

## Tasmanian Forests Agreement Bill 2012

Submission to the Legislative Council Committee  
Tasmanian Chamber of Commerce and Industry

February 2013



## Executive summary

The TCCI acknowledges that the Tasmanian forestry sector faces significant challenges, which has a significant element of structural change but also reflects activities by ENGOs that have undermined Tasmanian businesses. The status quo is not an option, and a transition to plantation-based production is largely necessary from a market viewpoint.

However, the challenging question is whether to allow market forces to deliver the changes required by the Tasmanian industry with some targeted funding assistance, or to allow a negotiated outcome between ENGOs and the supply-side of the industry to permanently reduce supply with broader funding packages targeting economic development.

From the outset, the TCCI was concerned that the latter was being pursued, while the government took a hands-off approach even though access to the public forest estate was the core subject. Like many stakeholders, the TCCI has always been concerned throughout with the lack of consultation with the broader community.

However, the TCCI has also been concerned at the lack of accountability for public funding being contributed to the industry over a long period of time. Since the original \$276 million was committed under the Tasmanian Forests Inter-governmental Agreement, there has been no cost-benefit analysis on the spending programs, no clarity on specific funding decisions, and little evidence of successful outcomes to date.

Committing a further \$102 million, including \$39 million by the State, appears to perpetuate the cycle of non-transparent spending with no clearer transition to a long-term sustainable future for either the forestry sector, downstream users or the regional economies affected.

Despite funding various studies and transitional programs, and the prospect of higher value adding to offset the reduced supply, the State is no closer to a viable downstream processing industry. There is no clear strategy yet to manage residues in Southern Tasmania, reopen an export woodchip port or secure investment in downstream value-adding or waste management facilities.

Further, there are significant inequities in the treatment of industry participants. While sawmillers have received funding assistance to retool machinery under the Tasmanian Community Forests Agreement, Oakdale Industries – a significant disability enterprise exporting timber products – is not eligible for any funding to retool its own machinery and is receiving no assurances on its future supplies.

Specialty timber users also feel that they are being ignored, with significant uncertainty around their future timber supply.

The TCCI notes the durability provisions in the Tasmanian Forests Agreement and associated legislation being considered by the Legislative Council. However, in addition to the perception that the agreement reflects past behaviour to undermine Tasmanian supply-side businesses and uneven negotiating positions, there are concerns that the vast majority of new reserves are being delivered upfront while the durability provisions may not bind the more extreme elements from disrupting Tasmanian interests.

In this context, while Forest Stewardship Council accreditation is important in the current offshore market environment, there must be significant doubts that this accreditation can be achieved, notwithstanding the durability provisions of the agreement and statutory reports in the legislation.

The TCCI also believes that the agreement should be considered in a broader context. To date, a rigorous socio-economic study has not been undertaken, which would contribute to a full cost-benefit analysis. Such a study would highlight the economic consequences of permanently constraining supply in the hope that an industry will evolve with greater value-adding potential and free from protests. Delivering this outcome is a high-cost and high-risk strategy that does not appear close to being achieved.



Even if protests cease, the TCCI is concerned that the ENGOs' apparent successes in forestry will lead to activities that undermine resource security and investor confidence in the private forests sector and other resource extraction or primary production sectors, further impacting on Tasmania's future prosperity.

The TCCI is not necessarily opposed to a negotiated outcome. However, the lack of confidence that the TFA will deliver peace, that a wider group of stakeholders would benefit, and that the deleterious effects of ENGO activities outside public forestry can be curtailed, mean that the TCCI is unable to endorse the agreement and the legislation on behalf of the broad business community of Tasmania.



## Context

The Tasmanian Chamber of Commerce and Industry (TCCI) is the State's peak body representing businesses and employers, with a diverse membership base covering all industry sectors and businesses of all sizes. The TCCI's policy advocacy is founded on the principle that freely competitive markets, subject to appropriate regulation, will maximise economic opportunities.

As the peak industry body for Tasmanian businesses and employers, our mandate is to contribute to policy outcomes that maximise wealth creation opportunities, subject to economic and environmental sustainability.

TCCI represents around 1,000 organisations as direct and subsidiary members and has a close relationship with regional chambers of commerce and their members. Through other channels – including *Tasmanian Business Reporter* which has circulation of 12,000 social media, events, and the Tasmanian Survey of Business Expectations – TCCI has connections with thousands of other businesses and employers.

Given this diverse range of businesses, it is natural that our membership reflects a wide range of perspectives on the Tasmanian Forests Agreement. Indeed, our membership includes a number upstream and downstream forestry and wood-products businesses, and a number of signatories to the agreement are directly or indirectly members.

The TCCI's position on the TFA and hence the legislation being considered by the Legislative Council is based on discussions with a wide range of businesses, including a number with upstream and downstream involvement in forestry and forest products, but ultimately reflects our own independent views of the appropriate outcomes for the Tasmanian economy. Accordingly, this submission does not necessarily represent the views or interests of every member, but reflects a broad sweep of the Tasmanian business community.

The TCCI also appreciates the Legislative Council's considered and deliberative approach to the *Tasmanian Forests Agreement Bill 2012*, which is providing stakeholders an opportunity to express a wide range of viewpoints that they previously were unable to do so while negotiations on the TFA were progressed by the eventual signatories, with limited interactions with the State and Australian Governments.

## Structural dimension

The TCCI acknowledges that the Tasmanian forestry sector faces significant challenges, which are at least partly related to structural changes in the global wood products and fibre industries, including the declining market share of Japanese pulp and paper producers, their ongoing preference for plantation sources over native harvesting, and rapid (but volatile) growth of Chinese producers.

However, Tasmania's largest on-island downstream processor, Ta Ann, has also suffered a significant downturn in sales from largely unfounded attacks on its credibility and legitimacy from ENGOs, including in its offshore markets.

The transition to a plantation-based industry – at least from the public estate – is largely necessary and inevitable from a market perspective. However, the available supply from plantations is clearly insufficient until at least 2022, relative to current harvest and regeneration rates that are estimated at around 1 per cent of the public estate. This is exacerbated by the need to balance harvest timing for pulp, peeler billets and sawlog volumes.<sup>1</sup>

The challenging policy question is whether to allow market forces to deliver the changes required by the Tasmanian industry with some targeted funding assistance, or to allow a negotiated outcome between

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<sup>1</sup> Pitt & Sherry and Esk Mapping & GIS Services, *Potential Timber Production Estimate from the Tasmanian Private Plantation Estate*, February 2012.



ENGOS and the supply-side of the industry to permanently reduce supply with broader funding packages targeting economic development.

While the TCCI welcomes the fact that a number of lead ENGOS have engaged with industry to find common ground, it is their past activities and those of more extreme parties (including with close personal and political links) that have helped to undermine the Tasmanian industry. In effect, a difference of opinion between the industry and ENGOS (whose activities were based on a subjective viewpoint on the sanctity of Tasmanian forests) has contributed to the structural problems for the Tasmanian industry.

While it is often suggested that the problem reflects the lack of Forest Stewardship Council accreditation, and therefore such accreditation is vital to securing access to offshore markets, this is both simplistic and symptomatic of the past behaviour by ENGOS that prevents accreditation being achieved without their consent.

## Historical position

From the outset, the TCCI was concerned with the negotiations being undertaken by ENGOS and supply-side interests. These concerns reflected several factors, including the:

- the original context for the negotiations was, in part, based on securing community acceptance for Gunns proposed pulp mill in the Tamar Valley, but this evolved into a broader agreement between ENGOS and “supply side” industry interests;
- the Government had effectively abrogated its responsibility for managing public assets to a self-selected groups of stakeholders; and
- as a broad collective, there was a strong perception that selected ENGOS were negotiating in the room, while others had the freedom to continue to attack Tasmanian interests, whether within Tasmania or international markets.

Like many stakeholders, the TCCI has always been concerned with the lack of consultation with the broader community. The TCCI has not been involved in negotiations, and even when negotiations were at an advanced stage, there were no formal or dedicated discussions between the TCCI and Ministers or Government officials. This lack of consultation of course is one of the criticisms that other parties, including the Tasmanian Farmers and Graziers Association and Regional Councils Group, have made of the negotiation process.

An understated concern held by the TCCI was the lack of accountability for the public funding being contributed to the industry over a long period of time, including the RFA, TCFA, and then the Statement of Principles, IGA and final TFA.

While it is arguable that the forestry sector has no greater call on public funding than others facing structural challenges, governments can have a positive role to play in such adjustment processes without being accused of propping up a failing industry. However, since the original \$276 million was committed under the IGA, there has been no cost-benefit analysis on the spending programs, no clarity on specific funding decisions, and little evidence of successful outcomes to date.

## Present concerns

Committing a further \$102 million, including \$39 million by the State, appears to perpetuate the cycle of non-transparent spending with no clearer transition to a long-term sustainable future for either the forestry sector, downstream users or the regional economies affected.

The Government’s submission to this inquiry points out that this \$102 million is allocated as follows:

- \$28 million to support industry restructuring including support for workers and contractors;



- \$25 million to support regional structural adjustment, sustainable residue solutions and encourage innovation in the use of plantation timber;
- a further \$2 million additional per year (\$6 million over the period 2014-17) to support the ongoing management of additional reserves, bringing the total to \$9 million per year, escalating at CPI, in perpetuity; and
- \$3.5 million to support implementation of the Signatories Agreement including the establishment of the Special Council; forestry industry certification; and securing the durability of the Agreement.

However, despite funding various studies and transitional programs, the State is no closer to a viable downstream processing industry, with multiple users adding significant value to Tasmania's outstanding wood resource.

Despite the focus on economic development and multiple "studies", no capital has been made available for downstream developments.

Looking at two examples:

- engineered timber products – the Tasmanian Sawmillers Association gave evidence to the Committee that it has had to fund its own pre-feasibility study on a cross laminated timber plant, while Forestry Tasmania is also exploring the possibilities of its own Hardlam product;
- biomass – in other countries high efficiency biomass power plants are part of the downstream mix. In addition to reducing wood residue and mitigating regeneration burns, these facilities can also selectively reduce landfill volumes. However, there is no funding and little evidence of support for biomass plants, particularly when they have been excluded from eligibility under the renewable energy target schemes at the behest of the green movement.

The TFA suggests that there is support for sustainable downstream industries, which might include engineered products and biomass:

28. The Signatories acknowledge that the harvest and processing of forest products, whether from native forests or plantations, will produce residues. The Signatories agree that economically viable and environmentally sustainable solutions to address utilisation of both native forest and plantation residues arising from harvesting and processing operations should be developed and put in place.

29. Whilst it is agreed that practical short term interim solutions are needed and are fundamental to the success of this agreement, priority will also be placed on identifying economically viable and environmentally sustainable medium to longer term solutions across the full range of options and with a focus on adding value to those residues within Tasmanian rather than on the export of an undifferentiated woodchip product. These solutions should be consistent with the terms of this agreement and a transition to a greater reliance on plantations.

32. The Signatories call on the governments to establish a Value-Adding Facilitation Fund, as outlined in the Funding Schedule, to facilitate specific regional projects and initiatives to progress the outcomes required under Clauses 30 and 31.

However, the agreement is, at best, vague on these points. Despite the long-standing issue of wood residues, there has been no clear strategy to ensure port access in Southern Tasmania since the closure of the Triabunna facility or secure investment in downstream value-adding or waste management facilities.

A genuine forestry agreement, involving widespread consultations, would have seen these sorts of issues addressed directly and represent part of the solution. Instead, there are vague promises of funding for uncertain studies, with the actual innovation and investment studies being funded by industry stakeholders that can barely afford it.



A further problem is that the existing downstream users are receiving very mixed support as a result of the TFA. Ta Ann supports the agreement on the basis that protest actions cease and its market will stabilise, and is rightly receiving compensation for contracts that have been forcibly broken. However, other stakeholders are being ignored.

In its appearance before the Committee, the TCCI highlighted the inequitable treatment of OAK Tasmania relative to sawmillers, where the latter have received funding under the TCFA for retooling whereas requests for similar funding by OAK Tasmania (a not-for-profit disability support organisation) have been unsuccessful to date. The TCCI notes that OAK Tasmania has provided its own submission to this inquiry.

The specialty timber community is also deeply concerned with both access and capacity to extract sufficient volumes.

The specific requirements of the specialty timber industry are summarised in Attachment 1 to the whole of government submission to this Committee's inquiry, which notes the significant downstream employment impacts of declines in the forestry industry and inter-relationship amongst subsectors:

The woodcraft sector is highly vulnerable to future change in the forest industry. The harvesting of [special species timbers] is only economically viable if it occurs as part of the activity of harvesting native forest eucalypts, due to the need for economies of scale to cover costs such as roading and transport of equipment. In addition, any loss of access to high conservation areas of native forest is likely to substantially impact supply to the industry as many SST areas are located in high conservation areas. Businesses are already experiencing stress due to the decline in tourism, and have limited financial capacity to adapt to change, as well as high reliance on a very specific wood resource that is not readily substitutable.

A specialty timber user wrote to the TCCI recently, and summed up the problem as:

"We see ourselves as being in the *application* side of the timber industry, rather than the *supply* side, which has been where all the focus of this issue has been."

Durability is also a key issue raised by many stakeholders, and features in most comments made by the business community in discussions with the TCCI. Essentially, delivering the 395,000 Ha up front seems to reward past behaviour by the ENGOs. This area is the vast majority of new reserves, compared to a further 108,000 Ha to be delivered in 2015 and 21,000 Ha in 2022, both subject to satisfactory durability reports as assessed by the Special Council formed under section 9 of the Bill.

As non-signatory ENGOs are not bound by the agreement, there is little incentive to ensure that other ENGOs cease their attacks on legitimate Tasmanian businesses. The ENGO signatories have indicated in the Committee hearings that they will use their best endeavours to influence non-signatory ENGOs. However, these external parties actively oppose any forest-based activity.

In this context, while FSC accreditation is important in the current offshore market environment, there must be significant doubts that FSC accreditation can be achieved, notwithstanding the durability provisions of the agreement and statutory reports in the legislation.

For this reason, the TCCI would support the sort of legislative sunset clauses proposed by other stakeholders, noting that the World Heritage Area nomination would limit the scope for winding back newly protected reserves. The term of a sunset clause could be 15 years, consistent with Forestry Tasmania's existing sawlog contracts and increased supply of plantation logs becoming available.

## Resource security and socio-economic impacts

Tasmanian businesses are deeply concerned with the certainty of planning and development approval processes. Much of this concern stems from these forestry negotiations and the mishandling of the Forestry Tasmania restructure.

The most recent Survey of Business Expectations, published in October 2012, highlighted these concerns. For instance:



- 89 per cent of respondents were directly or indirectly concerned with the clarity and consistency of environmental approvals;
- 69 per cent of respondents considered that governments do not consistently expert advice when making decisions on resource extraction and primary production; and
- 85 per cent were concerned by threats posed by community activists or environmental organisations.

In part, these results could be interpreted as a concern that the Government has ceded the ground of long-term decision making in forestry to the ENGOs.

Generally speaking, the TCCI's expectation is that experts in their respective fields (eg. environmental science, resource management, site rehabilitation, land-use planning) should be appointed, and supported, to make independent decisions on economic development proposals.

In this case, negotiations with ENGOs that always held the upper hand have led to a situation where even the ENGOs acknowledge that all the protected areas are not based on an assessment of the conservation values, while certain findings of the Independent Verification Group were unsupported by further independent analysis.

If the Bill is enacted, it appears (the TCCI has not sought legal advice) that experts will only be engaged to assess the classification of reserves after those reserves have been declared. In other words, the experts only get involved to determine the extent of potential economic activity in any particular area after they have been permanently declared as reserves and therefore untouchable for their highest value use.

Obviously the TFA is a negotiated outcome, and a sharp contrast to the rigorous scientific approach that underpinned the RFA. This is being justified on the basis that a negotiated outcome presents the best chance of securing a long-term future for the industry, with diminished volumes (and implicitly employment) offset by greater value-adding, sustainable market solutions to lower value material and confidence to invest without the constant threat of protests, disruption and/or markets being undermined.

However, the TCCI considers that this trade-off has not been adequately considered. The piecemeal approach adopted includes:

- the CRC for Forestry report *The Socioeconomic Impacts of Forest Industry Change: A Baseline Study* analysed the direct employment effects of the decline in the sector to 2011;
- the Independent Verification Group's socio-economic study, which also concentrates on the direct employment consequences, but appears to suggest a much lower employment baseline than the CRC report. This report notes that:

The indicative analysis indicates that there would be substantial job losses associated with the transitioning of the native forest industry from its current wood supply levels to levels to achieve the land use allocations and wood flows specified by [the scenarios being considered].

- the Australian Government has commissioned a new socio-economic report by Dr Bob Smith, who contributed to the IVG report. However, the advice from the Department of Infrastructure, Energy and Resources to the Committee, dated 21 January 2013, again emphasises that the focus is on direct job impacts and that Dr Smith is only consulting with "key people with expert knowledge". The TCCI is also concerned that the scope of this analysis is narrow and the timeframe extremely short, which together prevent a genuine study of the socio-economic implications of the agreement.

None of these studies assess the social factors impacting on the decline – particularly the relevance and support of the ENGOs relative to their influence on perceptions of the Tasmanian industry – the





downstream or multiplier effects of past or future job losses, or alternate future paths and consequent employment impacts.

At some point in time, a full social and economic impact study could and should have been done.

Without criticising the participants in the negotiation process, the industry inevitably approached the negotiations from the question “how much wood can we produce and sell without protests and disruption?” and the ENGOs said “we want to curtail public estate harvesting, while keeping the industry at the table and remaining credible to our constituents”. Nobody was asking the question from a downstream or consumer perspective asking “we want to keep using Tasmanian product; if we don’t get enough, this is what is left”.

In short, the TCCI considers that a study of the full socio-economic impacts of locking-up a significant additional share of Tasmania’s productive forest estate should have been conducted as part of a broader cost-benefit analysis, which also looked objectively at the quality of spending programs.

Further, both levels of government, and now the Legislative Council, should be considering the risk that the outcome of the TFA encourages a broad group of ENGOs – signatories, others with indirect links to the signatories, and the more extreme elements of the environmental movement – will move onto other sectors that they see as legitimate targets. These could be private forest harvesting, mining, agriculture, aquaculture or fisheries.

The point of such activities is, of course, to undermine the experts that are appointed to make or advise on resource management decisions. As an example, it is likely that some ENGOs will place considerable pressure on the Forest Practices Authority to curtail extraction from private estates, as the TFA will lead to the private sector displacing the public sector.

Given this, the TCCI is concerned that the social and economic impacts of the TFA are much broader than the agreement itself, and even if protests cease in the forestry sector, the cumulative impact of arbitrarily constraining the forestry supply-side and threats to resource security and investor certainty in other industries will merely prolong the external perception of Tasmania as a difficult place to do business and hence undermine Tasmania’s future economic prosperity.

## **Alternative agreements and conclusion**

The TCCI’s concerns with the TFA relate to the specific agreement and associated legislation.

In other words, the TCCI is not necessarily opposed to any negotiated outcome where a broader set of stakeholders outside the ENGOs and the supply-side of the industry are considered.

Their expectations might encompass:

- stronger assurances and incentives on signatory ENGOs to deliver durability;
- associated legislation providing comfort that campaigning against legitimate Tasmanian businesses carried some material sanction;
- the process for declaring additional reserves should be contingent on a broader community consultation and independent experts advice, instead of the Special Council process that favours “insiders”;
- the additional money allocated to support the agreement must be shown to benefit (or compensate) downstream users and genuinely provide for long-term growth of the wood products industry; and finally



- ENGOs agree to work within the rules and processes across industries, under which experts across suitable fields are allowed to assess which development projects are sustainable and should proceed.

The TCCI has considerable sympathy for the argument that there is no plan B for the industry, and there is a risk that a wider group of ENGOs would recommence attacks on the industry in the absence of an agreement, which would undermine the industry's long-term viability to a greater degree than the constraints imposed by the agreement.

However, the lack of confidence that the agreement will deliver peace, that a wider group of stakeholders would benefit, and that the deleterious effects of ENGO activities outside public forestry can be curtailed, mean that the TCCI is unable to endorse the present agreement and the legislation on behalf of the broad business community of Tasmania.



## Further Information

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