

Tasmanian Forests Agreement Bill 2012

FACT SHEET

The purpose of the *Tasmanian Forests Agreement Bill 2012* is to: provide wood resource security for the Tasmanian forest industry; to establish a process for making formal reserves for the purposes of the Tasmanian Forests Intergovernmental Agreement; and to create reserves for the purposes of benefitting economically from the carbon in Tasmania's forests.

On 7 August 2011 the Tasmanian Government entered into an agreement with the Commonwealth Government; the Tasmanian Forests Intergovernmental Agreement ("the Agreement"). Under the Agreement the Governments agreed to work together to progressively transition the Tasmanian forest industry to a more sustainable footing whilst ensuring that Tasmanian native forest with high conservation values is further protected by the creation of reserves that expand the National Reserve System.

In particular, the Governments agreed that:

- Wood supply for the Tasmanian forest industry will be guaranteed ("wood resource security");
- High conservation value areas will be identified and their protection will be legislated under the National Reserve System as native wood supply capacity is retired;
- Following a reconciliation of wood supply and conservation demands and until such time as formal protection as reserves is achieved, the Tasmanian Government will ensure that all areas determined as being of high conservation value and compatible with the guaranteed wood supply are placed, or remain, in informal reserves and are not used for wood supply;
- The Tasmanian Government will introduce legislation no later than 30 June 2012 into Parliament to give effect to the above;
- If legislation is not passed by both Houses of Parliament within three months of its introduction, either Government may request a review of the funding under the Agreement.

A final position on the reservation of areas of high conservation value is currently being negotiated by representatives from forest industry, environment, community and union groups ("the Signatories").

The *Tasmanian Forests Agreement Bill 2012* ("the Bill") provides wood resource security by amendment to the *Forestry Act 1920* and establishes a special process for making land, identified by the Signatories, into reserves under the *Nature Conservation Act 2002*. It also includes provisions to allow reserves made under the Bill, to be declared for the additional purpose of removing carbon dioxide from the atmosphere and avoiding emissions of greenhouse gas attributable to changed forest management practices.

The Bill provides continuing wood supply

The Bill amends S.22AA of the *Forestry Act 1920* to lower the minimum aggregate quantity of eucalypt veneer logs and eucalypt sawlogs, to be made annually available by Forestry Tasmania from multiple use forest land ("the minimum aggregate quantity"), from 300 000 cubic metres to 155 000 cubic metres, unless otherwise prescribed by regulation. It also provides the ability, through regulation, to require Forestry Tasmania to make available quantities of other timber, if required.

The Bill also provides that "multiple use forest land" and "Register of Multiple Use Forest Land", as defined in the *Forestry Act*, will change their name to become "permanent timber production land" and "Register of Permanent Timber Production Zone Land" respectively. The change will not take effect until such time as a proposed reserve order is accepted by Parliament.

The Bill provides a mechanism for setting aside land that can be processed as reserves under the Bill

As a result of ongoing negotiations between the Signatories, it is expected that land with conservation values will be identified for inclusion in the National Reserve System.

The Bill provides that the Minister can make an order to set aside parcels of land that can be proposed as reserves under this Bill ("the protection order"). "Land" is land that is owned by the Crown, a Government Business Enterprise or a State-owned company.

The protection order must contain information relating to each parcel of land, including: its indicative boundaries, values and purpose. The values and purpose included in the protection order will mirror the values and purpose set out in Schedule 1 of the *Nature Conservation Act*. The Bill amends the *Nature Conservation Act* to create an additional purpose for reserving land to be the removal of carbon dioxide from the atmosphere and avoided emission of greenhouse gases.

The protection order may also identify whether a parcel of land can be processed immediately as a reserve or specify a date by which each parcel of land must be further considered by Parliament for processing as a reserve.

Where the protection order identifies land that can be processed immediately as a reserve, the Minister must obtain advice from the Minister administering the *Carbon Credits (Carbon Farming Initiative) Act 2011* (Cth) ("the CFI Act") as to whether or not that land will, by virtue of its reservation under this Bill, be excluded from being considered as part of a carbon farming project under the CFI Act.

The protection order is of no effect until it has been accepted by both Houses of Parliament.

The Bill provides protection to land set aside for processing as reserves

On acceptance of the protection order by both Houses of Parliament, the land is subject to certain protections. In particular, the Bill:

- Provides that land included in the order can be referred to as "protection order land";
- Allows land identified in the protection order as being able to be processed immediately as a reserve to commence being processed;
- From the date specified in the protection order, prevents a regulator acting under any other Act, from authorising, approving or permitting a prohibited activity identified in the protection order in relation to a parcel of land;
- Extinguishes the certified forest practices plans identified in the protection order in relation to a parcel of land;
- Suspends forestry covenants and forestry rights identified in the protection order in relation to a parcel of land;
- Prevents the manager or owner of the land from selling the land; and
- Prevents the manager or owner of the land from granting a right or interest over the land (for example a lease) for a period exceeding 12 months without the written permission of the Minister administering the *Nature Conservation Act*.

The Bill provides that any other authorities, approvals or permits in place at the time of the protection order being made are not extinguished and remain in place.

The land manager or owner of land can also continue to perform its function, exercise its powers and discharge its obligations in relation to the land.

The Bill provides a process for commencing formal reservation of the land identified in the protection order

The Bill provides the Minister with the power to propose that land in the protection order commence being processed as a reserve, through the making of a proposed reserve order.

Before making a proposed reserve order, the Minister must prepare a "durability report", and obtain advice from the Minister administering the *Carbon Credits (Carbon Farming Initiative) Act 2011* (Cth) ("the CFI Act") as to whether or not the land in the protection order will, by virtue of its reservation under this Bill, be excluded from being considered as part of a carbon farming project under the CFI Act.

The proposed reserve order, the durability report and the advice from the Commonwealth Minister must be tabled concurrently in Parliament.

If the proposed reserve order is accepted by both Houses of Parliament, then the parcels of land contained in the order may proceed through a process to make formal reserves for the purposes of the *Nature Conservation Act*.

If a proposed reserve order is rejected by either House of Parliament it may be tabled on one further occasion, within 12 months or within such other period as may be prescribed. It is intended that the making of further proposed orders will not occur during this time.

If the proposed reserve order is rejected by Parliament on a second occasion the process established by the Bill ceases. However, 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.

The Bill establishes a process for determining the final boundaries values and purpose for each proposed reserve

On the acceptance of a proposed reserve by both Houses of Parliament, the Nature Conservation Minister can commence the reserve making process for the parcels of land contained in the proposed reserve.

In making the reserves, the Department of Primary Industries, Parks, Water and Environment (DPIPWE) will undertake the administrative processes that it would normally have undertaken if the land was being made a reserve pursuant to the *Nature Conservation Act*.

As part of this process, the DPIPWE will review the boundaries, values and purpose for each parcel of land and provide advice to the Nature Conservation Minister as to the final boundaries, values and purpose for each proposed reserve.

The Minister will then make a determination as to the final boundaries, values and purpose for each proposed reserve, and make a further determination as to whether the final boundaries and purpose are substantially the same as those that Parliament has accepted.

Where the Nature Conservation Minister determines the final boundaries, values and purpose are substantially the same as those accepted by Parliament, the Minister may proceed to reserve the land.

However, where the Nature Conservation Minister determines that the final boundaries, values, and/or purpose do not substantially accord with those accepted by Parliament, the Nature Conservation Minister must obtain the acceptance by both House of Parliament of the revised boundaries, values and/or purpose.

If Parliament does not accept the revised boundaries, values and/or purpose the land to which it relates is removed from the reserve making process and the protection order. If the revised boundaries, values and/or purpose are accepted by Parliament, the Minister may proceed to reserve the land.

The Bill provides a process by which the Governor can proclaim land to be a reserve for the purposes of the *Nature Conservation Act*

Once the final boundaries, values and purpose are determined, the Nature Conservation Minister makes a recommendation to the Governor that the Governor declare the land to be a type 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 of the land 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.

The Bill specifies the effect of a proclamation being made by the Governor

On the making of a proclamation by the Governor:

- Any contract for sale over the reserved land is extinguished (and the purchaser is entitled to compensation);
- Any forestry right or forestry covenant (as defined in the *Forestry Rights Registration Act*) is extinguished (and the holder of that right or covenant is entitled to compensation);
- The land is removed from the Register of Multiple Use Forest Land and any dedication as State forest (with the meaning of the *Forestry Act*) is revoked;
- Any land that is not Crown land becomes Crown land;
- 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;
- The protection order ceases to apply to the land; and
- The reserve is administered under the *National Parks and Reserves Management Act 2002* by the Parks and Wildlife Service.

Except for leases and licences issued under the *Mineral Resources Development Act 1995*, all leases, licences temporary licences, occupation permits or burdening easements in place immediately before the proclamation remain in place; however, their management transfers from the original grantor to the Reserves Management Minister. Leases and licences issued under the *Mineral Resources Development Act* are unaffected.

The Bill provides for a number of other matters

The Bill provides for Ministers operating under the Bill to request any information from a Government Business Enterprise or State-owned company that the Ministers require to perform their functions or exercise their powers under the Bill. It also provides for a special advisory committee to be established to assist with matters relating to the administration of the Bill.

The Bill provides the Reserves Management Minister with various powers to transfer assets, contracts and liabilities from owners and managers of land, reserved under this Bill, to the Crown and from the Crown to those owners and managers.