

DEPARTMENT OF ENVIRONMENT AND CONSERVATION - ACCIDENTAL BURNING OF
NATIVE VEGETATION

1778. Dr S.C. Thomas to the Minister for the Environment

- (1) Is the accidental burning of native vegetation considered under the policies of the Department of Environment and Conservation to be clearing as defined by section 51A of the *Environmental Protection Act 1986*?
- (2) Under the departmental policies would a landholder be in breach of section 51C of the *Environmental Protection Act 1986* or commit an offence if a fire escaped containment and burnt native vegetation?

Mr D.A. TEMPLEMAN replied:

- (1) Clearing is defined under section 51 A of the Environmental Protection Act 1986 to include "(a) the killing or destruction of; (b) the removal of; (c) the severing or ringbarking of trunks or stems of; or (d) the doing of any other substantial damage to, some or all of the native vegetation in an area, and includes the draining or flooding of land, the burning of vegetation, the grazing of stock...". Under section 51C, clearing is an offence unless a permit is held or an exemption applies. An exemption applies in item 2 of Regulation 5 of the Environmental Protection (Clearing of Native Vegetation) Regulations 2004 for clearing as a result of an accident caused otherwise than by the negligence of the person clearing or the person who authorised the clearing.
- (2) If fire escaped containment and was a genuine accident rather than negligence no offence would be committed. Otherwise, the Department's enforcement policy would apply, which is aimed at ensuring that the outcome of any enforcement action is consistent, fair and assists in achieving environmental objectives.