

Tasmanian Forests Agreement Bill 2012

Second Reading Speech

Hon Bryan Green MP, Minister for Energy and Resources

Introduction

Mr Speaker/ Madam President, I move that the Bill now be read a second time.

The introduction of the *Tasmanian Forests Agreement Bill 2012* into the Tasmanian Parliament occurred by 30 June 2012 consistent with the commitment of the Tasmanian Government to introduce this Bill under clause 30 of the Tasmanian Forests Intergovernmental Agreement.

I am very pleased to advise that the Reference Group of Signatories that has been struggling with the exceedingly difficult task of finding a way to balance industry and conservation outcomes for over two years has now reached an agreement. This Agreement is not only historic in supporting joint wood supply and conservation outcomes but also in terms of its ongoing commitment to a shared Vision, which underpins the durability of the Agreement.

Mr Speaker / Madam President, this Bill delivers on the framework of the Tasmanian Forests Intergovernmental Agreement which conceives a structural reform of the Tasmanian forest industry in the short-term as well as a basis for a lasting negotiated peace to the decades-long and destructive conflict over the harvesting of Tasmanian forests.

The Tasmanian Forests Intergovernmental Agreement enables this long-term objective through providing support for enhanced resource security and market access for the forest industry, a significant forest conservation outcome and by promoting economic diversification, jobs and growth for Tasmanian workers and communities.

The introduction of this Bill is the first condition that needs to be met for Tasmania to access approximately \$100 million in economic diversification funding available under the Tasmanian Forests Intergovernmental Agreement.

The Tasmanian Forests Intergovernmental Agreement has already achieved a number of significant short-term outcomes under that framework.

Structural assistance has been provided to a range of forest businesses affected by the decision of Gunns Limited, previously the State's largest native forest processor, to close its Tasmanian native forest processing operations.

Directly affected forest industry workers have been provided financial assistance to restart careers.

A range of reemployment, training and relocation assistance programs have been made available to displaced forest industry workers.

A long-term funding program to provide economic stimulus and diversification in our communities has commenced.

Last, but perhaps most importantly, the Tasmanian Forests Intergovernmental Agreement has provided counseling services for

workers, families and communities to help Tasmanians through a massive structural upheaval in one of the State's major industries.

It is the Tasmanian Government's view, supported by independent market assessments commissioned by the Government as part of its review of the operations of Forestry Tasmania, that there will be ongoing market pressures affecting native forest wood suppliers and processors for some time. Many of these pressures, such as the high Australian dollar and changing market preferences, are factors beyond the control of the Government or industry – but they are realities that the industry has recognised it must adjust to.

The conflict between the commercial harvesting of native forest and the conservation of native forest is also continuing to divide our community with significant reputational consequences for the State in terms of business investment and economic growth.

The decision of Gunns Limited to cease its large-scale native forest operations created an opportunity that was recognised by the forestry industry, unions, environment and community groups to work constructively together to support the restructuring of the Tasmanian native forest industry, create a landmark forest protection outcome, and support diversification of the Tasmanian economy. These parties also recognised that they had a unique opportunity to assist in ending decades of unproductive conflict in Tasmanian communities.

It is important to note, that over the course of this long-running conflict every previous attempt at a solution to the forest conflict imposed by Governments or independent arbitrators has failed the test of durability.

Not only has peace not been achieved, but the divisions have been deepened and views have become more polarised. Nowhere is this fact more evident than in the Tasmanian Parliament itself.

That is why the Tasmanian Government has supported the tireless efforts of the forest industry, environmental, union and community groups, to assist in resolving one of the most controversial disputes that has divided Tasmanian society.

This Bill is a continuation of the Tasmanian Government's commitment to support that process - it is a Bill that establishes a robust and transparent process by which the Agreement reached by the members of the Reference Group of Signatories can be publically debated and enacted by the Parliament.

The Bill was originally drafted in an environment where the outcome of the negotiations was not known. As such the Bill was developed to accommodate a wide range of potential outcomes that could be negotiated by the Reference Group of Signatories.

The Bill was designed to accommodate any reasonable proposal from the Reference Group of Signatories consistent with the intent of the Tasmanian Forests Intergovernmental Agreement and the Ministerial Statement on the Agreement made in the House of Assembly on 27 March 2012.

However, this Bill never intended to stifle innovative negotiated outcomes which would further the objectives of the Tasmanian Forests Intergovernmental Agreement. And it is in this context that I will today propose some amendments to the Bill to enable the specifics of the final Agreement of the Reference Group to be accommodated.

The Government believes this Bill, as amended, achieves the right balance in terms of the timing of implementation of negotiated outcomes and attempts to ensure that neither environmental nor industry groups are disadvantaged in the way the Bill delivers those outcomes.

The Tasmanian Government considers that the negotiated Agreement reflects all of the elements that the Parliament should expect to see addressed.

It is appropriate that the Parliament, on behalf of all Tasmanians, has the final say on the Agreement, including whether formal reserves should be allowed and the appropriate form of those reserves and on the durability of the Agreement.

Legislation needs to allow for the proposed outcome which involves a phased reduction in public native forest harvesting with the creation of reserves over time.

The legislation delivers comprehensive forest protection for agreed reserve areas in the form of land reservation under the *Nature Conservation Act 2002*, meaning that reserves proclaimed under this proposed legislation can only be revoked with the approval of the Tasmanian Parliament. These reserves will meet recognised National Reserve System criteria.

Importantly, the creation of reserves through legislation should not inhibit the ability of the Tasmanian Government, on behalf of the Tasmanian community, to realise any financial value from carbon storage arising from forest management changes. A key objective to be considered in the establishment of these reserves is the retention of this value.

Finally, I also wish to make claim that the purpose of this Bill is not to unduly create additional restrictions on private primary industry, mining, infrastructure, tourism or recreational uses or rights. The Bill does not in itself extinguish any such legal rights.

This Bill has been developed with those elements in mind.

Wood Supply, Resource Security and Market Access

Mr Speaker / Madam President, this Bill balances the making of reserves with a guaranteed wood supply and the provision to industry of dedicated and permanent wood supply zones and increased security of market access.

Resource security is provided by the Bill in a number of ways. Consistent with the intent of the Tasmanian Forests Intergovernmental Agreement, the Bill includes a mechanism which guarantees that at least **137, 000** cubic metres of high quality eucalypt sawlogs and veneer logs will be made available by Forestry Tasmania to the forest industry each year from multiple use forest land.

The Signatories to the Agreement, after further work and no doubt much soul searching, have arrived at this slightly lower volume of high quality sawlogs than was envisaged at the time of the Tasmanian Forests Intergovernmental Agreement. Similarly the environmental groups have had to reduce their aspirations for reserves to approximately 525,000 hectares. The really important thing is that they have found common ground and an agreement on what is sustainable and thus provide certainty of supply and market access for an ongoing, vibrant forestry industry in Tasmania.

On this basis the Government is also willing to support these revised positions.

The *Tasmanian Forests Agreement Bill 2012* therefore amends Forestry Tasmania's wood production policy for high quality eucalypt sawlogs and veneer logs as specified in the *Forestry Act 1920* (which is for production of sliced veneer not rotary peeled veneer as produced by Ta Ann Tasmania) from a minimum aggregate quantity of 300, 000 cubic metres each year to a minimum aggregate quantity of 137, 000 cubic metres each year unless otherwise prescribed by regulation.

The Bill also amends the *Forestry Act* to allow a minimum quantity of other timber to be prescribed by regulation. This provision enables the supply of quantities of peeler billets, special timber or other timber from multiple use forest land by Forestry Tasmania to be prescribed (consistent with the negotiated statement).

It is important to note that, under these amendments to the *Forestry Act*, wood production policy will be automatically revoked and returned to the current quantity if the Protection Order specified by this Bill is not made; if the Protection Order is not accepted by both Houses of Parliament; or if the Protection Order is revoked by operation of the Bill. The revocation of the new wood production policy occurs at the end of the relevant financial year as the wood production policy refers to an annual volume.

To provide transparency and certainty for industry, the Bill provides that "multiple use forest land" and "Register of Multiple Use Forest Land", as defined in section 4(1) of the *Forestry Act*, will become known as "permanent timber production land" and "Register of Permanent Timber Production Zone Land" respectively.

The Signatories propose that long-term special timbers supply largely come from identified areas within the permanent timber production land, to be designated as Specialty Craft and Timber Zones. This proposal is dealt with in the amendments to the Bill I will table today which provide for the making of appropriate amendments to Forest Management Plans for State Forests required under Part 3A of the *Forestry Act 1920*.

The change will occur upon proclamation of Part 3 of the Bill. Part 3 cannot be proclaimed until the first proposed Reserve Order has passed both Houses of Parliament.

In this way, the Bill provides that continued access to a guaranteed wood supply, increased wood resource security and improved ability for market access will be achieved in parallel with the realisation of conservation outcomes.

Special Council

The Bill requires the Minister, by order, to establish a Special Council.

With the Signatories as the initial members, the Council is responsible for promoting the Vision contained in the Agreement; overseeing the implementation of the Agreement; preparing durability reports for the Minister; providing advice to the Minister on such matters in relation to the administration of the Act as are specified in the Minister's order; and such other matters as the Minister specifies.

The Bill provides that, not later than two years after the establishment of the Special Council the Minister, in consultation with the members of Special Council, will review the membership.

This is to allow the Council to transition from the Signatories to a broader stakeholder council, as agreed by the Signatories in the Agreement.

Making of Proposed Reserves

The Bill itself does not create new reserves directly but establishes a transparent process to enable proclamation of reserves, including the protection of forests from harvesting during that process. The Parliament has a central role in the reserve-making process.

The Bill provides that the Minister can make a Protection Order to set aside parcels of land that can be proposed as reserves under this Bill. “Land” is defined in the Bill as land that is owned by the Crown, a Government Business Enterprise or a State-owned company.

Other private and Commonwealth Government land cannot be set aside as part of the reservation process established by the Bill.

Any land described in the Protection Order will be known as Future Reserve land until it is either made into a reserve, a Reserve Order is not accepted by Parliament or the Protection Order is revoked.

It is not intended that the protection of land will interfere with the rights and responsibilities of Government Business Enterprises or a State-owned company, in relation to the management of the land, where those operational rights and responsibilities do not include prohibited harvesting of wood products. No compensation is payable to any person as a result of the making of the Protection Order.

The Protection Order will contain land that has been agreed to be reserved as a result of the negotiation process undertaken by the Reference Group of Signatories. Once made, Parliament must accept

the Protection Order as it is or it ceases to have effect. Parliament is not able to amend the Protection Order. This is because the Protection Order is intended to give practical effect to the forest protection outcome that forms an indivisible part of a multifaceted agreement and it is the Parliament's role to accept or reject the Protection Order in the context of that negotiated agreement.

The Minister must make the Protection Order no later than six months after the commencement of Part 5.

Before making a Protection Order the Minister must obtain a durability report from the Special Council.

The purpose of the durability report is to provide advice to Parliament on the continuing effectiveness of a negotiated Agreement by the Reference Group of Signatories over the timeframe established by the Protection Order and is consistent with the requirement for durability reporting established under clause 45 of the Tasmanian Forests Intergovernmental Agreement and the Signatories Agreement

For example, the durability report may include whether wood security and market access outcomes of an Agreement are being advanced and whether the reservation process established by the Bill is proceeding in a manner that meets agreed expectations.

The Minister must also obtain advice from the Minister administering the Commonwealth *Carbon Credits (Carbon Farming Initiative) Act 2011* as to whether or not the land in the Protection Order and a proposed Reserve Order will, by virtue of changed forest management practices related to the operation of this Bill, be excluded from consideration as part of a carbon farming project under the *Carbon Farming Initiative Act*.

It is expected that carbon sequestration and reduced greenhouse gas emissions will be an important purpose of any reserve established under this Bill.

Also at the request of the Signatories, the Bill provides that the proposed Special Council provides the Minister with a durability report which is to be tabled with the Protection Order. This durability report is intended to report on implementation of all aspects of the agreement.

The Protection Order must contain information relating to each parcel of land, including: its boundaries, values and purpose; activities that are prohibited on that land (“prohibited activities”); the certified forest practices plans, issued under the *Forest Practices Act 1985*, to be extinguished; and any forestry covenants or forestry rights, created under the *Forestry Rights Registration Act 1990*, that are suspended.

It is anticipated that forest harvesting as defined in the Protection Order will be identified as a prohibited activity. However, there is provision for certain forest practices plans not to be extinguished, for example to complete rehabilitation works and re-vegetate a forest coupe. The negotiated Agreement’s proposal to continue to assign “once-off logging” or “log of last resort” status to some areas proposed for reservation is also accommodated within the Protection Order framework.

The Bill prevents a regulator from issuing a new permit, licence or approval for any activity that is identified as a prohibited activity in the Protection Order.

Apart from specifying forest practices plans to be revoked, the Protection Order does not extinguish any existing right for a person to commence or carry on activity on the land for which they already hold a permit,

licence of approval at the date that the Protection Order is made, nor does it prevent the managing entity from continuing to perform or exercise its other functions or powers, or discharge its obligations in relation to that land.

The Government does not intend to prohibit mining or mining exploration in areas designated as Strategic Prospectivity Zones under the *Mining (Strategic Prospectivity Zones) Act 1993*, nor does it intend to specify a purpose of a reserve that precludes mining in Strategic Prospectivity Zones.

Nor does the Government intend to limit existing private native forest or farming activities on private land through the operation of this Bill.

The values and purpose provided in the Protection Order will align with those associated with reserve classes under the *Nature Conservation Act*.

The Protection Order also identifies whether a parcel of land will be available for processing immediately as a proposed reserve or a date by which each parcel of land must be further considered by Parliament for processing as a reserve under the *Nature Conservation Act*. The nomination of a “date” as defined by the Bill allows tranches of reserves to be processed separately over time as required.

The Protection Order comes into effect upon the Minister for Energy and Resources making an Order but must be subsequently endorsed by both Houses of Parliament. If Parliament does not accept the Protection Order or the Protection Order is not made, all processes established by the Bill cease and it reverts to as if the Act was never made, including

the revocation of changes to the minimum aggregate quantity specified in the *Forestry Act* wood production policy.

Making of Reserves

The Bill provides that, on or before the date specified for each parcel of land in the Protection Order, the Minister is to make a proposed Reserve Order declaring that land to be a proposed reserve.

Before making a proposed Reserve Order, the Minister must consider a durability report prepared by the Special Council.

The proposed Reserve Order, the durability report and the advice from the Commonwealth Minister as to whether or not the land in the proposed Reserve Order will be excluded from being considered as part of a carbon farming project under the *Carbon Farming Initiative Act* must be tabled concurrently in Parliament.

If a proposed Reserve Order is disallowed by either House of Parliament it may be tabled on one further occasion with a new durability report, which must be within 12 months or within another alternative period prescribed by regulation. It is intended that the making of further proposed Reserve Orders will not occur during this time.

If the proposed Reserve Order is not tabled within 12 months, or within another alternative prescribed period, or is rejected by either House of Parliament on a second occasion, the proposed Reserve Order is revoked and the Protection Order is revoked and the reserve-making process ceases.

The tabling of a proposed Reserve Order a second time allows for resolution of any durability concerns that may have led either House of

Parliament to not accept the proposed Reserve Order on the first occasion.

Land that has already been the subject of a proposed Reserve Order accepted by both Houses of Parliament will continue through the reserve-making process.

On the finalisation of a proposed Reserve Order the Minister is to advise the Nature Conservation Minister. The Nature Conservation Minister is responsible for the reserve-making process.

On receipt of the advice from the Minister, the Nature Conservation Minister can commence a process to make formal reserves for the purposes of the *Nature Conservation Act*. The primary purpose of this process is to validate and confirm the proposed reserve boundaries, values and purpose as specified in the proposed Reserve Order.

It is anticipated that this process, to be managed by the Department of Primary Industries, Parks, Water and Environment, would include consultation with relevant interest groups and regulatory authorities. Mineral resources and mining interests will be taken into account during this process. The process is consistent with administrative processes that would be required if the land was being made a reserve under the *Nature Conservation Act*.

Where the Nature Conservation Minister determines that the final boundaries, values, and/or purpose do not substantially accord with the Protection Order, the Nature Conservation Minister must table the changed boundaries, values and/or purpose and the reason for the change.

If the changed boundaries, values and/or purpose are allowed by Parliament, they become the boundaries, values and/or purpose for the reserve and the Nature Conservation Minister may continue the process to reserve the land.

If Parliament does not allow the changed boundaries, values and/or purpose determined by the Minister then the land to which it relates is removed from the reservation process and the Protection Order, meaning that this land reverts to its original status before inclusion in the Protection Order, including the reinstatement of any Forestry Rights.

Where the Nature Conservation Minister has determined that the final boundaries, values and purpose for a proposed reserve substantially accord with the Protection Order, or Parliament has accepted changed boundaries, values and/or purpose, the Nature Conservation Minister is to recommend to the Governor that the Governor declare the land to be a class of reserve under the *Nature Conservation Act*.

Schedule 1 of the Nature Conservation Act sets out the values and purpose that relate to each type of reserve. The Bill requires that the type of reserve being made for each parcel of land must accord with the values and purpose accepted by Parliament.

The Bill allows the Governor to identify whether the land is being reserved for the additional purpose of removing carbon dioxide from the atmosphere and avoiding emissions of greenhouse gas attributable to changed forest management practices.

On the making of a proclamation, the land described in the proclamation is taken to have been reserved under the *Nature Conservation Act* as a type of reserve and with the name specified in the proclamation.

Other Matters

The Bill amends the *Nature Conservation Act* to enable any reserve created under that Act to be declared for the purpose of carbon storage or avoided greenhouse gas emissions in addition to the existing purpose of reserve classes.

The Bill includes rights for Ministers involved in the operation of the Bill to request information from a Government Business Enterprise or State-owned company to enable Ministers to perform their functions or exercise their powers under this Bill.

The Bill contains a range of detailed provisions to ensure the effective transfer and continuation of leases, licences, occupation permits and/or burdening easements following the creation of a reserve.

The Bill provides for the transfer of land from a Government Business Enterprise or State-owned company to the Crown and also for the transfer of assets, liabilities and contracts between the Crown and a Government Business Enterprise or State-owned company through transfer notices established by the Bill to facilitate an orderly transition of land management.

In addition, there are a number of legislative and other matters which are raised in the Agreement but are not necessarily covered in the present Bill.

It is important that I foreshadow that, in addition to tabling the required Protection Order as soon as practicable after passage of this legislation; the Government will develop proposals to address these matters. These matters include: addressing how the Forest Practices Authority will consider social, economic and environmental outcomes in its decision

making; and how sovereign risk protection will be provided to holders of long term supply contracts.

The Government is also committed to working with the Australian Government to develop and submit a nomination for a minor extension to the Tasmanian Wilderness World Heritage Area as called for in the Signatories' Agreement.

In addition, there are a range of financial implications that the Government will be working with the Commonwealth Government to address to ensure that adequate resources are available to implement the legislation and other elements of the Agreement.

Conclusion

This Bill as amended is a comprehensive Bill that provides a framework for balanced implementation of outcomes negotiated by the Reference Group of Signatories. It provides for legislative protection of significant additional areas of native forest, it provides certainty of supply for industry through creation of permanent timber production zones, it assists in ensuring ongoing market access for Tasmanian forest products, and provides certainty for workers and the community.

This Bill also includes provisions deliberately designed to promote and ensure the durability of the outcomes agreed by the Signatories.

This is all about balance and moving forward together.

I call on all of you to join us and be part of the solution.

I commend the Bill to the House.