

EXPLANATION OF PRINCIPAL BILLS

CARBON RIGHTS BILL

Clause	Explanation
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| 1. | Short title |
| 2. | Commencement: The Act will come into operation on a day fixed by proclamation. This will not be before the commencement of section 64 of the <i>Transfer of Land Amendment Act 2002</i> . This needs to be in operation before the Carbon Rights Bill because the section it amends will be further amended by the <i>Acts Amendment (Carbon Rights and Tree Plantation Agreements) Bill 2002</i> (which commences with the Carbon Rights Bill). |
| 3. | Definitions: <ul style="list-style-type: none">• Carbon sequestration includes carbon dioxide absorbed from the atmosphere and stored in or on land generally through photosynthesis and other organic processes, but not carbon dioxide or other gases removed from industrial waste streams and stored geologically or chemically.• Carbon release means processes like burning, grazing and rotting by which carbon stored in vegetation on the land is returned to the atmosphere. |
| 4. | This Act will bind the Crown. |
| 5. | <ul style="list-style-type: none">• A person may seek to register a carbon right in relation to specified (freehold or Crown) land, for a fixed term or in perpetuity.• Section 104B of the TLA requires the written consent of each person having a registered interest in the specified land, and for Crown land compliance with s18 of the Land Administration Act 1997 (under which the Minister for Lands approves of transactions affecting Crown land.). |
| 6. | A carbon right is a separate interest in the affected land and can be dealt with as such. The carbon right runs with the affected land. |
| 7. | Limits on creation of carbon rights: |
| 8(1). | The proprietor of a carbon right has the commercial benefits and risks arising from carbon sequestration processes on the land: |
| (2) | <ul style="list-style-type: none">• The carbon right does not confer a right to possess the specified land.• The creation of a carbon right is not a subdivision and so does not need WAPC approval under s20 of the Town Planning and Development Act 1928. |
| 9. | Dealings in carbon rights.
Division 2A of the Transfer of Land Act is a new division created by the Acts Amendment Bill which accompanies this Bill and spells out the administration of dealings in Carbon rights and carbon covenants. |
| 10. | The proprietor of a carbon right may enter into a carbon covenant with a person having an interest in any land. The Carbon Covenant requires that person to do or restricts it from doing activities on its land. |
| 11. | <ul style="list-style-type: none">• A carbon covenant can only be registered for the land affected by a carbon right for the period over which the carbon right exists.• Section 104G of the TLA requires the written consent of each person having a registered interest in the specified land and in the Carbon Right, and for Crown land compliance with s18 of the Land |

Administration Act 1997 (under which the Minister for Lands approves of transactions affecting Crown land.).

12. A carbon covenant is a separate interest in the affected land and can be dealt with as such. The Carbon Covenants run with the burdened land.
13. Limits on creation of carbon covenants:
14. Dealings in carbon covenants are constrained by the requirement that at all times the proprietor of a carbon covenant must be the proprietor of the carbon right to which it relates.
15.
 - The proprietor of a carbon covenant does not have a right to possess the specified land, but may be given a licence to enter to inspect or remedy a default.
 - The creation of a carbon covenant is not a subdivision nor a licence to occupy, and does not need WAPC approval under s20 of the Town Planning and Development Act 1928.
16. A carbon covenant, or a part of it, ceases to have effect on registration of surrender of the covenant or the part of it.
17. The Governor may make regulations to give effect to the Act. This may include the proprietor of a carbon right being required to report about the land affected by the carbon right, the amount of carbon sequestered on the land and other relevant matters.