

The Hon Paul Harriss MLC  
Chairman  
Legislative Council Select Committee on the  
Tasmanian Forests Agreement Bill 2012  
Parliament House  
Hobart Tas 7000

[tfacommittee@parliament.tas.gov.au](mailto:tfacommittee@parliament.tas.gov.au)

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Tasmanian  
Minerals Council  
Limited

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A.C.N. 009 554 616  
32 Davey Street Hobart 7000  
**Postal Address**  
GPO Box 937 Hobart 7001  
Telephone (03) 6223 8600  
Facsimile (03) 6231 1689  
Email [contact@tasminerals.com.au](mailto:contact@tasminerals.com.au)  
Website [www.tasminerals.com.au](http://www.tasminerals.com.au)

Dear Chairman,

We have taken up your invitation to present a second written submission on the Tasmanian Forests Agreement Bill 2012 in light of the Tasmanian Government's proposed amendments, and we thank you for the opportunity to do so.

We would like to canvass three matters, as there is no clarity on them in the amendments or the Bill –

- The Carbon Farming Initiative and how it relates to use of the reserves proposed in the amendments
- The proposal to have some 123000 hectares of World Heritage declared over some of the reserves
- How people in the minerals sector would (or would not) be affected by the Bill or amendments should there be inevitably a need to remove trees from the proposed reserve land for a mineral exploration project or to establish a mine.

On the carbon matter, we turn first to the schedules in the amendments, which set out reserve purpose and values. A random example is Lot 57 on page 38 of the amendments. The reserve values nominate mineral exploration and the development of mineral deposits while protecting the natural and other values of the land. This suggests the land would be made a Regional Reserve, because mineral exploration and mining, along with natural values, are identified.

However, as with most of the reserves the other objective is to remove carbon from the atmosphere. Therefore, it is not apparent whether carbon removal or mineral activity has priority, given that one of the aims is "avoiding emissions of greenhouse gas attributable to changed forest management practices including the clearing or harvesting of native forest". Obviously, some amount of native forest may need to be cleared if a mine is to be established and we are unable to ascertain whether it would be allowable and on what terms and on whose direction.

There is also reference to this matter in the Bill itself, in 5.7 and 5.8 on page 17, but again the intent and implications are not apparent.

We would appreciate advice from the committee if it can be clearly set out by the Bill's proponents as to what is the hierarchy of priority for reserve values and what the implications would be for people wishing to undertake economic activity.

The second issue (World Heritage) was canvassed by your Select Committee on Tuesday January 22 2012. We believe the committee correctly ascertained that even though some reserves may fall into multiple use categories under State legislation, they will be overlain (or so it is proposed) by World Heritage listing. In effect, this means that these reserves will become the equivalent of no-go areas for the minerals sector, even though they are theoretically multiple use reserves under State law, and some of the proposed reserves fall within the Mt Read Strategic Prospectivity Zone under that legislation.

On the third matter (tree removal) your committee has heard some evidence. However, we do not believe there is any clarity. It needs to be spelt out exactly how the minerals industry would proceed and under what Act (Resource or Forestry), given that there are conflicting reserve objectives (for example carbon and mineral exploration). Clearing of trees is defined under Section 3(1) (b) of the Forest Practices Act 1985 as, '*...destroying the trees in any way*'. .

Currently, it is common for mining leases to be issued incorporating a land use permit authorizing the lessee to clear areas required for approved mining operations. Commonly, Forestry Tasmania have authority to enter the mining lease for any forest purposes but not mining related activities as these are regulated by the EPA and MRT.

While mining leases differ on some points, it is reasonably common for the lessee to be required to:

- liaise with the District Forester responsible for the Lease Area before starting Mining Operations likely to affect State Forest or forestry operations on the Lease Area,
- compensate Forestry Tasmania for each tree removed, at its market value at the time of removal,
- provide Forest officers and their agents free access to the Lease Area, including the use of roads and tracks for forestry purposes, throughout the term of the lease.

Where trees have value and where current markets reasonably exist it is reasonable that Forestry Tasmania be able to harvest and market any trees which would otherwise be destroyed or wasted.

With regard to the future value of the trees where there is a limited current market, or the harvesting of the trees would be impracticable/unsafe/uneconomical the decision by the Crown to allow mining means that the Crown considers mining to be more important than future forestry activities for that particular area of land.

Currently, many mining leases on the West Coast are situated on land which has been designated Informal State Forest Reserve and therefore not otherwise available for logging anyway. Informal Reserves are managed as Protection Zones in line with CAR (Comprehensive, Adequate, and Representative) principles as per the Regional Forest Agreement (RFA) for Tasmania. Although protected from logging, informal reserves are still part of the State Forest network – the status can be changed to allow logging if appropriate offsets are in place. As such the conditions of the mining lease relating to mining activities on State Forest apply.

Currently, where lease conditions and legislation conflict the legislation always prevails. Where the proposed legislation is unclear, has not sensibly been “road tested” for its use in real life practice, we have a concern that the legislation will be unclear and subject to continual “selective” interpretation when enacted.

You will appreciate that our concerns relate to clarity around a number of issues. However, these are very important to the minerals sector and at present the way forward appears opaque. This Bill, and the amendments, address very big issues for Tasmania. Most stakeholders have not been involved in the process which led to the Bill’s introduction. It is complex. It is rushed. It is up against an arbitrary deadline which appears to be driven not by Tasmania’s general interests, but by a sitting in Europe mid-year of the World Heritage Committee. From that viewpoint, the Legislative Council was wise to subject the Bill to a Select Committee investigation, because many of the Bill’s realities and deficiencies are becoming apparent as the Select Committee proceedings unfold.

Because of the above concerns and others already presented to your Committee in prior evidence, the Tasmanian Minerals Council is becoming less and less convinced that the Bill (and amendments) are in the interest of Tasmania’s “body corporate”.

As a metaphor, it is like George Bailey’s team going into the decider against Sri Lanka in Hobart knowing that the Australian Cricket Board has changed the rules for one-day games. However, the Board does not propose to tell George what the new rules are until after the game.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Terry Long', written in a cursive style.

Terry Long  
Executive Director