

1993-94-95

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

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Presented and read a first time

## NATIVE FOREST PROTECTION BILL 1995

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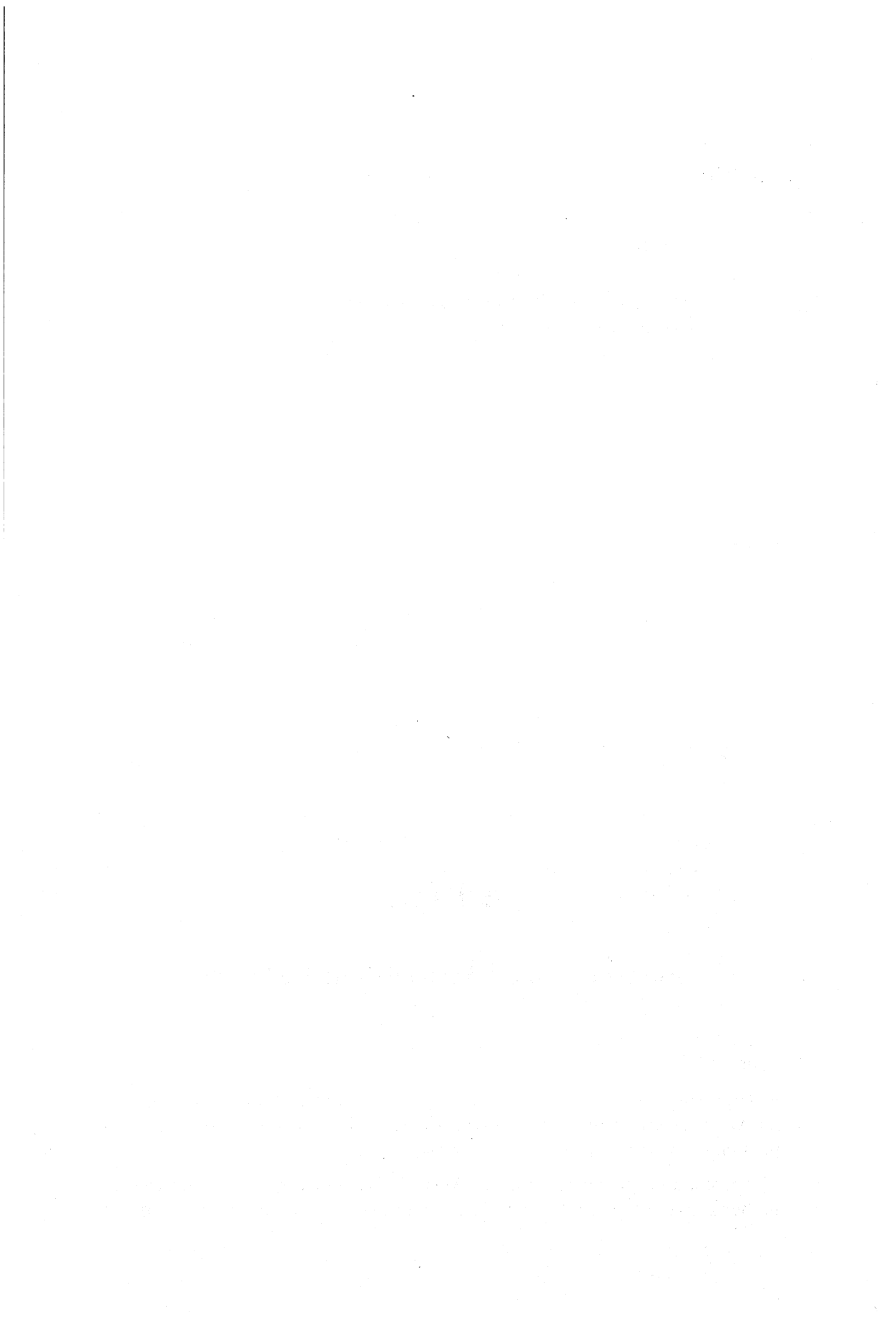
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*(Senator Chamarette)*

## **A BILL**

**FOR**

### **An Act to protect Australia's native forests**

#### **Preamble**

Recognising the irreplaceable ecological and cultural values of Australia's native forests and their importance to Australia and the world, this Act provides permanent protection for those forests.

The protection and conservation of Australia's native forests, and the species in them, gives effect to Australia's international obligations arising from the

Convention for the Protection of the World Cultural and Natural Heritage and the Convention on Biological Diversity, and is a matter of international concern.

Native forests and the species in them are part of the heritage distinctive of the Australian nation, and because of the lack or inadequacy of any other available means for its protection or conservation, it is peculiarly appropriate that measures for the protection or conservation of native forests be taken by the Parliament and Government of the Commonwealth as the National Parliament and Government of Australia.

The Parliament of Australia therefore enacts:

## PART 1—PRELIMINARY

### Short title

1. This Act may be cited as the *Native Forest Protection Act 1995*.

### Commencement

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2. This Act commences on 31 December 1995.

### Object of Act

3. The object of this Act is to provide protection for Australia's native forests by:

- (a) phasing out the export of woodchips from native forests; and 10
- (b) prohibiting logging in defined categories of native forest on public land immediately; and
- (c) prohibiting the export of woodchips from defined categories of native forests immediately; and
- (d) implementing a transitional strategy for the wood products industry. 15

### Act to bind Crown

4. This Act binds the Crown in all its capacities.

### Interpretation

5. In this Act, unless the contrary intention appears:

*financial corporation* means a financial corporation formed within the limits of the Commonwealth to which paragraph 51(xx) of the Constitution applies. 20

*foreign corporation* means a foreign corporation to which paragraph 51(xx) of the Constitution applies.

*forest* means a vegetation community dominated by trees with a projective foliage cover greater than 30%. 25

**high conservation value native forest** has the meaning given by section 6. **native forest** means forest dominated by tree species native to the locality in which it occurs and where natural regeneration processes operate either fully or in part for recovery of canopy structure following natural or artificial disturbance.

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**old growth native forest** means native forest that is ecologically mature (the upper stratum or overstorey is in the late mature to over-mature phases) and has been subjected to negligible unnatural disturbance such as logging, roading and clearing.

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**plantation** means an area of trees planted and managed in an agricultural context for purposes including wood production.

**rainforest** means native forest which is fire sensitive, has a more or less continuous closed canopy of variable height and has a characteristic diversity of species and life forms, and includes:

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(a) transitional and seral communities with sclerophyll emergents that are of similar botanical composition to mature rainforest in which sclerophyll emergents are absent; and

(b) disturbed native forests that can be expected to recover the defined characteristics.

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**species** includes a sub-species.

**trading corporation** means a trading corporation formed within the limits of the Commonwealth to which paragraph 51(xx) of the Constitution applies.

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**wilderness** means any area larger than 3000 hectares which has a National Wilderness Inventory wilderness quality of 12 or greater, and any area identified as wilderness under the *Wilderness Act 1987* of New South Wales.

**World Heritage Convention** means the Convention for the Protection of the World Cultural and Natural Heritage that has been adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organisation, being the convention a copy of the English text of which is set out in the Schedule to the *World Heritage Properties Conservation Act 1983*.

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### **High conservation value native forest**

**6.** A **high conservation value native forest** is a native forest on public land that satisfies one or more of the following paragraphs:

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(a) a native forest growing on land within a subcatchment containing rainforest or within 500 metres of rainforest, whichever is the lesser area;

(b) a native forest place listed on the Register of the National Estate or the Interim Register of the National Estate for their biological values;

- (c) a World Heritage Area identified under the *World Heritage Properties Conservation Act 1983*, a place that the Commonwealth is obliged to protect under the World Heritage Convention, or a place identified as having world heritage value;
- (d) a subcatchment or area of at least 500 hectares surrounding sites in which any of the following species have been recorded since 1 January 1980: 5
- (i) species listed in Schedule 1 of the *Endangered Species Protection Act 1992*;
  - (ii) species listed as endangered or vulnerable in the Nature Conservation (Wildlife) Regulation 1994 of Queensland (for sites in Queensland); 10
  - (iii) species listed in Schedule 12 of the *National Parks and Wildlife Act 1974* of New South Wales (for sites in New South Wales); 15
  - (iv) species listed as threatened in section 13 of the *Threatened Species Protection Act 1995* of Tasmania (for sites in Tasmania);
  - (v) species declared specially protected flora and fauna under paragraph 14(2)(ba) or section 23F of the *Wildlife Conservation Act 1950* of Western Australia (for sites in Western Australia); 20
  - (vi) species listed in the Schedule to this Act (for sites in Victoria);
- (e) an old growth native forest covering 10 hectares or more;
- (f) a wilderness area. 25

## PART 2—PROTECTION OF NATIVE FORESTS

### Unlawful acts—high conservation value native forests

7.(1) A person must not:

- (a) take wood or clear vegetation from, or destroy vegetation in, a high conservation value native forest after 1 January 1996; or
- (b) trade in, keep, move or process wood harvested after 1 January 1996 from a high conservation value native forest.

Maximum penalty: 1,000 penalty units.

(2) Subsection (1) has effect:

(a) in relation to acts done by any person in relation to a high conservation value native forest that:

(i) is or is part of an area identified as a World Heritage Area under the *World Heritage Properties Conservation Act 1983*; or

(ii) is or is part of a place that the Commonwealth is obliged to protect under the World Heritage Convention; or

(iii) is or is part of a place identified as having world heritage value under the *World Heritage Properties Conservation Act 1983*; and

(b) for the purpose of giving effect to:

(i) the Convention on Biological Diversity; or

(ii) a prescribed international instrument.

(3) In addition, subsection (1) has effect in relation to:

(a) acts done by a trading corporation for the purpose of its trading activities; and

(b) acts done by a financial corporation for the purpose of its financial activities; and

(c) acts done by a foreign corporation.

### Prohibition of exports

8.(1) A person must not export from Australia after 1 January 1998 woodchips obtained or derived from any native forest.

Maximum penalty: 1,000 penalty units.

(2) Subsection (1) applies to all people.

### Enforcement

9.(1) The Federal Court may, on the application of any person, grant an injunction restraining a person from doing an act that is unlawful because of section 7 or 8.

(2) If an application is made to the Federal Court for an injunction restraining a person from doing an act, the Federal Court may, if in the opinion of the Court it is desirable to do so, before determining the application, grant an interim injunction restraining the person from doing the act pending the determination of the application.

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**Phase out of export of unprocessed wood**

10. The Minister must ensure that the export of woodchips obtained or derived from native forests that are not high conservation value native forests does not exceed:

- (a) 4 million green tonnes for woodchips obtained or derived from 1 January 1996 to 31 December 1996; or
- (b) 2 million green tonnes for woodchips obtained or derived from 1 January 1997 to 31 December 1997.

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**PART 3—MISCELLANEOUS**

**Minister to prepare transition strategy**

- 5       **11.** The Minister must prepare a strategy by 31 March 1996 to achieve:
- (a) recognition of the need for Australia to move from a native forest based wood products industry to a plantation based wood products industry; and
  - (b) management of that transition; and
  - 10       (c) the provision of assistance to workers financially disadvantaged by the prohibition on logging in high conservation value native forests or the phase out of the export of woodchips.

**Act not to affect native title**

**12.** This Act does not affect native title or any rights, interests or obligations existing under native title.

**Regulations**

- 15       **13.** The Governor-General may make regulations prescribing all matters:
- (a) required or permitted by this Act to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.



**SCHEDULE**

Section 6

**VICTORIAN ENDANGERED AND VULNERABLE SPECIES**

**Mammals**

- Gymnobelideus leadbeateri* (Leadbeater's Possum)
- Petrogale penicillata* (Brush-tailed Rock-wallaby)
- Potorous longipes* (Long-footed Potoroo)
- Pseudomys novaehollandiae* (New Holland Mouse)
- Dasyurus maculatus* (Spot-tailed Quoll)
- Pseudomys fumeus* (Smoky Mouse)
- Petaurus norfolcensis* (Squirrel Glider)

**Birds**

- Calyptofhynchus banksii graptogyne* (Red-tailed Black-Cockatoo)
- Dasyornis brachypterus* (Eastern Bristlebird)
- Lathamus discolor* (Swift Parrot)
- Lichenostomus melanops cassidix* (Helmeted Honeyeater)
- Pomatostomus temporalis* (Grey-crowned Babbler)
- Xanthomyza phrygia* (Regent Honeyeater)
- Burhinus grallarius* (Bush Stone-curlew)
- Calyptorhynchus lathamii* (Glossy Black-Cockatoo)
- Lophoictinia isura* (Square-tailed Kite)
- Polytelis anthopeplus* (Regent Parrot)
- Polytelis swainsonii* (Superb Parrot)

**Reptiles**

- Aprasia parapulchella* (Pink-tailed Worm-lizard)
- Cyclodomorphus michaeli* (Eastern She-oak Skink)
- Cyclodomorphus praealtus* (Alpine She-oak Skink)
- Morella spilota spilota* (Diamond Python)
- Morelia spilota variegata* (Carpet Python)
- Vermicella annulata* (Bandy Bandy)

**Amphibians**

- Limnodynastes interioris* (Giant Bullfrog)
- Litoria spenceri* (Spotted Tree Frog)
- Mixophyes balbus* (Southern Barred Frog)
- Heleioporus australiacus* (Giant Burrowing Frog)

**Freshwater Fish**

- Galaxius fuscus* (Barred Galaxias)

**SCHEDULE**—continued

*Maccullochella macquariensis* (Bluenose Cod)  
*Nannoperca variegata* (Variegated Pigmy Perch)  
*Edelia obscura* (Yarra Pigmy Perch)  
*Galaxias cleaveri* (Australian Mudfish)  
*Galaxiella pusilla* (Dwarf Galaxias)  
*Gobiomorphus coxii* (Cox's Gudgeon)  
*Maccullochella peelii* (Murray Cod)  
*Macquaria australasica* (Macquarie Perch)  
*Prototroctes maraena* (Australian Grayling)  
*Tandanus tandanus* (Freshwater Catfish)

**Crustaceans**

*Engaeus sternalis* (Warragul Burrowing Crayfish)  
*Euastacus diversus* (Orbost Crayfish)

**Oligochaetes**

*Megascolides australis* (Gippsland Giant Earthworm)

**Gastropods**

*Victaphania compacta* (Otway Black Snail)

**Insects**

*Myrmecia* spp. 17 (Bullant)  
*Taskiria otwayensis* (Caddis Fly)