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Office: 91 Emu Bay Road Deloraine.

18th December 2012

To: The elected members of the Tasmanian Legislative Council

By email to the individual member's email address.

On the Select Committee's Terms of Reference

Re: The Tasmanian Forests Agreement Bill 2012 (No. 30)

Dear Honourable Messrs and Mesdames,

Firstly we note Mr Harriss' motion for sending the Tasmanian Forests Agreement Bill 2012 (No. 30) to a Legislative Council Select Committee hearing.

We understand the Legislative Council terms of reference for this Select Committee are as follows:

"APPOINTMENT OF COMMITTEE ON TASMANIAN FORESTS AGREEMENT BILL 2012 (No. 30)

[2.00 p.m.] Mr HARRISS (Huon) - I move –

That a select committee be appointed with power to send for persons and papers, with leave to sit during any adjournment of the Council and with leave to adjourn from place to place to inquire into and report upon -

(1) The Tasmanian Forests Agreement Bill 2012 (No. 30); and

(2) Any other matters incidental thereto.

And that Mrs Armitage, Mr Dean, Mr Farrell, Mr Finch, Ms Forrest, Mr Gaffney, Dr Goodwin, Mr Hall, Mr Mulder, Ms Rattray, Mrs Taylor, Mr Valentine, Mr Wilkinson and the mover be of the committee, and that a quorum of the committee be eight."

This letter provides our preliminary thoughts on this subject.

The Terms of Reference for the Select Committee should ideally lead to an opportunity to identify and remedy any part or provision of the Bill that fails to deliver either on the stated Vision or the amended Vision. We consider an important

test is whether The Bill supports, or rather more importantly, fails to support its own Schedule 1.

We note that the “Shared Objectives” of the Tasmanian Forests Agreement 2012 are not the same as Schedule 1 – Vision For Tasmania’s Forests. It is noted that the Tasmanian Forests Agreement 2012 does not commit to Schedule 1 of The Bill (30) but merely says, “*Should*”. Somewhat confusing no doubt.

We wish to seek clarification from the Legislative Council on whether the Tasmanian Forests Agreement 2012 is regarded as falling within the Select Committee reference of “*Any other matters incidental thereto.*”. We consider such a clarification as fundamental, regardless of your decision. But we plead it would be best to do so now because it is both fair and efficient for such an ambiguity to be clarified from the outset. We comment further on this aspect below.

We urge the Legislative Council to:

1. Design a comprehensive and safe process with full inclusion, transparency and openness.
2. Within the process design the flexibility to receive and coalesce innovative strategic solutions in consultation with the community, especially regional Tasmania, both for the protection of special forests and habitats (on public and private land), for new issues such as carbon trading and to develop a responsible, unsubsidised, viable forestry industry.
3. Consider that legislative reform of forestry is urgently needed and such reform is unfortunately, currently not provided in the legislation associated with the Tasmanian Forests Agreement Bill 2012 (No. 30).

We believe this Legislative Council Select Committee should:

1. Consider, review and, where deemed necessary, propose amendment to the Tasmanian Forests Agreement Bill 2012 (No. 30) and to any relevant section of the Acts referred to within that Bill.
2. Receive, collate and consider input from the general public and especially any stakeholder who was not a signatory to the Tasmanian Forests Agreement 2012.
3. Ensure both written representations and the transcripts of hearings and any reports are all placed on the Council’s website so they can be accessed at the same time when Council makes a decision on the report and prior to the legislation being considered further.
4. Construct a process that considers Schedule 1 – Vision For Tasmania’s Forests, maybe as a first step and then if Schedule 1 is proposed to be amended, consider the rest of the Bill in the light of the amended Schedule.
5. Regarding ‘Schedule 1 – Vision For Tasmania’s Forests’, which has been regarded as an “expression of foundation policy” in the Tasmanian Forests Agreement 2012, determine whether Schedule 1 – Vision For Tasmania’s

Forests is sufficient to meet the public interest test, whether it is sufficient to be any sort of Policy whatsoever and whether it can be used as a foundation.

6. Consider that The Tasmanian Forests Agreement 2012, being a document not referred to in the purpose of the Act, should explicitly be not a relevant consideration in the Select Committee's Terms of Reference, unless the Terms of Reference are amended accordingly. We have arrived at that position because of the purpose of The Act which states:

“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.”

7. Determine what factors caused by the Bill itself and/or any other impediments, legally, socially or environmentally, may or would cause the Tasmanian Forests Agreement Bill 2012 (No. 30) (excluding Schedule 1) to fail to meet its own Schedule 1 – Vision For Tasmania's Forests.

We believe The Legislative Council (and the community) would be wise to reflect analytically on the reasons so many of the past processes seeking a resolution of the forestry debate have not been successful or durable. This is not a two-sided debate, not a simple two-sided conflict (as has been erroneously portrayed in this process). An inclusive process is essential for any solution to be durable.

We foreshadow that the Tasmanian Forest Agreement 2012 is most unlikely to be durable. But currently as mentioned the Tasmanian Forest Agreement 2012 seems to be an issue (unwittingly maybe) avoided by the Select Committee hearing Terms of Reference. Perhaps that is wise and perhaps not but in your deliberations at the start of your own process, we hope you debate the pros and cons of this particular issue and clarify this aspect.

We note that important natural forests continue to be destroyed, both on public and private land, as this Forest Agreement process continues. We seek that some arrangement be made over this valid concern regarding the moratorium, because of the delay caused by the Select Committee.

Conclusion

For over two and half years a genuine engagement with the Tasmanian public has not occurred and genuine public involvement process has unwisely been avoided. A new, comprehensive, inclusive and transparent process from here on in is essential.

In our view this legislation, the Tasmanian Forests Agreement Bill 2012 (No. 30), in its current form, will not deliver peace for Tasmanians or Tasmania's forests,

even if you also consider the commitments made in the Tasmanian Forests Agreement 2012.

TEA seeks to be properly involved as a stakeholder in any process attempting *“To resolve the conflict over forests in Tasmania, protect native forests, and develop a strong sustainable timber industry”* TEA is aggrieved over the lack of an adequate inclusive process to date.

We hope you have found our thoughts helpful and that you find some benefit in our suggestions. We await your action over this matter and hope to participate in providing information to the Legislative Council’s Select Committee.

Andrew Ricketts

A handwritten signature in black ink, appearing to read 'Andrew Ricketts', with a stylized flourish at the end.

Convenor

The Environment Association (TEA) Inc is a not for profit, volunteer based, regional environment community association and a stakeholder in this process. TEA has a long-term interest in environmental and social outcomes in our region, Northern Tasmania, particularly in forest conservation and forestry issues. The Environment Association has worked in the public interest since its inception in 1990. As one of only two rural based environment centres in Tasmania, The Environment Association (TEA) is a long-term independent stakeholder in any resolution to the complex and divisive forestry conflict in Tasmania.

TEA is not represented by any other conservation organisation, formally or informally, including the three ENGO conservation organisations that signed the IGA. Accordingly we consider it vital to put our position.