

TASMANIA

TASMANIAN FORESTS AGREEMENT BILL 2012

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TASMANIAN FORESTS AGREEMENT BILL 2012

*(Brought in by the Minister for Energy and Resources, the
Honourable Bryan Alexander Green)*

A BILL FOR

An Act to amend the *Forestry Act 1920* in relation to continuing wood supply, and to enable certain land to be reserved, for the purposes of the Tasmanian Forests Intergovernmental Agreement entered into by the Commonwealth of Australia and the State of Tasmania dated 7 August 2011, to create reserves and to amend the *Nature Conservation Act 2002* for the purposes of benefiting economically from the carbon in Tasmania's forests, and to amend certain other Acts

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Tasmanian Forests Agreement Act 2012*.

2. Commencement

- (1) Subject to subsection (2), the provisions of this Act commence on a day or days to be proclaimed.

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- (2) Part 3 and section 27 and Schedule 2 commence on a day to be proclaimed.
- (3) A proclamation cannot be made under subsection (2) earlier than –
 - (a) if the protection order identifies land as being the subject of the initial proposed reserve order as mentioned in section 9(4)(d), on the publication of the notice under section 9(11);
 - (b) if the protection order does not identify land as being the subject of the initial proposed reserve order as mentioned in section 9(4)(d), the publication of the first notice under section 13(9)(a) or 14(6)(a).

3. Interpretation

- (1) In this Act, unless the contrary intention appears –

certified forest practices plan has the same meaning as in the *Forest Practices Act 1985*;

Crown land has the same meaning as in the *Nature Conservation Act 2002*;

durability report means the report prepared under section 13;

Forestry Corporation has the same meaning as *corporation* in the *Forestry Act 1920*;

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forestry covenant has the same meaning as in the *Forestry Rights Registration Act 1990*;

forestry right has the same meaning as in the *Forestry Rights Registration Act 1990*;

Government Business Enterprise means a statutory authority specified in Schedule 1 to the *Government Business Enterprises Act 1995*;

lease includes an agreement for a lease and a tenancy agreement;

Nature Conservation Minister means the Minister administering the *Nature Conservation Act 2002*;

proposed reserve order means an order under section 13;

protection order means the order made under section 9;

Register of Multiple Use Forest Land means –

- (a) before the commencement of Part 3, the Register of Multiple Use Forest Land within the meaning of section 4 of the *Forestry Act 1920*; and
- (b) on and after the commencement of Part 3, the Register of Permanent Timber Production

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Zone Land within the meaning of
section 4 of the *Forestry Act*
1920;

relevant date means the date on which the Bill
for this Act was first tabled in
Parliament;

Reserves Management Minister means the
Minister administering the *National
Parks and Reserves Management Act*
2002;

State forest has the same meaning as in the
Forestry Act 1920;

State-owned company means a company
incorporated under the Corporations Act
that is controlled by –

- (a) the Crown; or
- (b) a Government Business
Enterprise; or
- (c) a statutory authority; or
- (d) another company that is so
controlled;

State tax means any of the following if
imposed by any Act or law of Tasmania:

- (a) a fee, including an application fee
and registration fee;
- (b) a tax, including a duty;

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(c) a charge;

statutory authority means a body or authority, whether incorporated or not, that is established or constituted by or under an Act or under the royal prerogative, being a body or authority which, or of which the governing authority, wholly or partly comprises a person or persons appointed by the Governor, a Minister or another statutory authority.

- (2) A reference in this Act to boundaries, values or purpose includes a reference to boundaries, values and purpose.

4. Act binds Crown

This Act binds the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities.

5. Inconsistency with other Acts

If any provisions of this Act are inconsistent with any provisions of the –

- (a) *Nature Conservation Act 2002*; or
- (b) *National Parks and Reserves Management Act 2002*; or
- (c) *Forestry Act 1920*; or
- (d) *Forest Practices Act 1985*; or

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- (e) *Forestry Rights Registration Act 1990*; or
- (f) *Crown Lands Act 1976*; or
- (g) *Land Use Planning and Approvals Act 1993*; or
- (h) *Land Titles Act 1980*; or
- (i) *Local Government (Building and Miscellaneous Provisions) Act 1993* –

the provisions of this Act prevail to the extent of the inconsistency.

**PART 2 – CONTINUING WOOD SUPPLY
(PRODUCTION POLICY)**

6. Continuing wood supply

- (1) The *Forestry Act 1920* is amended by repealing section 22AA and substituting the following section:

22AA. Production policy

- (1) Each year the corporation must make available –
- (a) for the veneer and sawmilling industries, a minimum aggregate quantity of eucalypt veneer logs and eucalypt sawlogs, from multiple use forest, that meet the prescribed specifications; and
 - (b) for a prescribed industry, the prescribed quantity, prescribed type and prescribed specification of other prescribed timber.

- (2) In subsection (1)(a) –

minimum aggregate quantity means –

- (a) 155 000 cubic metres; or
- (b) if another quantity is prescribed, the prescribed quantity.

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Part 2 – Continuing Wood Supply (Production Policy)

(3) The regulations may prescribe the time for which the quantity, type and specification of other timber is to be made available and the source of the other timber.

(2) If the protection order –

- (a) is not made by the Minister within the period specified in section 9(2); or
- (b) is not accepted by both Houses of Parliament under section 9; or
- (c) is revoked under section 12, 13(8) or 14(5) –

section 22AA(2)(a) is amended on 30 June in the year in which the protection order is not made, is not accepted, or is revoked, as the case may be, by omitting “155 000” and substituting “300 000”.

**PART 3 – WOOD SUPPLY (AMENDMENTS TO
FORESTRY ACT 1920)**

7. Amendments to *Forestry Act 1920*

The *Forestry Act 1920* is amended as follows:

- (a) by omitting the definition of *multiple use forest land* from section 4(1) and substituting the following definition:

permanent timber production zone land means land specified in the Register of Permanent Timber Production Zone Land;

- (b) by omitting the definition of *Register of Multiple Use Forest Land* from section 4(1) and substituting the following definition:

Register of Permanent Timber Production Zone Land means the Register maintained by the corporation in accordance with section 18;

- (c) by omitting “Register of Multiple Use Forest Land” from paragraphs (c) and (d) of section 4B(1) and substituting “Register of Permanent Timber Production Zone Land”;
- (d) by omitting “multiple use forest land” from paragraph (d) of section 8(1) and

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- substituting “permanent timber
production zone land”;
- (e) by omitting “multiple use forest land” from subparagraph (vi) of section 10(1)(a) and substituting “permanent timber production zone land”;
 - (f) by omitting “Register of Multiple Use Forest Land” from paragraph (c) of section 10(1) and substituting “Register of Permanent Timber Production Zone Land”;
 - (g) by omitting “Register of Multiple Use Forest Land” from subsection (2) of section 17 and substituting “Register of Permanent Timber Production Zone Land”;
 - (h) by omitting “multiple use forest land” from paragraph (a) of section 17(12) and substituting “permanent timber production zone land”;
 - (i) by omitting “multiple use forest land” from paragraph (a) of section 17(13) and substituting “permanent timber production zone land”;
 - (j) by omitting “Multiple use forest land” from subsection (17) of section 17 and substituting “Permanent timber production zone land”;
 - (k) by omitting “multiple use forest land” from subsection (18) of section 17 and

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-
- substituting “permanent timber
production zone land”;
- (l) by omitting “multiple use forest land”
from subsection (19) of section 17 and
substituting “permanent timber
production zone land”;
- (m) by omitting “multiple use forest land”
from subsection (21) of section 17 and
substituting “permanent timber
production zone land”;
- (n) by omitting “Register of Multiple Use
Forest Land” from section 19 and
substituting “Register of Permanent
Timber Production Zone Land”;
- (o) by omitting “multiple use forest land”
from subsection (2) of section 20 and
substituting “permanent timber
production zone land”;
- (p) by omitting “multiple use forest land”
from subsection (2)(b) of section 20 and
substituting “permanent timber
production zone land”;
- (q) by omitting “Register of Multiple Use
Forest Land” from paragraph (b) of
section 20(2) and substituting “Register
of Permanent Timber Production Zone
Land”;
- (r) by omitting “multiple use forest land”
from paragraph (a) of section 20AA(1)

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and substituting “permanent timber production zone land”;

- (s) by omitting “multiple use forest land” from paragraph (c) of section 20A(1) and substituting “permanent timber production zone land”;
- (t) by omitting “multiple use forest land” from paragraph (a) of section 22AA(1) and substituting “permanent timber production zone land”.

PART 4 – SPECIAL ADVISORY COMMITTEE

8. Special Advisory Committee

- (1) The Minister, after consulting the Nature Conservation Minister and the Reserves Management Minister, by order, may establish a special advisory committee (the *committee*) for the purposes of advising the Minister, the Nature Conservation Minister or the Reserves Management Minister on such matters in relation to the administration of this Act as are specified in the order.
- (2) An order –
 - (a) may specify the number of members of the committee; and
 - (b) subject to this section, may contain provisions –
 - (i) regulating the appointment of members of the committee; and
 - (ii) regulating the proceedings of the committee.
- (3) The members of the committee are appointed by the Minister and the Minister may appoint a member of the committee as its chairperson.
- (4) At a meeting of the committee, the chairperson or, if the chairperson is absent or there is no chairperson, another member present and chosen by the members present is to preside.

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Part 4 – Special Advisory Committee

- (5) The chairperson or other member presiding at a meeting of the committee has a deliberative vote only and, in the event of an equality of votes on any matter before a meeting of the committee, the matter stands adjourned to the next meeting of the committee.
- (6) At a meeting of the committee, a quorum is constituted if at least half the total number of members of the committee is present.
- (7) Subject to this Act, the Minister may make arrangements to make available to the committee such accommodation and assistance as it may require.
- (8) The members of the committee are to be paid such travelling and other allowances as the Minister determines.
- (9) An order under subsection (1) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

PART 5 – MAKING OF PROPOSED RESERVES

9. Making of protection order

- (1) The Minister, by order published in the *Gazette*, (the *protection order*) may set aside land that can be proposed as reserves for the purposes of this Act.
- (2) The Minister is to publish the protection order in the *Gazette* not later than 6 months after the commencement of this Part.
- (3) For the purposes of subsection (1) –

land means –

- (a) State forest within the meaning of the *Forestry Act 1920*; or
 - (b) Crown land within the meaning of the *Crown Lands Act 1976*; or
 - (c) land owned by the Forestry Corporation; or
 - (d) any other land owned by a State-owned company or Government Business Enterprise.
- (4) The protection order is to contain –
 - (a) a description by which the land that can be proposed as reserves may be identified; and

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- (b) the indicative area and indicative boundaries of the land that can be proposed as reserves; and
- (c) the purpose and values for which the land is to be reserved; and
- (d) a description of the land (if any) that will be the subject of the initial proposed reserve order on acceptance of the protection order by both Houses of Parliament under this section; and
- (e) the activities that are to be prohibited on the land that can be proposed as reserves and the date from which they are prohibited; and
- (f) the certified forest practices plans relating to that land that are to be revoked; and
- (g) the forestry covenants or forestry rights relating to that land that are to be suspended; and
- (h) the date by which the making of proposed reserve orders creating the proposed reserves are to be made; and
- (i) any other matter in relation to the protection of the land that can be proposed as reserves or the making of proposed reserves.

(5) For the purpose of subsection (4)(h) –

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date means a given date or a day reckoned by a period of time from a given day, act or event.

- (6) The protection order is not a statutory rule for the purposes of the *Rules Publication Act 1953*.
- (7) Before the making of the protection order, the Minister is to obtain advice, in writing, from the Minister administering the *Carbon Credits (Carbon Farming Initiative) Act 2011* of the Commonwealth as to whether any changed management practices on land referred to in subsection (4)(d), when reserved under this Act, constitute a project that is not required to be carried out under a law of the State for the purposes of section 41 of the *Carbon Credits (Carbon Farming Initiative) Act 2011* of the Commonwealth.
- (8) The Minister must cause the protection order, and the advice referred to in subsection (7), to be laid before each House of Parliament within the first 10 sitting-days of the House after it is so published.
- (9) The protection order is of no effect until it has been accepted by both Houses of Parliament.
- (10) For the purposes of subsection (9), a House of Parliament is to be taken to have accepted the protection order if a copy of it has been laid on the table of that House and –
 - (a) it is accepted by that House; or

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- (b) at the expiration of 15 sitting-days after it was laid on the table of that House, no notice has been given of a motion to disallow it or, if such notice has been given, the notice has been withdrawn or the motion has been negatived; or
 - (c) if any notice of a motion to disallow it is given during that period of 15 sitting-days, the notice is, after the expiration of that period, withdrawn or the motion is negatived.
- (11) Within 10 days after the protection order has been accepted by both Houses of Parliament, the Minister is to cause a notice to be published in the *Gazette* notifying the acceptance of the protection order by both Houses of Parliament.
- (12) A notice under subsection (11) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

10. Effect of protection order

- (1) On the acceptance of the protection order by both Houses of Parliament –
 - (a) the land in the protection order is to be known as “protection order land”; and
 - (b) no activities referred to in section 9(4)(e) can be authorised, approved or permitted by any person, pursuant to the performance or exercise of functions or

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- powers under any written law, on the land specified in the protection order from the date referred to in section 9(4)(e) until the order is revoked under section 13(8) or 14(5) or a proclamation is made under section 16(10) in relation to the land; and
- (c) the certified forest practices plans specified in the protection order are, by force of this provision, revoked and any authority given by those plans is terminated; and
 - (d) the forestry covenants or forestry rights specified in the protection order are, by force of this provision, suspended and a person must not do anything required, authorised or permitted by those covenants or rights during the duration of the order; and
 - (e) the land identified in the protection order as being the subject of the initial proposed reserve order is taken to have been land included in a proposed reserve order accepted by both Houses of Parliament under section 13.
- (2) Except as provided in subsection (1)(c), subsection (1) does not extinguish or otherwise affect the right to commence or carry on any activity on the land specified in the protection order authorised, approved or permitted before the commencement of the protection order.

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- (3) Subject to subsection (1), nothing in the protection order prevents the managing entity of the land specified in the protection order from continuing to perform or exercise its functions or powers, or discharge its obligations, in relation to that land.
- (4) Notwithstanding subsection (3), the managing entity of land specified in the protection order cannot, during the duration of the order, sell, transfer or convey that land to any other person.
- (5) Notwithstanding subsection (3), the managing entity of land specified in the protection order cannot, during the duration of the order, grant or create a right or interest over that land for a period exceeding, or capable of exceeding, 12 months without the written permission of the Nature Conservation Minister or a person approved by that Minister.
- (6) For the purposes of this section –

managing entity, in relation to land specified in the protection order, means the person in whom is vested the management or ownership of that land and includes the Crown.

11. No compensation payable

No compensation is payable to any person in relation to any loss arising from the making of the protection order.

12. Non-acceptance of protection order

If either House of Parliament does not accept the protection order, the protection order is revoked.

13. Making of proposed reserve order

- (1) If both Houses of Parliament accept the protection order, the Minister, by order published in the Gazette (a *proposed reserve order*), may declare land set aside in the protection order to be proposed reserves for the purposes of this Act.
- (2) A proposed reserve order in relation to a proposed reserve –
 - (a) is to be made on or before the date specified in the protection order in respect of the land; and
 - (b) is to contain the information specified in section 9(4)(a), (b), (c) and (e) in relation to that land.
- (3) A proposed reserve order is not a statutory rule for the purposes of the *Rules Publication Act 1953*.
- (4) Before the making of a proposed reserve order, the Minister is to –
 - (a) prepare a durability report; and
 - (b) obtain advice, in writing, from the Minister administering the *Carbon*

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Credits (Carbon Farming Initiative) Act 2011 of the Commonwealth as to whether any changed management practices on land specified in the proposed reserve order, when reserved under this Act, constitute a project that is not required to be carried out under a law of the State for the purposes of section 41 of the *Carbon Credits (Carbon Farming Initiative) Act 2011* of the Commonwealth.

- (5) The Minister must cause a proposed reserve order, the advice referred to in subsection (4)(b) in relation to the land specified in the proposed reserve order and the durability report to be laid before each House of Parliament within the first 10 sitting-days after the proposed reserve order is published.
- (6) A proposed reserve order is of no effect unless it has been accepted by both Houses of Parliament.
- (7) For the purposes of subsection (6), a House of Parliament is to be taken to have accepted a proposed reserve order if a copy of it has been laid on the table of that House and –
 - (a) it is accepted by that House; or
 - (b) at the expiration of 15 sitting-days after it was laid on the table of that House, no notice has been given of a motion to disallow it or, if such notice has been given, the notice has been withdrawn or the motion has been negatived; or

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- (c) if any notice of a motion to disallow it is given during that period of 15 sitting-days, the notice is, after the expiration of that period, withdrawn or the motion is negatived.
- (8) If the Minister fails to make a proposed reserve order, within the time specified in the protection order, in respect of land specified in the protection order, the protection order is revoked by force of this provision.
- (9) The Minister is to cause a notice to be published in the *Gazette* notifying –
- (a) the acceptance of the proposed reserve order by both Houses of Parliament; or
- (b) the non-acceptance by a House of Parliament of the proposed reserve order; or
- (c) that the Minister has failed to make a proposed reserve order within the time specified in the protection order in respect of land specified in the protection order.
- (10) The Minister is to cause the notice referred to in subsection (9) to be published in the *Gazette* within 10 days of the acceptance or non-acceptance of the proposed reserve order.
- (11) A notice under subsection (9) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

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14. Non-acceptance of proposed reserve order

- (1) If either House of Parliament does not accept a proposed reserve order pursuant to section 13, the Minister may cause the proposed reserve order to be laid before each House of Parliament on one further occasion within 12 months from the date of the notice referred to in section 13(9) or within such other period from the date of that notice as may be prescribed.
- (2) Before the proposed reserve order is laid before each House of Parliament under subsection (1), the Minister is to prepare a new durability report and lay that report before each House of Parliament with the proposed reserve order.
- (3) The proposed reserve order is of no effect unless it has been accepted by both Houses of Parliament.
- (4) For the purposes of subsection (3), a House of Parliament is to be taken to have accepted a proposed reserve order if a copy of it has been laid on the table of that House and –
 - (a) it is accepted by that House; or
 - (b) at the expiration of 15 sitting-days after it was laid on the table of that House, no notice has been given of a motion to disallow it or, if such notice has been given, the notice has been withdrawn or the motion has been negatived; or
 - (c) if any notice of a motion to disallow it is given during that period of 15 sitting-

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days, the notice is, after the expiration of that period, withdrawn or the motion is negatived.

- (5) If either House of Parliament does not accept the proposed reserve order laid before each House of Parliament a second time under subsection (1), the proposed reserve order is revoked and the protection order is revoked.
- (6) The Minister is to cause a notice to be published in the *Gazette* notifying –
 - (a) the acceptance of the proposed reserve order by both Houses of Parliament; or
 - (b) the non-acceptance by a House of Parliament of the proposed reserve order.
- (7) The Minister is to cause the notice referred to in subsection (6) to be published in the *Gazette* within 10 days of the acceptance or non-acceptance of the proposed reserve order.
- (8) A notice under subsection (6) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

15. Nature Conservation Minister to be advised of proposed reserve order

If each House of Parliament accepts a proposed reserve order, or land identified in the protection order is taken to have been land included in a proposed reserve order accepted by both Houses of Parliament by virtue of section 10(1)(e), the

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Minister is to advise the Nature Conservation
Minister of the acceptance of the proposed
reserve order.

PART 6 – MAKING OF RESERVES

16. Making of reserves

- (1) On receipt of advice from the Minister of the acceptance of a proposed reserve order, the Nature Conservation Minister must make a determination as to the final boundaries, values and purpose of the proposed reserves specified in the order.
- (2) If the Nature Conservation Minister makes a determination as to the final boundaries, values and purpose of a proposed reserve that does not substantially accord with the boundaries, values or purpose for the proposed reserve accepted by each House of Parliament under section 13, the Nature Conservation Minister is to lay before each House of Parliament a document specifying the changed boundaries, values or purpose determined by the Nature Conservation Minister and the reason for the change.
- (3) The Nature Conservation Minister's determination under subsection (2) is final.
- (4) The changed boundaries, values or purpose determined by the Nature Conservation Minister under subsection (2) are of no effect unless they have been accepted by both Houses of Parliament.
- (5) For the purposes of subsection (4), a House of Parliament is to be taken to have accepted the changed boundaries, values or purpose

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determined by the Nature Conservation Minister and specified in the document referred to in subsection (2) if a copy of the document has been laid on the table of that House and –

- (a) it is accepted by that House; or
 - (b) at the expiration of 15 sitting-days after it was laid on the table of that House, no notice has been given of a motion to disallow it or, if such notice has been given, the notice has been withdrawn or the motion has been negatived; or
 - (c) if any notice of a motion to disallow it is given during that period of 15 sitting-days, the notice is, after the expiration of that period, withdrawn or the motion is negatived.
- (6) If both Houses of Parliament accept the changed boundaries, values or purpose specified in the document referred to in subsection (2), the changed boundaries, values or purpose become the boundaries, values or purpose for the proposed reserve.
- (7) If either House of Parliament does not accept the changed boundaries, values or purpose specified in the document referred to in subsection (2) –
- (a) the land to which it relates is no longer a proposed reserve for the purposes of this Act; and
 - (b) the land is no longer subject to the protection order; and

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(c) section 10 ceases to apply to the land.

(8) If –

- (a) the Nature Conservation Minister makes a determination as to the boundaries, values or purpose of the proposed reserve that substantially accords with the boundaries, values or purpose accepted by each House of Parliament under section 13; or
- (b) the changed boundaries, values or purpose determined by the Nature Conservation Minister and specified in the document referred to in subsection (2) are accepted by each House of Parliament –

the Nature Conservation Minister is to recommend to the Governor that the Governor declare the proposed reserve to be a class of reserved land under the *Nature Conservation Act 2002* that gives effect to the boundaries, values and purpose accepted by each House of Parliament in respect of the proposed reserve.

- (9) The Nature Conservation Minister's determination under subsection (8)(a) is final.
- (10) On receipt of a recommendation under subsection (8), the Governor, by proclamation, may –
 - (a) declare that any part of the proposed reserve that is entered in the Register of Multiple Use Forest Land, immediately

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before the making of the proclamation, is deleted from that Register; and

- (b) revoke the dedication as State forest of such part of that proposed reserve that is, immediately before the making of the proclamation, dedicated as State forest; and
- (c) declare any part of the proposed reserve that is not Crown land, by virtue of paragraph (b), to be Crown land; and
- (d) declare the proposed reserve to be reserved land in one of the classes set out in section 11(2)(a) of the *Nature Conservation Act 2002*; and
- (e) give a name to that reserved land; and
- (f) identify whether the reserve is being declared for the additional purpose of removing carbon dioxide from the atmosphere by all or any of the following means:
 - (i) sequestering carbon in native forest;
 - (ii) avoiding emissions of greenhouse gas attributable to changed forest management practices including the clearing or harvesting of native forest.

(11) For the purposes of subsection (10)(f) –

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greenhouse gas has the same meaning as in the *Carbon Credits (Carbon Farming Initiative) Act 2011* of the Commonwealth;

native forest has the same meaning as in the *Carbon Credits (Carbon Farming Initiative) Act 2011* of the Commonwealth.

- (12) Section 11(3) of the *Nature Conservation Act 2002* applies to the naming of the reserved land.
- (13) A proclamation under subsection (10) may only be made declaring a proposed reserve to be reserved land in a class if the proposed reserve satisfies the criteria relating to that class as set out in section 16 of the *Nature Conservation Act 2002*.

17. Effect of proclamation

On the making of a proclamation under section 16 –

- (a) any contract for the sale of any part of the land described in the proclamation that has not been completed is extinguished; and
- (b) any forestry covenant or forestry right affecting any part of the land described in the proclamation is extinguished; and
- (c) any part of the land described in the proclamation that is entered in the

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Register of Multiple Use Forest Land, immediately before the making of the proclamation, is deleted from the Register; and

- (d) the dedication as State forest of such part of the land described in the proclamation that is dedicated as State forest, immediately before the making of the proclamation, is revoked and that land becomes Crown land; and
- (e) any part of the land described in the proclamation that is not Crown land, by virtue of paragraph (d), is vested in the Crown and becomes Crown land; and
- (f) the land described in the proclamation is taken to have been declared by the Governor to be reserved land for the purposes of the *Nature Conservation Act 2002* of the class and with the name specified in the proclamation as if the proclamation had been made by the Governor under section 11(2) of that Act; and
- (g) section 10 ceases to apply to the land.

18. Entitlement to compensation

- (1) In this section –

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affected person means a person who is adversely affected by the extinguishment of –

- (a) a contract for the sale of land that was extinguished by virtue of the operation of section 17(a), being a contract made before the relevant date; or
 - (b) a forestry covenant that was extinguished by virtue of the operation of section 17(b), being a forestry covenant made before the relevant date; or
 - (c) a forestry right that was extinguished by virtue of the operation of section 17(b), being a forestry right made before the relevant date.
- (2) An affected person is entitled to compensation for any loss in respect of a contract, forestry covenant or forestry right extinguished by this Act.
- (3) Compensation is the amount agreed, in writing, between the affected person and the Nature Conservation Minister.
- (4) Before agreeing an amount of compensation, the Nature Conservation Minister must obtain the approval of the Valuer-General to that amount.
- (5) In determining whether to approve an amount of compensation, the Valuer-General is to apply the

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same principles, with any necessary modification, as he or she would apply in approving an amount of compensation for the purposes of section 40(8) of the *Land Acquisition Act 1993*.

- (6) If the affected person and the Nature Conservation Minister cannot agree on the amount of compensation, the claim for compensation is to be determined as if it were a disputed claim for compensation under the *Land Acquisition Act 1993* and, for that purpose –
 - (a) section 17(a), (b) or (c) is taken to be a notice of acquisition, within the meaning of that Act, validly gazetted on the day of the making of the proclamation; and
 - (b) the Crown is the acquiring authority.
- (7) No compensation is payable to any State-owned company or Government Business Enterprise for any loss in respect of a contract, forestry covenant or forestry right extinguished by this Act.

19. Continuation of leases, licences, &c.

- (1) In this section –

burdening easement means an easement that burdens land which is the subject of a proclamation made under section 16;

grantor means a Minister acting under an Act, a Government Business Enterprise or a

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State-owned company that granted a lease, licence, temporary licence, occupation permit or burdening easement referred to in subsection (2).

- (2) This section applies to any lease, licence, temporary licence, occupation permit or burdening easement which, at the date of the proclamation made under section 16, was in force in respect of any land that is declared to be reserved land pursuant to that proclamation.
- (3) This section does not apply to any lease or licence under the *Mineral Resources Development Act 1995*.
- (4) A reference in subsection (1), (5), (6), (7), (8) or (9) to a proclamation made under section 16 is a reference to the proclamation made under that section that affects the land that is subject to a lease, licence, temporary licence, occupation permit or burdening easement referred to in subsection (2).
- (5) On the making of a proclamation under section 16, the Reserves Management Minister is substituted as a party to a lease, licence, temporary licence, occupation permit or burdening easement referred to in subsection (2), that was granted by a grantor, in place of that grantor.
- (6) Any lease, licence, temporary licence, occupation permit or burdening easement referred to in subsection (2) which was administered by a grantor immediately before

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the making of the proclamation under section 16 is to be administered by the responsible Department in relation to the *National Parks and Reserves Management Act 2002*.

(7) Notwithstanding anything in this Act, the *Crown Lands Act 1976*, the *National Parks and Reserves Management Act 2002* or the *Nature Conservation Act 2002* –

(a) a lease, licence, temporary licence, occupation permit or burdening easement referred to in subsection (2) continues in force in accordance with this section, after the date of the proclamation made under section 16, until it expires or is surrendered, released, discharged or terminated, as if the proclamation had not been made; and

(b) the Reserves Management Minister –

(i) may, in relation to a lease, licence, temporary licence, occupation permit or burdening easement referred to in subsection (2), perform or exercise, in addition to any functions or powers under the *National Parks and Reserves Management Act 2002* or any other Act, the same functions or powers, including without limitation, functions and powers under any written law, that could have continued to be performed

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or exercised by a grantor if the proclamation made under section 16 had not been made; and

- (ii) has, in relation to a lease, licence, temporary licence, occupation permit or burdening easement referred to in subsection (2), the same rights and obligations which a grantor would have continued to have if the proclamation made under section 16 had not been made.
- (8) Nothing in this section makes the Reserves Management Minister liable for any breach of a lease, licence, temporary licence, occupation permit or burdening easement referred to in subsection (2) that occurred before the making of the proclamation under section 16.
- (9) A reference to a grantor in a lease, licence, temporary licence, occupation permit or burdening easement referred to in subsection (2) that was granted by that grantor, is to be taken, on and after the date of the proclamation made under section 16, to be a reference to the Reserves Management Minister.

20. Vesting of land held under *Land Titles Act 1980*

- (1) In this section –

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non-vested land, in relation to an area of land that is comprised in a folio of the Register which includes vested land, any part of that area of land that is not vested land;

Recorder means the Recorder of Titles appointed pursuant to section 4(1) of the *Land Titles Act 1980*;

Register has the same meaning as in the *Land Titles Act 1980*;

vested land means land that is vested in the Crown pursuant to section 17(e).

- (2) This section applies where a folio of the Register includes both non-vested land and vested land.
- (3) As soon as practicable following the making of a proclamation under section 16 pursuant to which any land becomes vested land, the Nature Conservation Minister is to cause the following documents to be lodged with the Recorder:
 - (a) an application by the Crown to be the registered proprietor of the vested land in accordance with section 138A of the *Land Titles Act 1980*;
 - (b) a plan, prepared by a registered surveyor in accordance with the requirements of the Recorder, that identifies the non-vested land and the vested land.

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21. State tax not payable

State tax is not payable in respect of anything arising or done pursuant to this Act.

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Part 7 – Amendments to Nature Conservation Act 2002

**PART 7 – AMENDMENTS TO NATURE
CONSERVATION ACT 2002**

22. Amendments to *Nature Conservation Act 2002*

The *Nature Conservation Act 2002* is amended as follows:

- (a) by omitting “land.” from section 11(2)(b) and substituting “land; and”;
- (b) by inserting after paragraph (b) of section 11(2) the following paragraph:
 - (c) identify whether the reserve is being declared for the additional purpose of removing carbon dioxide from the atmosphere by all or any of the following means:
 - (i) sequestering carbon in trees in native forest;
 - (ii) avoiding emissions of greenhouse gas attributable to changed forest management practices including the clearing or harvesting of native forest.
- (c) by inserting after subsection (2) of section 11 the following subsection:
 - (2A) For the purposes of subsection (2)(c) –

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greenhouse gas has the same meaning as in the *Carbon Credits (Carbon Farming Initiative) Act 2011* of the Commonwealth;

native forest has the same meaning as in the *Carbon Credits (Carbon Farming Initiative) Act 2011* of the Commonwealth.

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Part 8 – Miscellaneous

PART 8 – MISCELLANEOUS

23. Right to request information

- (1) The Minister, the Nature Conservation Minister or the Reserves Management Minister may request a State-owned company or Government Business Enterprise to provide any information that the Minister, Nature Conservation Minister or Reserves Management Minister considers necessary to enable the Minister, Nature Conservation Minister or Reserves Management Minister, as the case may be, to perform his or her functions or exercise his or her powers under this Act.
- (2) The request must –
 - (a) be made by written notice given to the State-owned company or Government Business Enterprise; and
 - (b) specify the time before which the information is to be given.
- (3) The information must be given –
 - (a) in writing; and
 - (b) before the time specified in the request.
- (4) A State-owned company or Government Business Enterprise cannot withhold information requested by a Minister under subsection (1) on any grounds.

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(5) No person –

- (a) has any claim against the Crown, a Government Business Enterprise or a State-owned company including, without limitation, a claim for breach of confidence; or
- (b) is entitled to claim that a Government Business Enterprise or a State-owned company has breached any contract; or
- (c) is entitled to terminate a contract or claim any other remedy –

arising out of anything that the Crown, a Government Business Enterprise or a State-owned company is required to do under this section.

(6) For the purposes of this section –

information includes, but is not limited to, any analysis or interpretation of information.

24. Regulations

- (1) The Governor may make regulations for the purposes of this Act.
- (2) Without limiting subsection (1), regulations may be made in relation to the process to be undertaken in the preparation of the durability report, the matters to be considered in preparing

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the report, the preparation of the report and the form of the report.

- (3) The regulations may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations.
- (4) The regulations may authorise any matter to be from time to time determined, applied or regulated by any person or body specified in the regulations.

25. Savings and transitional provisions

The savings and transitional provisions specified in Schedule 1 have effect.

26. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Energy and Resources; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Infrastructure, Energy and Resources.

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27. Consequential amendments

The legislation specified in Schedule 2 is amended as specified in that Schedule.

**SCHEDULE 1 – SAVINGS AND TRANSITIONAL
PROVISIONS**

Section 25

1. Interpretation

In this Schedule –

asset means –

- (a) any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property; and
- (b) any other right –

having any connection with the land that is declared to be reserved land pursuant to a proclamation made under section 16;

contract means –

- (a) an agreement, arrangement, undertaking, warranty or other contract; or
- (b) part of an agreement, arrangement, undertaking, warranty or other contract –

having any connection with the land that is declared to be reserved land pursuant to a proclamation made under section 16;

corporation means the Forestry Corporation or other Government Business Enterprise or a State-owned company;

document includes part of a document;

liability includes any, or any part of any, liability, duty and obligation, whether actual, contingent or prospective in relation to any land that is declared to be reserved land pursuant to a proclamation made under section 16;

right includes any right, power, privilege and immunity, whether actual, contingent or prospective in relation to any land that is declared to be reserved land pursuant to a proclamation made under section 16;

specified means specified in a transfer notice;

timber has the same meaning as in the *Forestry Act 1920*;

transfer day means the day on which a transfer notice, or the relevant part of a transfer notice, takes effect;

transfer notice means –

- (a) a notice made under clause 2(1) or (2); or
- (b) a part of such a notice;

transferor, in relation to a transfer notice, means –

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- (a) the Crown if the relevant transfer notice transfers any assets, liabilities or contracts to the corporation referred to in the transfer notice; or
- (b) the corporation referred to in the transfer notice if the relevant transfer notice transfers any assets, liabilities or contracts to the Crown;

transfer recipient, in relation to a transfer notice, means –

- (a) the corporation referred to in the relevant transfer notice if the transfer notice transfers any assets, liabilities or contracts to the corporation; or
- (b) the Crown if the relevant transfer notice transfers any assets, liabilities or contracts to the Crown.

2. Transfer of assets to and from a corporation

- (1) The Reserves Management Minister, after consulting the Minister, by notice published in the *Gazette*, may transfer from a corporation to the Crown such –
 - (a) assets owned by the corporation; and
 - (b) liabilities of the corporation; and

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- (c) contracts to which the corporation is a party, other than contracts for the supply of timber or contracts of employment –

as are specified in the notice.

- (2) The Reserves Management Minister, after consulting the Minister, by notice published in the *Gazette*, may transfer from the Crown to a corporation such –

- (a) assets owned by the Crown; and
- (b) liabilities of the Crown; and
- (c) contracts to which the Crown is a party, other than contracts of employment –

as are specified in the notice.

- (3) A transfer notice may –

- (a) specify conditions including, without limitation –
 - (i) conditions relating to the transfer of the assets, liabilities and contracts; and
 - (ii) conditions relating to the payment of consideration, if any is payable; and
- (b) provide that a right under a specified contract is held by the transferor or the transfer recipient; and

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- (c) provide that a liability under a specified contract is a liability of the transferor or the transfer recipient; and
 - (d) provide that a reference in a specified contract to the transferor is, or is to include, a reference to the transfer recipient; and
 - (e) provide that a transfer recipient is substituted as a party to the contract, in place of the transferor, from a date not earlier than the transfer day; and
 - (f) provide for any matter that is incidental to the transfer of the assets, liabilities and contracts.
- (4) A transfer notice takes effect on the specified day or days, whether that day is, or those days are, before, on or after the day on which the transfer notice is published in the *Gazette*.
- (5) A transfer notice takes effect in accordance with its terms.
- (6) Without limiting subclause (5) –
 - (a) on the transfer day –
 - (i) the specified assets vest in the transfer recipient, in accordance with the transfer notice, without the need for any further conveyance, transfer, assignment or assurance but subject to any

conditions specified in the transfer notice; and

- (ii) the specified liabilities become the liabilities of the transfer recipient, in accordance with the transfer notice, without the need for any further conveyance, transfer, assignment or assurance but subject to any conditions specified in the transfer notice; and

- (iii) the transferor ceases to be a party to the specified contracts unless the transfer notice provides otherwise or except to the extent specified in the transfer notice; and

(b) on and after the transfer day –

- (i) a specified contract is taken to have been made by the transfer recipient; and

- (ii) a reference to the transferor in a specified contract is taken to be or include, as appropriate, a reference to the transfer recipient.

(7) Subclause (6)(a) and (6)(b) have effect despite any contrary provision in the specified contract.

(8) A person who is a party to a contract that is the subject of a transfer notice is not entitled to –

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- (a) terminate that contract; or
- (b) claim that there has been a breach or default of the contract; or
- (c) claim any remedy –

by reason only of the transfer (made by virtue of such a notice) of that contract, or of property, a right, or an obligation, to which that contract relates or arising from that contract.

- (9) The Reserves Management Minister after consulting the Minister may amend or revoke a transfer notice.
- (10) A transfer notice is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

3. Transitional provisions on transfer of property and assets to and from a corporation

- (1) In this section –

transferring asset means any asset specified in a transfer notice;

transferring contract means a contract specified in a transfer notice;

transferring liability means a liability specified in a transfer notice.

- (2) On and after the transfer day, the following provisions apply unless the transfer notice provides otherwise:

- (a) a reference to the transferor in a document in relation to a transferring asset, transferring liability or transferring contract is taken where appropriate to be or to include a reference to the transfer recipient;
 - (b) a contract made by the transferor relating to a transferring asset, transferring liability or transferring contract to the extent that it is not performed or discharged before the transfer day is taken to have been made by the transferor or transfer recipient, as appropriate.
- (3) A transfer notice may limit the extent to which the provisions of subclause (2) apply.

4. Removing doubt relating to transfer

- (1) If there is any doubt –
 - (a) as to whether any asset, liability or contract, or any part of any asset, liability or contract, is transferred to the transfer recipient by the operation of clause 2(6)(a); or
 - (b) as to whether any contract or other document relates to any asset, liability or contract that is transferred to the transfer recipient by the operation of clause 2(6)(a) –

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the Reserves Management Minister is to determine the matter in consultation with the Minister and is to provide written notice of that determination to the transfer recipient and, if the Reserves Management Minister considers it appropriate, a party to a contract that is relevant to the determination of the matter.

- (2) The determination of the Reserves Management Minister under subclause (1) is final and binding.

5. Savings and transitional regulations

- (1) The Governor may make regulations to provide –
- (a) for savings and transitional matters, not otherwise provided for in this Act, necessary or expedient for bringing this Act into operation; and
 - (b) for savings and transitional matters consequent on a transfer of any assets, liabilities or contracts to a transfer recipient under a transfer notice.
- (2) Regulations made under subclause (1) may provide for any of the savings or transitional matters to take effect when this Act commences or on a later day specified in the regulations, whether the day so specified is before, on or after the day on which the regulations are made.

SCHEDULE 2 – CONSEQUENTIAL AMENDMENTS

Section 27

Public Land (Administration and Forests) Act 1991

1. Division 4 of Part 5 is amended by omitting “***Register of Multiple Use Forest Land***” from the heading to that Division and substituting “***Register of Permanent Timber Production Zone Land***”.
2. Section 132(1) is amended as follows:
 - (a) by omitting “multiple use forest land” and substituting “permanent timber production zone land”;
 - (b) by omitting “Register of Multiple Use Forest Land” and substituting “Register of Permanent Timber Production Zone Land”.
3. Section 134(3)(b) is amended by omitting “multiple use forest land” and substituting “permanent timber production zone land”.
4. Schedule 9 is amended by omitting “**MULTIPLE USE FOREST LAND**” from the heading to that Schedule and substituting “**PERMANENT TIMBER PRODUCTION ZONE LAND**”.

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Regional Forest Agreement (Land Classification) Act 1998

1. Section 3(1) is amended by omitting the definition of *Register of Multiple Use Forest Land* and substituting the following definition:

Register of Permanent Timber Production Zone Land has the same meaning as in the *Forestry Act 1920*;

2. Section 6(4) is amended by omitting “Register of Multiple Use Forest Land” and substituting “Register of Permanent Timber Production Zone Land”.
3. Section 7(2) is amended by omitting “Register of Multiple Use Forest Land” and substituting “Register of Permanent Timber Production Zone Land”.
4. Section 8(2) is amended by omitting “Register of Multiple Use Forest Land” and substituting “Register of Permanent Timber Production Zone Land”.
5. Section 13(4) is amended by omitting “Register of Multiple Use Forest Land” and substituting “Register of Permanent Timber Production Zone Land”.

- 6.** Schedule 3 is amended by omitting “**REGISTER OF MULTIPLE USE FOREST LAND**” from the heading to that Schedule and substituting “**REGISTER OF PERMANENT TIMBER PRODUCTION ZONE LAND**”.

Wellington Park Act 1993

- 1.** Section 74 is amended as follows:
- (a) by omitting the definition of *Register of Multiple Use Forest Land* from subsection (1) and substituting the following definition:

Register of Permanent Timber Production Zone Land and ***State forest*** have the same meanings as in the *Forestry Act 1920*.
 - (b) by omitting from subsection (5) “Register of Multiple Use Forest Land” and substituting “Register of Permanent Timber Production Zone Land”;
 - (c) by omitting from subsection (7) “Register of Multiple Use Forest Land” and substituting “Register of Permanent Timber Production Zone Land”.