

## LEGISLATIVE COUNCIL

## CONSERVATION, FORESTS AND LANDS AMENDMENT BILL 2022

(New Clause to be proposed in Committee by Dr RATNAM)

## NEW CLAUSE

Insert the following New Clause to follow clause 3—

**'3A New sections 41 to 43 inserted**

After section 40 of the **Conservation, Forests and Lands Act 1987** insert—

**"41 Requirements for decisions under Codes of Practice**

- (1) The Minister or Secretary when making a Code of Practice discretionary decision must—
  - (a) make the decision on the basis of the best available, relevant scientific knowledge; and
  - (b) make a decision that promotes the object of the Act set out in section 4.
- (2) In this section and in sections 42 and 43—
 

*Code of Practice discretionary decision* means either of the following—

  - (a) a decision that may be made under a discretionary authority conferred by the Code of Practice;
  - (b) the approval, determination, dispensation or regulation of a matter or thing under a Code of Practice.

**42 VCAT review of Code of Practice discretionary decisions**

- (1) Any person whose interests are affected by a Code of Practice discretionary decision made by the Minister or Secretary may apply to VCAT for a review of the decision.
- (2) An application for review under subsection (1) must be made within 28 days after the later of the following—
  - (a) the day on which the decision is made;
  - (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the party requests a statement of reasons for the decision, the day on which the statement of reasons is given to the party or the party is informed under section 46(5) of that Act that a statement of reasons will not be given.

**43 Stay of decision pending review**

- (1) This section applies, despite anything to the contrary in section 50 of the **Victorian Civil and Administrative Tribunal Act 1998**, if a person applies for a review of a Code of Practice discretionary decision under section 42.
- (2) On the making of an application for review of a Code of Practice discretionary decision under section 42, the decision is stayed pending the determination by VCAT of the proceeding to which the application applies and the expiration of the appeal period.
- (3) For the purposes of subsection (2) the appeal period expires—
  - (a) at the end of the period during which an application for leave to appeal from the order of VCAT determining the proceeding may be made under Part 5 of the **Victorian Civil and Administrative Tribunal Act 1998** if an application is not made within that period; or
  - (b) if an application for leave to appeal is made, when that application is determined if leave is not granted; or
  - (c) if leave is granted, at the end of the period during which the appeal may be instituted under Part 5 of the **Victorian Civil and Administrative Tribunal Act 1998** if an appeal is not instituted within that period; or
  - (d) if an appeal is instituted, when the appeal is determined.".'.