

CLAUSE NOTES

Forests (Unlocking Production Forests) Bill 2017

PART 1 – PRELIMINARY

Clause 1 - Short title

This clause provides the short title to be used when citing the Act for any legal purpose.

Clause 2 - Commencement

The Bill will commence in two stages:

- Part 5 will commence on Royal Assent
Part 5 amends the *Forestry (Rebuilding the Forest Industry) Act 2014* by making the Minister administering the *Forestry (Rebuilding the Forest Industry) Act 2014* the responsible Minister for assessing applications to undertake special species harvesting on future potential production forest land.
- The remaining Parts of the Bill commence on 1 July 2018. These Parts bring into effect the key changes to create production forest land, and to provide for the administration of that land for the purposes of forest harvesting.

PART 2 – CROWN LANDS ACT 1976 AMENDED

Clause 3 - Principal Act

This clause provides that the *Crown Lands Act 1976* is referred to as the Principal Act in Part 2.

Clause 4 - Section 29 amended (Lease of Crown land)

This clause amends section 29 of the *Crown Lands Act 1976* to restrict leases of Crown land for forestry purposes to 10 years.

Clause 5 - Section 31 amended (Lease of land for rural purposes)

This clause amends section 31 of the *Crown Lands Act 1976* so that leases for forestry purposes are not required to be made available through the public auction process described in section 31.

Clause 6 - Section 35A (Compensation payable on non-renewal of certain leases)

This clause amends section 35A of the *Crown Lands Act 1976* to exclude a lease for forestry purposes from the right to compensation for improvements in the event the lease expires by passage of time and the lease is not renewed or an option granted to purchase the land.

Clause 7 - Section 71A amended (Delegation)

This clause amends the section 71A of the *Crown Lands Act 1976* to confirm the capacity of a Portfolio Minister to delegate a function or power given to a Portfolio Minister under the *Crown*

Lands Act 1976 to any person, and for that person to be able to sub-delegate that function or power.

PART 3 – FOREST MANAGEMENT ACT 2013 AMENDED

Clause 8 - Principal Act

This clause provides that the *Forest Management Act 2013* is referred to as the Principal Act in Part 3.

Clause 9 – Section 3 amended (Interpretation)

Clause 9 amends section 3 of the *Forest Management Act 2013* to replace the definition of 'future potential production forest land' with a definition of 'production forest land'.

Clause 10 – Section 10 amended (Reservation of Crown land as permanent timber production zone land)

Clause 10 amends section 10 of the *Forest Management Act 2013* by inserting a new sub-clause (1A) to confirm that Crown land that is production forest land may be subject of an order under section 10 to reserve that production forest land as permanent timber production zone land.

Clause 10 also amends section 10(3) of the *Forest Management Act 2013* to provide that the Minister must obtain advice from the Forest Manager that the land specified in the order to reserve Crown land as permanent timber production zone land is required for the supply of forest products or for the purpose of an adjustment of the boundary of any land.

Clause 11 - Section 11 amended (Revocation of permanent timber production zone land)

Clause 11 amends section 11 of the *Forest Management Act 2013* to clarify that if permanent timber production zone land is revoked, it may be converted into Crown land or Crown land that is also production forest land, as specified in the revocation order.

Clause 12 - Sections 11A and 11B repealed

Clause 12 repeals sections 11A and 11B of the *Forest Management Act 2013*. Sections 11A and 11B were inserted into the *Forest Management Act 2013* by the *Forestry (Rebuilding the Forest Industry) Act 2014*.

Section 11A provides for the exchange of areas of permanent timber production zone land and future potential production forest land.

Section 11B provides for the conversion of future potential production forest land to permanent timber production zone land.

Clause 13 - Section 12A amended (Prohibition on purchase, &c., of production forest land)

Clause 13 amends section 12A of the *Forest Management Act 2013* by changing a reference to future potential production forest land to production forest land.

Clause 14 - Section 16 amended (Wood production supply)

Clause 14 amends section 16 of the *Forest Management Act 2013* by allowing the Forest Manager to acquire logs, sawlogs and timber from within, or outside of, the permanent timber production zone land for the purposes of making those logs, sawlogs or timber available under section 16(1).

PART 4- FOREST PRACTICES REGULATIONS 2007 AMENDED

Clause 15 - Principal Regulations

This clause provides that the *Forest Practices Regulations 2007* are referred to as the Principal Regulations in Part 4.

Clause 16 - Regulation 4A rescinded

Clause 16 rescinds regulation 4A of the *Forest Practices Regulations 2007*.

Regulation 4A provides that the exemption, provided under regulation 4(a) of the *Forest Practices Regulations 2007*, from the requirement to have a certified forest practices plan for the harvesting of timber or the clearing of trees with the consent of the owner of the land, if the land is not vulnerable land and –

- (i) the volume of timber harvested or trees cleared is less than 100 tonnes for each area of applicable land for each year; or
- (ii) the total area of land on which the harvesting or clearing occurs is less than one hectare for each area of applicable land for each year.

Whichever is the lesser, does not apply to future potential production forest land.

The rescinding of regulation 4A will mean that any harvesting of timber or clearing trees on production forest land will require a certified forest practices plan in the same circumstances as apply to all other land tenures.

PART 5- FORESTRY (REBUILDING THE FOREST INDUSTRY) ACT 2014 AMENDED

Clause 17 - Principal Act

This clause provides that the *Forestry (Rebuilding the Forest Industry) Act 2014* is referred to as the Principal Act in Part 5.

Clause 18 - Section 11 amended (Application for approval to undertake special species timber harvesting in future potential production forest land)

Clause 18 amends section 11 of the *Forestry (Rebuilding the Forest Industry) Act 2014* by making the Minister administering the *Forestry (Rebuilding the Forest Industry) Act 2014* responsible for the assessment and approval of applications to undertake special species timber harvesting in future potential production forest land.

The clause further amends section 11 by omitting sections 11(3), 11(4), 11(5) and 11(6) which provide for an application to undertake special species timber harvesting being made to the Crown Lands Minister and require the Crown Lands Minister to consult with the Minister administering the *Forest Management Act 2013* and the Minister administering the *Forestry (Rebuilding the Forest Industry) Act 2014* before approving an application to undertake special species timber harvesting.

The clause also amends section 11 by omitting references in sections 11(2), 11(8) and 11(9) to matters to be addressed by regulation, which will be addressed through the Portfolio Minister's powers and functions under the *Crown Lands Act 1976*.

Clause 18 amends section 11(7) by removing the requirement that an approval to harvest special species timber may only be given if the Minister is satisfied that the special species timber, that is

the subject of the application under section 11, cannot be supplied, at the time of making the application, from the permanent timber production zone land.

PART 6 – FORESTRY (REBUILDING THE FOREST INDUSTRY) ACT 2014 FURTHER AMENDED

Clause 19 - Principal Act

This clause provides that the *Forestry (Rebuilding the Forest Industry) Act 2014* is referred to as the Principal Act in Part 6.

Clause 20 - Section 3 amended (Interpretation)

Clause 20 amends section 3 of the *Forestry (Rebuilding the Forest Industry) Act 2014* by inserting definitions of key terms and omitting definitions of terms not required as a result of the amendments to the *Forestry (Rebuilding the Forest Industry) Act 2014*.

Clause 21 - Part 2: heading amended

Clause 21 amends the heading of Part 2 of the *Forestry (Rebuilding the Forest Industry) Act 2014* to refer to Production Forest Land

Clause 22 - Section 4 amended (Production forest land)

Clause 22 amends section 4 of the *Forestry (Rebuilding the Forest Industry) Act 2014* by omitting the description of future potential production forest land and providing a new description of production forest land.

Clause 22 provides that production forest land is land described in column 2 of the table set out in clause 2 of Schedule 1, and land that becomes production forest land as a result of an order made under section 11 of the *Forest Management Act 2013*.

Section 11 of the *Forest Management Act 2013* provides for the making of an order to revoke permanent timber production zone land and the conversion of that land to Crown land.

Clause 22 makes production forest land available for forest harvesting if the harvesting is undertaken in accordance with the *Forest Practices Act 1985*.

Clause 22 prohibits the Forestry corporation from undertaking forest harvesting on the land, with the exception of the coupes specified in Schedule 2 of the *Forestry (Rebuilding the Forest Industry) Act 2014*. These coupes were originally identified as available for harvesting in the *Tasmanian Forests Agreement Act 2013* (repealed). The Forestry corporation is also permitted to undertake ancillary harvesting activities on production forest land.

Clause 22 confirms that the prohibition on harvesting of production forest land by the Forestry corporation does not prevent the Forestry corporation from acquiring wood that is a product of legal harvesting on production forest land.

Clause 23 - Section 4A inserted

Clause 23 inserts a new section 4A of the *Forestry (Rebuilding the Forest Industry) Act 2014* that makes the prescribed production forest land portfolio land, and the Minister administering the *Forestry (Rebuilding the Forest Industry) Act 2014*, the Portfolio Minister, for the purposes of the *Crown Lands Act 1976*.

The new section 4A also requires, at section 4A(3), that the Minister has to take into account the special species management plan, and the likely impact that forest harvesting will have on any area of land identified in the special species management plan as available for special species harvesting, in determining the terms and conditions of any lease or licence granted under the *Crown Lands Act 1976* on prescribed production forest land.

Sub-section 4A(4) prohibits the Crown Lands Minister from selling, transferring or conveying an estate in fee simple in prescribed production forest land. The Portfolio Minister has no power of sale over portfolio land under the *Crown Lands Act 1976*.

Subsection 4A(5) provides that the prohibition on the sale, transfer or conveying of the prescribed production forest land does not apply to land used for certain infrastructure.

Clause 24 - Sections 6, 7 and 8 repealed

Clause 24 repeals sections 6, 7 and 8 of the *Forestry (Rebuilding the Forest Industry) Act 2014*.

Clause 25 - Section 9 amended (Continuation of leases, licences, &c.)

This clause makes consequential amendments to section 9 of the *Forestry (Rebuilding the Forest Industry) Act 2014*.

Section 9 provides that, apart from a lease or licence issued under the *Mineral Resources and Development Act 1995*, any lease, licence, temporary licence, occupation permit or burdening easement in force in respect of future production forest land remains in place.

In addition to the consequential amendments to section 9, Clause 25 provides for the Minister administering the *Forestry (Rebuilding the Forest Industry) Act 2014* to be substituted as the grantor in place of the Crown Lands Minister.

The clause further provides the Minister administering the *Forestry (Rebuilding the Forest Industry) Act 2014* with the powers and functions of the grantor in relation to a lease, licence, temporary licence, occupation permit or burdening easement in force in respect of future production forest land.

Clause 26 - Part 3: heading amended

This clause amends the heading of Part 3 of the *Forestry (Rebuilding the Forest Industry) Act 2014* to 'Special Species Management Plan and Harvesting'.

Clause 27 - Section 11 repealed

Clause 27 repeals section 11 of the *Forestry (Rebuilding the Forest Industry) Act 2014*, which provides the application process for special species timber harvesting on future potential production forest land.

Applications for special species timber harvesting on production forest land are provided for under clause 22 of the Bill as part of 'forest harvesting'.

Clause 28 - Section 12 amended (Special species management plan)

Clause 28 provides a consequential amendment to section 12 of the *Forestry (Rebuilding the Forest Industry) Act 2014* by providing a reference to production forest land in section 12(2).

Clause 29 - Section 34A inserted

Clause 29 inserts a new section 34A in the *Forestry (Rebuilding the Forest Industry) Act 2014*. Section 34A provides that areas of the future potential production forest land that are also included on the World Heritage List do not form part of the production forest land and confirm that forest harvesting may not be undertaken on that land.

Clause 30 - Schedule 1 amended (Future Potential Production Forest Land)

Schedule 1 details the land that is production forest land.

Clause 31 - Schedule 3 repealed

Clause 31 repeals Schedule 3 of the *Forestry (Rebuilding the Forest Industry) Act 2014*, which provides the Objectives for Management of future potential production forest land.

Clause 32 - Schedule 4 amended (Savings and Transitional Provisions)

Clause 32 makes consequential amendments to Schedule 4 by amending definitions contained in Schedule 4 to refer to production forest land.

Schedule 4 of the *Forestry (Rebuilding the Forest Industry) Act 2014* provides for the transfer of assets, contracts and liabilities in connection with land that is future potential production forest land, by virtue of section 4 of the *Forestry (Rebuilding the Forest Industry) Act 2014*, from a Government Business Enterprise or State-owned company to the Crown and from the Crown to a Government Business Enterprise or State-owned company.

Clause 33 - Schedule 5 substituted

Clause 33 repeals Schedule 5 of the *Forestry (Rebuilding the Forest Industry) Act 2014* and replaces it with a new Schedule 5 that sets out the plan of the production forest land.

PART 7 – NATURE CONSERVATION ACT 2002 AMENDED

Clause 34 - Principal Act

This clause provides that the *Nature Conservation Act 2002* is referred to as the Principal Act in Part 7.

Clause 35 - Section 3 amended (Interpretation)

Clause 35 amends section 3 of the *Nature Conservation Act 2002* by omitting the definition of future potential production forest land and providing a new definition of production forest land.

Clause 36 - Section 18 amended (Parliamentary approval required for certain draft proclamations)

Clause 36 amends section 18 of the *Nature Conservation Act 2002* by removing references to future potential production forest land and providing references to production forest land.

The *Forestry (Rebuilding the Forestry Industry) Act 2014* amended Section 18 of the *Nature Conservation Act 2002* to provide that a proclamation is not to be made under section 11(2) of the *Nature Conservation Act 2002* declaring future potential production forest land to be of any class of reserved land unless a draft of the proclamation has been first approved by each House of Parliament.

PART 8 – MISCELLANEOUS

Clause 37 - Further amendment, & c., of regulations not prevented

Clause 37 confirms that the amendment of the *Forest Practices Regulations 2007* by the Bill does not prevent its subsequent amendment or rescission by a later regulation.

Clause 38 - Repeal of Act

Clause 38 provides that the Bill is repealed on the 365th day from the day on which it commences.