

TASMANIA

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**NATURE CONSERVATION AMENDMENT  
(THREATENED NATIVE VEGETATION  
COMMUNITIES) BILL 2006**

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**NATURE CONSERVATION AMENDMENT  
(THREATENED NATIVE VEGETATION  
COMMUNITIES) BILL 2006**

*(Brought in by the Minister for Primary Industries and Water,  
the Honourable David Edward Llewellyn)*

**A BILL FOR**

**An Act to amend the *Nature Conservation Act 2002***

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

**1. Short title**

This Act may be cited as the *Nature Conservation Amendment (Threatened Native Vegetation Communities) Act 2006*.

**2. Commencement**

This Act commences on the day on which the *Forest Practices Amendment (Threatened Native Vegetation Communities) Act 2006* commences.

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THIS BILL IS COGNATE WITH THE *FOREST PRACTICES AMENDMENT (THREATENED NATIVE VEGETATION COMMUNITIES) BILL 2006*

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**3. Principal Act**

In this Act, the *Nature Conservation Act 2002*\*  
is referred to as the Principal Act.

**4. Section 25 amended (Management agreement for private land)**

Section 25(2) of the Principal Act is amended as follows:

- (a) by omitting “in respect of a private nature reserve or private sanctuary”;
- (b) by omitting from paragraph (a) “that reserved land” and substituting “the private land”;
- (c) by omitting from paragraph (b) “that” first occurring and substituting “the private land and it is”;
- (d) by omitting from paragraph (b) “met.” and substituting “met; and”;
- (e) by inserting the following paragraph after paragraph (b):
  - (c) any conservation objectives for the private land are met.

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**5. Section 33 amended (Interpretation of Part)**

Section 33 of the Principal Act is amended as follows:

- (a) by inserting “, unless the contrary intention appears” after “In this Part”;
- (b) by omitting “rare or endangered species of flora or fauna” from paragraph (a) of the definition of “affected owner” and substituting “threatened species or protecting a threatened native vegetation community from clearance and conversion”;
- (c) by omitting “rare or endangered species of flora or fauna” from paragraph (b) of the definition of “affected owner” and substituting “threatened species or protecting a threatened native vegetation community from clearance and conversion”;
- (d) by omitting “rare or endangered species of flora or fauna” from paragraph (c) of the definition of “affected owner” and substituting “threatened species or involve the clearance and conversion of a threatened native vegetation community”;
- (e) by inserting the following definition after the definition of “conservation covenant”:

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**“conservation determination”** means a determination made by the Forest Practices Authority under section 19 of the *Forest Practices Act 1985* to –

- (a) certify a forest practices plan subject to amendments made for the purpose of protecting a threatened species or maintaining a threatened native vegetation community; or
  - (b) refuse to certify a forest practices plan application wholly or partially on the ground that implementation of the proposed forest practices plan would threaten a threatened species or involve the clearance and conversion of a threatened native vegetation community;
- (f) by omitting the definition of “Forest Practices Code, 1987” and substituting the following definition:

**“Forest Practices Code”** means the code of that name issued under

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section 30 of the *Forest Practices  
Act 1985*;

- (g) by inserting the following definition after the definition of “registered”:

**“relevant conservation  
determination”**, in relation to a  
landowner, means the  
conservation determination that  
makes the landowner an affected  
owner;

- (h) by inserting the following definition after the definition of “taxon”:

**“threatened native vegetation  
community”** means a community  
of native vegetation specified in  
Schedule 3A;

**6. Section 41 amended (Affected owner entitled to apply for compensation)**

Section 41(3) of the Principal Act is amended by inserting “, subject to section 41A,” after “must”.

**7. Section 41A inserted**

After section 41 of the Principal Act, the following section is inserted in Division 4:

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**41A. Restrictions on entitlement to compensation**

- (1) A landowner is not entitled to compensation pursuant to section 41 unless the Minister is satisfied that –
  - (a) the relevant conservation determination has the effect of requiring the landowner to exercise a higher duty of care for the conservation of natural and cultural values on the relevant land than is required under the Forest Practices Code as in force on the date of the determination; and
  - (b) the landowner is not entitled to any, or adequate, financial consideration from other sources (including voluntary, public or private, conservation funds) for the financial loss referred to in that section.
- (2) Also, without limiting the generality of subsection (1), a landowner is not entitled to compensation pursuant to section 41 in so far as the relevant conservation determination prevents the complete or partial clearance and conversion of a threatened native vegetation community unless the Minister is satisfied that –



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- (a) at the date of the determination, the proposed clearance and conversion was not prohibited under –
  - (i) a law of the State other than this Act or the *Forest Practices Act 1985*; or
  - (ii) a law of the Commonwealth; and
- (b) for at least 2 years before the date of the determination, the landowner was actively managing the relevant land with the reasonable intention of undertaking the proposed clearance and conversion; and
- (c) the landowner has undertaken to manage the threatened native vegetation community under a conservation covenant or management agreement.

**8. Section 42 amended (Assessment of compensation)**

Section 42(2)(c) of the Principal Act is amended as follows:

- (a) by omitting from subparagraph (ii) “any” and substituting “if the relevant land is forested, any”;

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- (b) by inserting the following subparagraphs after subparagraph (v):
  - (va) any government restrictions relating to the clearance and conversion of threatened native vegetation communities, including restrictions under the Forest Practices Code as from time to time in force;
  - (vb) in respect of the conservation of natural and cultural values on the relevant land, the extent to which the duty of care that the landowner is being required to exercise regarding those values exceeds the duty of care required under the Forest Practices Code as in force on the date of the relevant conservation determination;

**9. Section 44 amended (Effect of failure to pay compensation)**

Section 44(8) of the Principal Act is amended as follows:

- (a) by inserting in paragraph (a) “or a threatened native vegetation community” after “fauna”;

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- (b) by inserting in paragraph (b) “or a threatened native vegetation community” after “fauna”;
- (c) by inserting in paragraph (c) “or a threatened native vegetation community” after “fauna”;
- (d) by inserting in paragraph (d) “or a threatened native vegetation community” after “fauna”.

**10. Section 76A inserted**

After section 76 of the Principal Act, the following section is inserted in Part 8:

**76A. Amendment of Schedule 3A**

- (1) The Minister, by order, may amend Schedule 3A by doing one or more of the following:
  - (a) inserting an item in the Schedule;
  - (b) omitting an item from the Schedule;
  - (c) omitting an item from the Schedule and substituting a new item.
- (2) An order under this section is not an instrument of a legislative character for

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the purpose of the *Subordinate  
Legislation Act 1992*.

**11. Schedule 3A inserted**

After Schedule 3 to the Principal Act, the  
following Schedule is inserted:

**SCHEDULE 3A – THREATENED NATIVE  
VEGETATION COMMUNITIES**

Section 33

1. Alkaline pans
2. *Allocasuarina littoralis* forest
3. *Athrotaxis cupressoides/Nothofagus gunnii* short rainforest
4. *Athrotaxis cupressoides* open woodland
5. *Athrotaxis cupressoides* rainforest
6. *Athrotaxis selaginoides/Nothofagus gunni* short rainforest
7. *Athrotaxis selaginoides* rainforest
8. *Athrotaxis selaginoides* subalpine scrub
9. *Banksia marginata* wet scrub
10. *Banksia serrata* woodland
11. *Callitris rhomboidea* forest

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12. Coastal complex on King Island
13. Cushion moorland
14. *Eucalyptus amygdalina* forest and woodland on sandstone
15. *Eucalyptus amygdalina* inland forest and woodland on cainozoic deposits
16. *Eucalyptus brookeriana* wet forest
17. *Eucalyptus globulus* dry forest and woodland
18. *Eucalyptus globulus* King Island forest
19. *Eucalyptus morrisbyi* forest and woodland
20. *Eucalyptus ovata* forest and woodland
21. *Eucalyptus risdonii* forest and woodland
22. *Eucalyptus tenuiramis* forest and woodland on sediments
23. *Eucalyptus viminalis* - *Eucalyptus globulus* coastal forest and woodland
24. *Eucalyptus viminalis* Furneaux forest and woodland
25. *Eucalyptus viminalis* wet forest
26. Heathland on calcarenite
27. Heathland scrub complex at Wingaroo

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28. Highland *Poa* grassland
29. Highland grassy sedgeland
30. *Melaleuca ericifolia* swamp forest
31. *Melaleuca pustulata* scrub
32. *Notelaea - Pomaderris - Beyeria* forest
33. Rainforest fernland
34. Riparian scrub
35. Seabird rookery complex
36. *Sphagnum* peatland
37. Subalpine *Diplarrena latifolia* rushland
38. Subalpine *Leptospermum nitidum*  
woodland
39. Wetlands