



## **SUBMISSION TO THE TASMANIAN LEGISLATIVE COUNCIL SELECT COMMITTEE ON THE TASMANIAN FORESTS AGREEMENT**

**17 January 2013**

The Australian Forest Products Association (AFPA) welcomes the opportunity to provide its perspective on the Tasmanian Forests Agreement and would be available to provide additional detail or clarification on the matters raised in this submission as part of the Committee's deliberations.

AFPA is the peak national representative body for Australia's forest, wood and paper products industries. We represent the industries' interests to governments, the general public and other stakeholders on matters relating to the sustainable development and use of Australia's forest, wood and paper products. AFPA members operate in forest management, plantation growing, harvesting and wood fibre processing, solid and engineered wood, and pulp and paper manufacturing sectors.

AFPA was formed in 2011 from the merger of the National Association of Forest Industries (NAFI) and the Australian Plantation Products and Paper Industry Council (A3P).

The forest, wood and paper products industry is one of Australia's largest manufacturing industries with an annual turnover of \$22 billion. It contributes around 0.6 per cent to Australia's gross domestic product and 6.7 per cent of manufacturing output (\$7 billion in 2008-09). Approximately 76 800 people are directly employed in the industry, including 13 200 people in the forestry and logging sectors and 63 600 people in the wood and paper manufacturing sectors (DAFF 2010). The industry is also significant in its geographic spread and to the socio-economic well-being of many rural and regional communities through local growing, harvesting, processing, marketing of forest products, and flow-on effects to other suppliers.

### **The Tasmanian Forests Agreement (TFA)**

AFPA has been actively engaged in the Tasmanian IGA from its inception, as a signatory, through NAFI, to the Tasmanian Forests Statement of Principles in 2010, and subsequently

through direct representation on the Reference Group of Signatories and in the negotiation of the final Tasmanian Forest Agreement in 2012.

AFPA's interests in the Agreement arise from the interests of its Tasmanian members, noting the particular market circumstances and other factors prevailing in Tasmania in the lead up to the initial negotiations. AFPA viewed the negotiations as an opportunity to reach agreement on the resource security and market stability needed to underpin future investment and growth in the industry. These negotiations were based on the notion that the departure of Gunns provided some flexibility for increasing resource security for industry and for enhancing the future management of conservation areas.

AFPA has signed the TFA and fully supports its provisions as a package. The agreement represents a finely crafted compromise between parties and interests that have been deeply divided for many decades, and who have come to appreciate the mutual value that can emerge from a truly durable resolution of the long-standing conflict that has characterised public forest management in Tasmania.

It would not be credible for AFPA to suggest that the agreement represents an ideal outcome for the industry, or even that we are happy with it. The compromises to future production, employment and community wealth creation are substantial, representing over 50% of the previous productive capacity, and the costs to AFPA members and the wider community will be substantial. These costs and compromises go further than AFPA considered necessary for a balanced and sustainable outcome, or to meet reasonable conservation requirements.

AFPA and its members have however had to confront the reality of the power and influence which its political adversaries have been able to bring to bear on its markets, and in this context have come to the view that the agreement represents the best realistically achievable outcome whereby a political and market climate can be created within which the industry can continue to operate profitably. We have agreed to and fully support the agreement on this basis, provided the durability elements contained within it are delivered in full.

In this context the agreement must be viewed as a complete package, delivering complementary value to diverse stakeholder interests. It is therefore both critical that the legislation which implements the agreement is comprehensive in dealing with all elements, and that any amendments or additions enhance, rather than detract from this complementarity of value.

We welcome the opportunity provided by the Legislative Council for review and testing of the provisions of the Bill and we would encourage members to fully exploit this opportunity to satisfy themselves that the Bill comprehensively reflects the intent of the signatories, with particular attention to the commitment of all parties, including political parties and governments to assiduously pursue its objectives in full. The industry supports the agreement only on this basis, and recognises the significant risks attached to either cherry picking of certain provisions, or the incomplete implementation of others once the initial conservation reservations have been secured.

AFPA also acknowledges that there are a variety of stakeholders who were not represented in the Forest Agreement, and has at no stage attempted to presume on their legitimate interests in the forest land and its management. We have considered this to be entirely a matter for parliament and the government. We fully acknowledge parliament's right and duty to assess the full range of societal interests at stake and to determine the future course accordingly.

AFPA encourages the Legislative Council to review, where appropriate amend, and then approve the Forests Agreement Bill in this context.

### **The role of the Independent Verification**

The TFA was informed by the work of the Independent Verification Group, which was established by governments to provide a scientific and technical underpinning to the negotiation process, particularly in respect of the verification of so-called high conservation value forests.

Early in the process AFPA formally raised its concerns about the proposed methodology for the verification of high conservation value forests, and to a large extent these concerns remain unaddressed.

In the event, the agreement represents a negotiated outcome on gross conservation reserve and timber production outcomes, rather than the result of any agreement on the scientific or technical merits of the particular reserve design incorporated within it. At no point in the verification process was the relative conservation value of particular places, which would allow for a prioritisation of value along a high-low continuum, assessed. Only those areas proposed for reserves (i.e. 570,000 hectares), were considered, and then only to determine what values were included within them. It is fair to say that if the proposed reserve areas had been double in area, or half, that proposed, the verification process would have been identical, as it provided no comparisons or rankings.

It is inaccurate, and inappropriate to suggest that there has been any verification of the high conservation value of the proposed reserves in any scientific or technical sense, by reference to any comparative standards or ranking.

This issue is raised not in any way to undermine the negotiated outcome, nor to suggest that AFPA does not recognise that for many reasons the proposed reserves are highly valued by many in the community, and will make an important contribution to the conservation estate. Indeed, the implicit valuation process reflected in the negotiation would suggest that the 504,000 hectares ultimately agreed for reservation contain the most highly valued forests, and therefore any remaining areas should be considered of lesser relative value.

We do wish to emphasise that in our view the high conservation value methodology itself was flawed, was not the basis for the agreement, that it should not be used to make any

judgements about those areas ultimately excluded from it, and certainly does not represent in our view a precedent for how such assessment should be conducted in other forest areas. This will be of fundamental importance to the future durability of management of those areas identified for long term forest production.

## **Durability**

AFPA supports the agreement only on the basis that it can provide a durable basis on which forest products can continue to be grown, harvested and marketed profitably, albeit on a significantly reduced scale.

This notion of durability, together with residual scale, has been a central focus for the industry in its negotiations. We have taken a view that provided residual scale is viable, durability in terms of continued access to production forest, management arrangements and community (including environmental) support is a vital requirement. The agreement has been structured from our point of view to achieve these outcomes.

The amendments recently foreshadowed by the state Government, which would incorporate a Future Reserve Land Schedule into the Bill, in place of a subsequent Protection Order, strikes at the heart of the durability provisions incorporated into the agreement. They are strongly opposed by AFPA. Industry was prepared to agree to the various terms that constitute this agreement on the known terms of the Bill and with the requirement for the presentation of durability reports on a predetermined basis that have a statutory and mandatory status. The key concerns introduced by these changes are:

- they accelerate the creation of 395,199 hectares of new reserves in a largely uncontrolled manner;
- they remove the requirement for the provision of a Durability report in accordance with the provisions of Clause 10 (7) and (8) of the original Bill;
- they remove the “gap” between the passage of the Bill and the presentation and acceptance/rejection of the Protection Order (15 sitting days). This gap for industry was to provide an opportunity to test durability (e.g. Clause 34 of the TFA);
- Clause 41 of the TFA specifically deals with this issue and requires the preparation of a durability report “prior to the tabling of the initial Protection Order and again before any subsequent permanent legislative reserve orders.”;
- Clause 13 of the TFA specifically requires that the transition schedule is to form part of the first Durability Report which was to accompany the Protection Order – this is no longer the case;
- the durability report is designed to assess not only the behaviour of signatory and non-signatory ENGO’s and industry members but also importantly actions by Government(s) to facilitate implementation. This included such an assessment before the Protection Order was presented to and formally accepted/rejected by the Parliament. This is no longer the case; and

- Clause 30 of the TFA requires a Durability report on access to Triabunna, Burnie wharf and short-term woodchip stockpiling prior to the Protection Order. This is no longer the case.

It should be recognised that the residual resource identified for long term production is now tightly constrained. There are very considerable risks attached to the indicative yield of 137,000 cubic metres of high quality sawlog. These estimates have been based on verified modelling using a 10% headroom allowance. Ideally prudence would have dictated a higher headroom allowance, however in the interests of achieving an outcome, industry has accepted a lower margin for risk, provided there are other mechanisms for risk mitigation, or protection against the consequences (i.e. the durability provisions).

The agreed resource yields implicitly recognise that certain silvicultural practices such as clearfall, burn and sow will continue to be practiced in forest types requiring this form of management for effective regeneration, and that cable-logging of some steep areas will also be required. These practices have drawn unfavourable community comment in the past. With the reduction in industry scale, and the proportionately higher reservation of taller wetter forests from the production zone, the impacts of these practices across the forest landscape will be significantly reduced. Nevertheless there can be no community expectation of their elimination in the short-term, and pressures to do so will need to be carefully managed. The ongoing support of all the signatories, an active communications program and the absence of significant ongoing protest activity will be important elements of durability.

It is therefore crucial that the management parameters around the Permanent Timber Production Zone are tightly regulated to ensure there is no avoidable erosion of the productive capacity. In this context the following elements of the agreement are critical:

1. **Forest practices.** There must be a formal nexus between decision making under the *Forest Practices Act* and the Agreement. For this reason AFPA fully supports amendments which seek to implement Clause 53 of the Agreement. It would be desirable that these amendments explicitly identify the Vision attached to the Bill, as provided in the Agreement, as a guide to how the Authority should incorporate social, economic and environmental considerations in its decision making. We note that some further consideration of the exact wording of such amendments is required to properly reflect the outcome required.

These amendments do not seek to weaken the Act or the Forest Practices Code, however they properly give the Authority the power and responsibility to seek triple bottom line sustainability outcomes, consistent with the determinations of the Parliament reflected in the Bill. This requirement should be clear and unfettered by other qualifications.

2. **Forest manager.** Industry signatories have been insistent that management of the production forests should be by a statutory commercial body, with an independent board with fiduciary duties, maintaining full management and control of such lands, together with full funding of any required community service obligations.

This is considered a fundamental element for durability for a number of reasons. The resource modelling has been undertaken by Forestry Tasmania, and reflects not only the physical resource characteristics, but the forest management and decision-making structures which determine yield outcomes. The resource is now so significantly constrained that any changes in the underlying arrangements through which resource planning and access are determined will seriously threaten future supply. The industry would have no confidence in the current resource modelling, were such arrangements to be changed, as has been previously proposed, and would see this as a fundamental failure of the durability provisions. It is noted that there are no provisions in the Bill regarding this matter, however it will be critical that government decisions are in place before the first durability report is completed.

Further, the independent commercial nature of the forest manager, with fiduciary responsibility, provides assurance to the industry that decision making will not be improperly influenced by short-term political imperatives, and that normal commercial contractual relationships and safeguards can be relied upon.

AFPA encourages the Legislative Council to seek assurances on this matter as an integral and critical part of the current Select Committee process..

3. **Certification.** The agreement provides for active support for FSC certification of the production forests. This will be a significant signal to markets that there is environmental support for Tasmanian forest products, and will assist in addressing the damage which has been done to those markets in recent years. The operating assumption is that such certification will be achieved based on the agreed outcomes, with no further requirements which would erode indicated and agreed sustainable yields. Substantial early progress towards such certification, without resource erosion is considered another critical durability element.

AFPA encourages the Legislative Council to seek assurances on this matter.

4. **Contracts.** The agreement calls for sovereign risk protections for contract holders, and we strongly support amendments which seek to implement these provisions. We note that the amendments currently under consideration are deficient in some respects and require further consideration.

The resource yields also assume the capacity to commercially acquit the lower grade products and residues which arise from harvesting operations. This capacity has been significantly reduced through a variety of market factors and environmental activism, which have impacted on woodchip export. Furthermore, opportunities to pursue new markets such as bioenergy and biofuels have been restricted by adverse policy settings. The Agreement sets out a proactive strategy for identification and facilitation of solutions to this complex issue which will require both and short and longer term commitment of support from all parties, together with funding.

AFPA encourages the Legislative Council to seek assurances from all parties regarding this commitment and support.

The support of markets is an essential requirement, and therefore a fundamental durability requirement will be the ongoing support of environmental groups. The agreement commits the signatories to such active support in markets, and we see the testing of such support through the life of the agreement, and documented in regular durability reporting as an integral durability element. It has been difficult to structure this into the agreement to provide equality in the timing of industry and environmental outcomes.

The industry is conscious of the fact that the most significant elements of the new reserve system will be enacted through the Protection Order in the very early stages in the life of the agreement (or if the Government amendments were incorporated, immediately as part of the Act), while the longer term durability elements will require significantly longer periods to emerge, or be confirmed.

This has highlighted the lack of any statutory basis for preparation and consideration of Durability Reports. The proposed amendments to give statutory recognition and to specify the elements required in a Durability Report, and the more frequent provision of such reports to Parliament are important enhancements and are strongly supported by AFPA.

### **Socio-economic modelling**

It was always envisaged under both the IGA and the Verification process that the socio-economic implications of any outcome would be modelled and assessed. This has not occurred to date, and we believe that this should be a fundamental requirement before any implementation. The Legislative Council should seek early access to such a completed analysis, which should be made publicly available.

### **Transition**

One of the most difficult issues which will need to be carefully managed is the transition of logging schedules out of proposed reserves, while maintaining required supply to industry. It is likely that this will require at least an 18 month transition period, with continued supply from some areas identified for reservation. This reflects both the lag time in planning and roading, as well as the current market constraints which limit the profitable sale of lower grade product. The shift out of proposed reserves will significantly increase the proportion of lower grade product requiring acquittal, as well as requiring additional investment in roads and planning, as existing assets are essentially abandoned and written off.

This process has been explicitly provided for in the agreement, through the development of a transition plan which identifies the need for such ongoing logging, as well as the funding required to facilitate the transition. The successful management of this process over the first 18 months, with the continued active support of all parties, will constitute an early and significant test of durability.

AFPA encourages the Legislative Council to seek assurances from all signatories regarding the formulation of transition logging schedules.

## **Special Timbers**

The Agreement provides for the development a special timbers management plan, and the ongoing provision of special timbers from a Specialty Craft and Timber Zone. There are continuing negotiations between the signatories regarding the nature and extent of this zone and its suitability for the production of special timbers, as well as short to medium term supply schedules.

AFPA encourages the Legislative Council to seek assurances from the parties that these negotiations have been satisfactorily resolved.

## **Summary**

AFPA fully supports the Tasmanian Forest Agreement, of which it is a signatory, and supports the passing of legislation to implement its provisions.

For industry, the durability of wood production elements of the Agreement are fundamental.

The foreshadowed Government amendments undermine the structure of the durability arrangements secured by industry in the Agreement and should be rejected in their current form.

We note that the draft Bill does not fully reflect the Agreement and encourage and support amendments which would give full effect to its terms. These include amendments to the *Forest Practices Act* and provisions regarding protection of contract holders from sovereign risk.

We also are supportive of any further amendments that would enhance durability, without undermining the core elements on which the agreement has been reached (e.g. recognition and specification of the contents of Durability Reports, and annual durability reporting).

We ask to be further consulted in regard to the precise nature of such amendments.

We also encourage the Council to seek assurances from all parties in respect of the non-legislated commitments and actions which will underpin such future durability before finalising their considerations.