

1995

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

NATURE CONSERVATION (AMENDMENT) BILL 1995

EXPLANATORY MEMORANDUM

**Circulated by authority of
Gary Humphries
Minister for the Environment,
Land and Planning.**

NATURE CONSERVATION (AMENDMENT) BILL 1995

Outline

The Nature Conservation (Amendment) Bill 1995 ("the Bill") will amend the Nature Conservation Act 1980 ("the Act"). The Act is the primary ACT legislation for the protection and handling of native plants and animals and management of national parks and nature reserves.

Section 43 of the Act provides for the protection of native timber by prohibiting a person from removing, felling or damaging such timber. The Act provides for certain limited exceptions from this prohibition.

The objective of the amendments to the Act is to provide a further exemption from the prohibition specified in section 43 in recognition that priorities for management of native trees on urban blocks are more appropriately determined by individual occupant practice and preference. The vast majority of trees are planted, managed and disposed of by the occupant, and a regular turnover and net gain of trees is typical. Nature conservation values are often enhanced incidentally to landscape, safety and engineering infrastructure considerations.

In addition, the opportunity is taken to insert appeal rights in respect of decisions taken under section 49 of the principal Act which gives the Conservator of Flora and Fauna authority to give directions to the owner of a native animal or native plant that is suffering from a disease.

Revenue/Cost Implications

This Bill has no revenue or cost implications.

Formal Clauses

Clauses 1, 2 and 3

Clauses 1, 2 and 3 are machinery provisions that relate to the title of the Bill, the commencement of the Bill and the title of the Act to be amended.

Clause 4

Clause 4 will make a number of amendments to section 43 of the Act.

Paragraph 4(a) will omit subsection 43(1) of the Act and will substitute a new subsection 43(1) to prohibit a person, except in accordance with a license, from

felling, causing to be felled, damaging or causing to be damaged, standing native timber on unleased land in the built-up area or leased land or unleased land outside the built-up area. A penalty of 50 penalty units will apply.

Paragraph 4(b) of the Bill will amend section 43 of the Act by restricting the prohibition on removing or causing to be removed fallen native timber to unleased land in the built-up area or leased or unleased land outside the built-up area. There will be no prohibition from removing fallen native timber from leased land within the built-up area.

Paragraph 4(c) of the Bill will convert the penalty specified for subsection 43(3) of the Act to penalty units.

Paragraph 4(d) of the Bill will insert a specific penalty in relation to subsection 43(4) of the Act. Subsection 43(4) prohibits a person, except in accordance with a license, from damaging or causing to be damaged, fallen native timber on unleased land. There is no penalty specified in the Act and the Bill will insert a penalty of 50 penalty units.

Clause 5

Clause 5 will amend section 74 of the Act to provide that merit review by the Administrative Appeals Tribunal will be available in respect of a direction made by the Conservator pursuant to section 49 of the Act.