

DRAFT SECOND READING SPEECH
HON GUY BARNETT MP

Forest Practices Amendment (Validation) Bill 2022

** Check Hansard for delivery **

Mister Speaker,

I move that the Bill now be read a second time.

Mister Speaker, the forestry, wood and wood products sector is worth \$1.2 billion dollars to the Tasmanian economy. Our sector supports 5 700 direct and indirect Tasmanian jobs, many in regional and rural areas of the State. Wood is good. It is sustainable, and it is the ultimate renewable.

As the Government announced last month, the Forest Practices Amendment (Validation) Bill is being introduced to provide certainty to this critical industry.

The Bill seeks to resolve what can be described as a highly technical administrative matter. Let me be clear, this matter – the matter which Parliament is being asked to turn their minds to in considering this Bill – relates to the construction and form of instruments of delegation, not the safety or appropriateness of forestry operations undertaken on ground.

Before turning to the specific details of the Bill, I would like to highlight some of the key elements of Tasmania's world class forest practices system.

The Forest Practices Act 1985 provides the legislative framework for what is an intricate system with many inter related elements.

Importantly, the Act establishes the Forest Practices Authority (FPA) as the independent body responsible for administering the system.

The FPA is governed by a Board of Directors, who have been appointed owing to their expertise and experience across a range of subject areas including environmental, natural resource and sustainable forest management.

The Board is responsible for carrying out a range of powers and functions under the Act. Under section 43, the FPA – through the Board – is able to delegate any of its functions or powers to another person. This power of delegation has existed in the Act since its commencement in May 1985.

The Board has historically and routinely used section 43 to empower Forest Practices Officers (FPOs), who are appointed and warranted under sections 38 and 39 respectively, to, amongst other responsibilities, certify Forest Practices Plans (FPPs).

FPOs are an integral part of Tasmania's forest practice system. FPOs receive comprehensive training in applying the Act and its supporting elements, such as the Forest Practices Regulations and Forest Practices Code.

I am advised that there are just over 160 FPOs currently appointed under the Act. Of these, nearly 100 have a delegation from the FPA to consider applications to certify FPPs.

The appropriate use of delegated authority has, and will continue to be, an important part of our co regulatory forest practices system. In fact, the 'delegated and decentralised approvals for forest practices plans' is a key objective of the system, as provided for in Schedule 7 of the Act.

A delegated and decentralised approvals process is therefore essential to the system's efficiency. The effectiveness of the system is maintained through effective monitoring and enforcement by the FPA. Annual audits conducted by the FPA, and reported to Parliament in Annual Reports, clearly show very high levels of compliance every year. The forest practices system works.

This brings me to the reason why the current Bill has been introduced.

Very recently, I was made aware of a potential issue with the particular use of a small subset of words included within a number of instruments of delegation issued by the FPA.

I have been advised that similar wording has been used in a number of instruments of delegation dating back to 1987.

I understand that the phrasing used within these instruments of delegation, dating back over 35 years, may be problematic. This is because words used could be interpreted as creating a 'fettering' of powers.

Let me be clear, the current FPA Board has advised that it in no way intends, or has ever intended, to fetter the exercise of a delegatee's powers. What the FPA Board has done, and should continue to do, is appropriately manage any risks associated with the delegation of its powers. In this context, making a delegatee subject to directions issued by the CFPO is a sound risk management tool.

In this regard it should be noted that section 39 of the Act already provides the CFPO with the power to issue directions. This directions power is of particular importance in the context of the forest practices system where an FPO can be employed by an external employer involved in the industry. Making FPOs subject to the direction of the CFPO ensures that high standards for FPOs are maintained.

As provided for in the Act, the CFPO, currently Dr Peter Volker, is responsible for overseeing the day to day administration of forest practices. Dr Volker has over 40 years in the forest industry and, in accordance with the Act, was appointed owing to his extensive expertise in forestry, forestry operations, knowledge of sustainable forest management, and management skills.

In addition to seeking to validate past instruments of delegation, this Bill seeks to make some minor and targeted amendments to the Act to clarify the scope of the CFPO's power to issue directions. The proposed amendments make it clear that a direction may relate to policy or other matters, but cannot

require the making of a particular decision – that is, a direction cannot be one that seeks to ‘fetter’ a delegatee’s powers.

As the Minister for Resources, I have chosen to act quickly on this matter. At this stage there has been no ruling as to the validity of any delegations. I am acting with an abundance of caution and in doing so I am seeking to remove doubt. I am seeking to provide certainty to industry – an industry that provides critical timber products into the Australian housing and construction sector.

We, as a Parliament, have the opportunity to act swiftly on this matter and remove any doubt as to the validity of instruments of delegation. Let me be clear, the Parliament is not being asked to validate decisions. It is merely being asked to validate instruments of delegation to ensure that there is no question to answer as to their validity, purely based on their construction.

Mr Speaker, this is an important Bill which will provide much needed certainty to industry. Both the independent FPA and forestry industry stakeholders are supportive of the Bill.

In concluding, I would like to thank the Office of Parliamentary Counsel for its work in urgently delivering this Bill to the Parliament

I commend this Bill to the House.