under Part V of the *Soil and Land Conservation Act 1945*;

“**proponent**” means the person required to give a specified notice;

25 “**specified notice**” means a notice required to be given by a proponent by or under the *Soil and Land Conservation Act 1945* of an intention to clear land that may be made the subject of a soil conservation notice under section 32 of that Act.

30 (2) A proponent is to provide a copy of a specified notice to the Authority on the day that it is lodged with the decision-making authority.

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- (3) Receipt by the Authority under subsection (2) constitutes the referral of a proposal under section 38(1)(b)(i).
- (4) The proponent is the person responsible for the proposal for the purposes of section 38(6).

40B. Form of assessment

- (1) Where the Authority decides to assess a proposal referred under section 40A, section 40 applies with the following modifications —
- (a) subsection (2)(b) and (c), subsection (3), and subsection (4)(b) do not apply;
- (b) subsection (4)(a) applies without provision for a direction under section 43;
- (c) subsection (6)(a) is satisfied by the proponent —
- (i) depositing a copy of the information or report at the office of the local government in which the land described in the specified notice is located; and
- (ii) publishing a notice once in 2 consecutive weeks in a newspaper circulating in the district that the information or report has been deposited under subparagraph (i) and the times during which it may be inspected;
- (d) subsections (7) and (8) do not apply.

40C. No implementation before assessment

- (1) Sections 41-48 do not apply to a proposal referred under section 40A.
- (2) If the Authority decides to assess a proposal referred under section 40A it is to report its findings and

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recommendations on the assessment to the proponent and the decision-making authority within 90 days of the referral.

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- (3) A proponent must not proceed to implement a proposal during the period of assessment mentioned in subsection (2) or until authorized by the decision-making authority, whichever is the later.
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- (4) The decision-making authority must not approve or permit any implementation of a proposal except as section 40D expressly provides and a failure to comply with section 40D avoids any purported approval or permit.

40D. Implementation subject to Authority's recommendations

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- (1) Where the Authority declines to assess a proposal, or makes no recommendations arising from its assessment of a proposal, the decision-making authority is to permit implementation of the proposal subject to a soil conservation notice (if any) given under Part V of the
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- Soil and Land Conservation Act 1945* and that Part applies accordingly.
- (2) Without limiting other matters that may be included in a soil conservation notice, the decision-making authority must issue a soil conservation notice containing directions that give effect to any
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- recommendation of the Authority arising from its assessment of a proposal.
- (3) Sections 33, 34 and 39 of the *Soil and Land*
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- Conservation Act 1945* do not apply to a provision of a soil conservation notice required by subsection (2).

40E. Offences

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A proponent who fails to comply without lawful excuse (proof of which lies on the proponent) with any applicable provision or requirement of sections 40A – 40D commits an offence and is liable to a fine not exceeding \$50 000 and, if the offence is a continuing one, to a further fine not exceeding \$10 000 for each day the offence continues.

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