

PO Box 261 Deloraine Tasmania 7304

Office: 91 Emu Bay Road Deloraine.

25th January 2013

To: The Members of the Tasmanian Legislative Council Select Committee on the Tasmanian Forests Agreement Bill 2012.

Care of: The Secretary

Mr Stuart Wright

By email to: tfacommittee@parliament.tas.gov.au

TEA's Second Submission:

**On The Tasmanian Forest Agreement 2012 of and The Associated
Legislative Bill, the Tasmanian Forests Agreement Bill 2012 (No.
30) and the 15th Jan 2013 WOG Amendments**

Forest 'Peace Process' Failures and How to Solve the Conflict

Dear Honourable Messrs and Mesdames,

Please find our submission, which provides evidence, comment and opinion on the Tasmanian Forest Agreement 2012 and its associated legislative bill, the Tasmanian Forests Agreement Bill 2012 and relevant policy and reform matters. Thankyou for providing the opportunity to make submission on this important matter.

Table of Contents.

Table of Contents.....	1
Legislative Council Select Committee Terms of Reference.....	4
Legislative Council Select Committee Documents, Timeline and Process.....	4
Terms and Interpretation.....	5
Preamble	7
Introduction.....	9
Historical Context.....	10
Deficiencies of the Tasmanian Forest Agreement 2012 and the Forest Peace Process	12
Legislative Reform of Forestry.....	16
Climate Change and the Potential Income to Tasmania and Tasmanians from Sinking and Trading Carbon over Tasmania's Forests.....	17
Private Land - Logging, Conservation And Protection	19

Threatened Species and Biodiversity Protection	22
End Land Clearance	26
Permanent Native Forest Estate Policy	28
Regional Diversification of Sources of Income	29
Reform of Forestry – a smaller and far more responsible industry	29
Sawlog Quota Issues and Other Contract Supply Matters	30
Forestry Jobs	33
Export Woodchipping of Native Forests	35
Forest Practices Act	35
Forest Practices Regulations	37
Forest Practices Tribunal	37
Private Timber Reserves	38
Forest Practices Code 2000	39
Chemical Pollution	40
Heritage – Forestry Exemptions	42
Scenic and Cultural Heritage Landscapes	42
RMPS and Regional Planning	46
RMPS, LUPAA and Planning Schemes and the FPA – Appeal Rights or Conflict?	47
State Settlement Policy Desirable	49
Roads, Road Safety and Log Trucks	50
Water and Forestry	51
Reform of Forestry Tasmania	52
An Expanded Reserve System on Public land	54
Comment on Reserves and their Inclusion	56
Secure Conservation Reserve Tenure	56
Secure Conservation Reserve Tenure and Mining	56
Secure Conservation Reserve Tenure and Forest Reserves	57
No Pulp Mill in the Tamar Valley	58
Communities Impacted	59
Plantations and Managed Investment Schemes	60
Fire Management and Bushfires	62
The Tasmanian Regional Forest Agreement (RFA)	63
Compensation	64
The Ongoing Conflict and Developing Acceptable Responsible Forestry	65
The Australian Forest Standard - A Standard in Name Only	65
Forest Stewardship Council Certification - Not Supported	67
Tasmania’s Forests, Some Elements of Biodiversity Analysed	72
Informal Reserves Proposed to be Re-Reserved – Actually Inflate and Distort the Proposed Reservation Increase	73
The Reservation Status of Non-Forest Vegetation in Tasmania	74
The Reservation Levels of Tasmanian Forests and the Limited Assessment	74
The Reservation Levels of Threatened Forest in Tasmania	76
The Reservation Status of Under-reserved Forest Vegetation in Tasmania	77
The Reservation Status of Old Growth Forest in Tasmania	77
Current Reserve Proposals Not Sufficient	78
The Whole of Unprotected Tasmanian Forest Estate Not Considered	78
Statistics Presented above are Optimistic Because ENGO Signatories’ Demand was Whittled Down	79
Independent Verification Group and Why it has Largely Failed	79
Tasmanian Forest Agreement 2012	80
Triabunna Woodchip Mill	87
Cable Logging Proposals and Subsidies	88

Once-off Logging of New Reserves	88
Durability	88
Legislation: the Tasmanian Forests Agreement Bill 2012 (No. 30)	89
Schedule One of the Tasmanian Forests Agreement Bill 2012 (No. 30)	90
Legislation: the Tasmanian Forests Agreement Bill 2012 (No. 30) WOG Amendment dated the 15 th January 2013	90
Index Plans: Tasmanian Forests Agreement Future Reserve Land WOG Submission dated the 15th January 2013	91
Royal Commission into the forestry industry	91
Conclusion	93
Appendix A	96
Appendix B	96
Appendix C	96
Appendix D	96
Appendix E	96
Appendix F	97
Appendix G	97
Appendix H	97
Appendix I	97
Appendix J	97
END	97

Legislative Council Select Committee Terms of Reference

The Legislative Council Select Committee on the Tasmanian Forests Agreement Bill 2012 was established with a terms of Reference:

To inquire into and report upon —

- (1) The Tasmanian Forests Agreement Bill 2012 (No. 30); and*
- (2) Any other matters incidental thereto.*

Legislative Council Select Committee Documents, Timeline and Process

Comment from the public was sought up from the 20th December 2012 up until the 18th January 2013.

The Tasmanian Forests Agreement Bill 2012 (No. 30) is 63 pages in length.

However at around the 15th January the Tasmanian Government made submission titled: *Tasmanian Forests Agreement Bill 2012, Whole-of-Government Departmental Submission to the Legislative Council Select Committee*. This incorporated a number of documents, including 158 pages of proposed amendments.

Also included are a set of Central Plan Register Plans termed –“*TFA - Sub 34.5 - W-O-G - Maps.pdf*” Some 26 pages of CPR 9580.

The above recent WOG submission documents from the Tasmanian Government remain in the submissions to the Select Committee but seemingly may be treated in fashion similar to the Tasmanian Forest Agreement.

TEA has already made comment in our “*First Submission Regarding: The Tasmanian Forests Agreement*” dated the 4th January 2013, regarding the incomplete nature of the Tasmanian Forests Agreement, dated the 22nd November 2012, as published either on the Government website or on that of the Legislative Council Select Committee.

TEA has searched for the missing maps since writing our first submission and wish to present the maps which may be a part of the Tasmanian Forests Agreement that we have found in **Appendix A** of this, TEA’s Second Submission. We remain of the view that the published version of the Tasmanian Forests Agreement 2012 is an incomplete document.

We complained last week to The Committee’s Secretary, Mr Wright, regarding the substantial last minute legislative amendments from the Government introduced by way of submission to the Select Committee and the lack of time in which to comment.

We have been given an additional week to the 25th January 2013 in which to make comment on the new information, especially the plans and the legislative amendment document in the Governments WOG submission. It is noted that unfortunately there is no compiled version of the amended legislation and we believe that makes it nigh on impossible to make sense of the whole thing. We thank

Mr Wright and the Committee for their consideration in allowing an extension of time in which to make submission.

TEA considers it will be unable to obtain any legal advice in that time frame and thus our comments will be by necessity be broad. The situation is one of injustice in our view.

We presume that the Governments WOG amendments do not include other mooted amendments from the Legislative Council. We seek confirmation over that aspect please.

Terms and Interpretation

TEA is aware of the large number of acronyms and terms in use in forestry and forest conservation. As a way of simplifying matters we have incorporated this section for your convenience.

ACF	Australian Conservation Foundation
BN	Biophysical naturalness
CAR	Comprehensive, Adequate, Representative
CARSAG	Comprehensive Adequate Representative Scientific Advisory Group
CKET	Common Key Elements Template
CLAct	Crown Lands Act 1976
CRA	Comprehensive Regional Assessment
DPIPWE	Department of Primary Industries, Parks, Water & Environment
ENGO	Environment Non-Government Organisation
EPBC	Environment Protection Biodiversity Control Act (Cmwlth)
ET	Environment Tasmania
FAct	Forestry Act 1920
FCF	Forest Conservation Fund
FPA	Forest Practices Authority
FPAct	Forest Practices Act 1985
FPC	Forest Practices Code 2000
FPP	Forest Practices Plan
FPT	Forest Practices Tribunal
FRRAct	Forestry Rights Registration Act 1990
FSC	Forest Stewardship Council

FT	Forestry Tasmania
HCV	High Conservation Value (forests) See the FSC Toolkit seeking to define HCV as it relates to Forest Stewardship Council in Appendix C
HoA	Heads of Agreement
IATFWSC	Interim Agreement On Tasmanian Forests Wood Supply And Conservation dated 15 th August 2012
IBRA	Interim Bioregionalisation of Australia
IVG	Independent Verification Group
JANIS	Nationally Agreed Criteria for the Establishment of a Comprehensive, Adequate and Representative Reserve System for Forests in Australia, being a Report by the Joint ANZECC / MCFFA National Forest Policy Statement Implementation Sub committee (http://www.daff.gov.au/rfa/publications/reserve-system)
LC	Tasmanian Legislative Council
LC TFA SC	Legislative Council Select Committee into the Tasmanian Forests Agreement Bill 2012 (No. 30)
LTAct	Land Titles Act 1980
LUPAA	Land Use Planning Approvals Act
MIS	Managed Investment Schemes
MUF	Register of Multiple Use Forest Land
NCAct	Nature Conservation Act 2002
NFPS	National Forest Policy Statement of 1992
NPRMAct	National Parks and Reserves Management Act 2002
NRS	National Reserve System
OG	Old growth
PAL	Protection of Agricultural Land Policy
'Peace process'	The process that lead to the SOP and from there through the IVG process and on through the TFIA to the TFA.
PFRP	Private Forest Reserve Program
PFT	Private Forests Tasmania
PNFEP	Tasmanian Government Policy For Maintaining A Permanent Native Forest Estate being the latest version of 20 September 2011
PTPZL	Permanent Timber Production Zone Land
PTR	Private Timber Reserve

PWS	Parks and Wildlife Service
RFA	Tasmanian Regional Forest Agreement of 1997
RMPAT	Resource Management Appeals Tribunal
RMPS	Resource Management Planning System of Tasmania
SOP	Tasmanian Forests Statement Of Principles To Lead To An Agreement of the 14 October 2010.
SPPAct	State Policies and Projects Act
TCFA	Tasmanian Community Forest Agreement
TCT	Tasmanian Conservation Trust
TEA	The Environment Association (TEA) Inc.
TFA	Tasmanian Forest Agreement 2012
TFAB	Tasmanian Forests Agreement Bill 2012 (No. 30)
TFA Bill	Tasmanian Forests Agreement Bill 2012 (No. 30)
TFAB Sch 1	Schedule 1 – Vision For Tasmania’s Forests
TFGA	Tasmanian Farmers and Graziers Association
TFIA	Tasmanian Forests Intergovernmental Agreement between the Commonwealth of Australia and the State of Tasmania: providing a further \$277 million to support exit from the industry, protect high conservation value forests and drive structural change.
TFIA	Tasmanian Forests Intergovernmental Agreement between the Commonwealth of Australia and the State of Tasmania, dated 7 August 2011
TSAct	Threatened Species Act
TT	Tasmania Together
TWS	The Wilderness Society
WOG Amend	Whole-of-Government Departmental Amendments to the Tasmanian Forests Agreement Bill 2012

Preamble

Achieving environmental protection and conservation in our society is far more difficult than (purposefully or inadvertently) ensuring or participating in the destruction of nature through development.

Generally there is little short-term profit to be made from environmental protection and conservation and many opportunities for this generation to profit from extraction of the earth’s resources.

In this context sustainable development is oft simply treated as using everything that remains that can be used.

“...the power of vested interests is vastly exaggerated compared with the gradual encroachment of ideas.” (John Maynard Keynes 1936 pp 383-4)

The solutions to the conflict over forests and forestry in Tasmania will be found in the processes around rational argument and detailed examination of the logic, evidences and merits of those arguments, which are then wisely applied to the development of new policy and legislation as well as various instruments under those.

Regardless, the conflict will likely continue in the presence of a lack of tolerance for all the views, bigotry, aggression, bullying and intimidation, ignorance, biased decision-making, discrimination, favouritism and cronyism. Respect and tolerance are crucial.

The conflict will likely continue though an avoidance of relevant considerations of all the facts by policy makers, decision makers and legislators and /or a lack of understanding of the implications. .

The conflict will likely continue though an avoidance of responsible forestry practices and the avoidance of fair and just means of achieving a land use remedy through valid legal and planning processes.

Tasmania would vie as the most conservative place in Australia and its industry and legislative structures reflect this fact. The bias, exemptions, encouragement legislation, favouring planning tools, hidden subsidies and unwritten largess accorded to forestry all serve to prop it up. From the start Industry had it all.

It is in this reality that we consider the private deal done between the signatories of the TFA, which is now partially expressed through the Tasmanian Forests Agreement Bill 2012 (No. 30).

Whilst it attempts a solution of sorts it is unfortunately no more than a deal. Sawlog quota logging security and funding assistance to log in exchange for some reserves.

We recognise that in this context it will be hard for the Legislative Council Select Committee to isolate itself from the long held views and strong positions of its members. Notwithstanding that perception we have decided to make this submission.

Often the statewide level of reservation of public and private land in Tasmania is used as a reason for not reserving more land. We consider this to be fallacious and with all due respect to those who use this argument, not logical. If the important natural values indicating the desirability of conserving land are present then, in our view, the land should be conserved.

We have been working on conservation issues since our inception over two decades ago and have witnessed the inexorable decline of elements of nature since Tasmanian export woodchipping began four decades ago. However we acknowledge a vast range of developments simply remove little parts of the natural world here and there and over the decades the total effect is that it is progressively obliterated and diminished.

Thus we are completely committed to the protection of nature via a range of mechanisms including, but not limited to, formal reservation of public land.

The question has to be asked regarding forestry: What is responsible and resilient development, which is acceptable to the both community and industry and that avoids harm to the environment?

Introduction

This submission is intended to provide information to assist with decision-making over the outcome of the forest peace process, its Tasmanian Forest Agreement 2012 and its associated legislative Bill, the Tasmanian Forests Agreement Bill 2012 (No. 30), which had its Second Reading on the 22 November 2012 and came before the Legislative Council in December 2012.

Our initial reaction to the TFA was:

“The Environment Association (TEA) Inc favours complete cessation of the current unacceptable process. We do not support it.”

We certainly call upon the Tasmanian Legislative Council to either reject or comprehensively amend the Tasmanian Forests Agreement Bill 2012 (No. 30).

Please treat the associated Tasmanian Forest Agreement 2012 (TFA) as something which has been created without public input, without acceptable inclusive process and without sufficient due process and thus should be regarded as a private agreement. We claim it to be not in the public interest.

This submission discusses the reasons for our position. It is our hope that you will find commonality and agreement with our position over a sufficient number of issues to come to the conclusion that this Bill should not be passed in its current form. We hope you will consider our recommendations.

We have a number of recommendations throughout the submission which we hope may assist in moving towards a more complete and effective, durable solution to the conflict over forestry and Tasmania’s forests.

If enacted the current Bill is likely to have dire unsustainable consequences for Tasmania and its biodiversity as well as for Tasmanian society and its economy. TEA does not consider it will deliver peace either for its people or its forests or for forestry for that matter. It is not a viable way forward.

This submission also provides information about The Tasmanian Forest Agreement 2012 and its Associated Legislative Bill, the Tasmanian Forests Agreement Bill 2012 (No. 30), the proposed amendments and CPR Plans provided with the Whole of Government (WOG) submission to the LC TFA SC, current and proposed conservation of Tasmania’s forests, comments on important carbon issues, various industry issues and desirable legislative reforms as well as providing the reasons for our lack of support for the process itself.

Importantly we see using forests to raise funds from carbon trading to be more viable than the current unsustainable forestry industry. We raised this issue in our 5th

August 2011 letter to the Premier, in our 6th March 2011 letter to Mr Kelty and as early as the 11th July 2010 to the ENGO signatories. This view of TEA's was recently also put forward and quantified by The Australia Institute.

The support in the TFA Bill for carbon sinks for reserved forests is noted and welcomed by TEA. We note also the letter dated 20th December 2012 from the Commonwealth's Mark Dreyfus QC MP to Tasmanian Ministers Green and O'Connor regarding the operation of the Carbon credits Act provided by the Government as file 'plugin-TFA - Sub 34.4 - W-O-G Attachment 4.pdf' with its submission to the Select Committee.

Some may propose merely amending the Bill and that may be possible but there is the underlying private agreement, the Tasmanian Forest Agreement 2012, in which we regretfully find little to support.

TEA notes the Tasmanian Forest Agreement 2012 (TFA) is intended to cover both public and private land in Tasmania.

The whole of the private negotiation over Tasmania's forests and forestry, known as the 'peace process' has been rife with conflict for almost three years now. How can such a conflict-ridden uninclusive process ever be expected to bring a durable peace?

Historical Context

The Commonwealth has repeatedly intervened in the Tasmanian forestry industry since their granting of the woodchip Export Permits in the early 1970s. It continued its involvement by renewing the Permits and intervention through the RFA. Various inquiries and ongoing and repeated massive funding have unsustainably saved the forestry industry from the imperative of reform and have allowed the Tasmanian Government to avoid taking responsibility for the outcomes.

The current Forest Peace Process and the Tasmanian Forest Agreement 2012 are not the first attempt to resolve the conflict over forestry in Tasmania. We recall ten processes over the twenty-eight years from 1986 to 2004:

- 1987 Commonwealth Inquiry into the Lemonthyme and Southern Forests established under the Lemonthyme and Southern Forest [Commission of Inquiry] Act 1987). – The Helsham Inquiry
- 1991 Inter-governmental Agreement over the Environment (Commonwealth)
- 1991 Resource Assessment Commission (RAC) (Commonwealth)
- 1991 Forest and Forest Industry Strategy (Tasmanian)
- 1992 National Forest Policy Statement (Commonwealth)
- 1994 High Conservation Value Forest Assessment (Tasmanian)
- 1994 Interim Forest Assessment (Tasmanian)
- 1997 2020 Plantations Vision (Commonwealth)

- 1997 Regional Forest Agreement and associated Comprehensive Regional Assessment
- 2002 Tasmania Together Process – Old Growth Benchmark deadline.
- 2004 Tasmanian Community Forest Agreement (Commonwealth)
- 2010 Statement of Principles (Signatories - private)

All these processes were meant to be solutions but clearly have failed to resolve the conflict and sadly achieved little genuine reform. This latest so-called ‘peace process’ has all the hallmarks of the same type of failure and indeed it effectively collapsed prior to the agreement and remains tenuous. It is vital to move on decisively and with consultation and inclusion.

The time for incremental pragmatic conservation gains where some favourite, prized forested tit bits are the focus of a campaign agenda should have passed. The community expects more integrity than that and further, other parts of Tasmanian society are fed up with such antics.

It is vital that proper and inclusive holistic solutions are progressed by Tasmania. It is also vital that the genuinely special and irreplaceable natural forested ecologies and the species they support be properly and securely conserved via a fair, sane and open, inclusive process.

In the 40 years since the Woodchip Export Permits were granted by the Commonwealth knowledge of the impacts of industrial forestry has grown markedly. Not well known is the substantial profits that were made by private corporations out of native forest woodchips.

Since the start of the Regional Forest Agreement in 1997 substantial new knowledge has been acquired. We now have a far better understand how forestry impacts on weather patterns, on the climate, through the sinking of carbon, on the survival of species, on the water cycle and on regional communities and thus of the costs to the Australian community. Those are all costs to the public interest – employment was the only benefit and now that has largely evaporated. The new knowledge however has not yet informed policy and legislative changes that should be implemented.

Elements of the community that understand these impacts have also grown with time. The attitude and expectations of a more educated populace in Tasmania has not been reflected by a change in the behaviour of forestry around us. Thus now the activity as it is currently regulated has little acceptance.

Both forestry’s employment importance and the demand for native forest product and its contribution to the economy have fallen to low levels in Tasmania.

The demand for conservation and protection of nature, biological diversity and natural forests continues to rise, along with the rapidly worsening climate change outlook and the ongoing evidence of a decline of our natural assets. A recognition of the role of forests in sinking carbon and the expectation that Governments will take a lead in this aspect seeking to address the build up of carbon dioxide in the

atmosphere in the hope of achieving some climate change mitigation is coupled with an expectation that a responsible solution will be achieved without delay.

The industry, its community and the union representing workers in the sector have come together with some but certainly not all conservation organisations and proposed a process for solution in Tasmania.

Not all stakeholders on any of the several sides of the debate are happy with the process or the outcome. The process has not been inclusive, fair, transparent or reasonable. The Government has a responsibility to ensure proper process but has failed to do so.

The broader community and many other stakeholders have not been involved or consulted. The process should have been inclusive.

The Commonwealth should ensure that a restructure of native forest logging on public land, which it has underwritten from the 1970s, is underpinned with adequate funding to assist those who have been led into what has developed as a dead end so they may exit with dignity. Seemingly that assistance has largely occurred now but the conflict has not been resolved. Currently a one sided set of assistances has occurred. The resolution of adequate reservation of forest remains unresolved. The design of a modern and responsible caring forestry industry has not been achieved.

Deficiencies of the Tasmanian Forest Agreement 2012 and the Forest Peace Process

We strongly perceive the outcome of the forest peace process, the Tasmanian Forest Agreement 2012 and its associated legislative Bill, the Tasmanian Forests Agreement Bill 2012 (No. 30) would absolutely be highly unlikely to resolve the conflict over forestry for the following reasons. It:

1. Avoids taking a responsible position on critical land clearance issues (on private forested land, some 936,254 Ha or 13.68% of the state) and avoids acknowledgement that land clearance is a threatening process under the Commonwealth's Environmental Protection Biodiversity Conservation Act (EPBC).
2. Fails to protect or even advocate the protection of Threatened Species and especially those key or core areas of threatened fauna habitat that are likely to come under additional pressure as a result of this agreement through increased intensity of forestry, especially on private land.
3. Most probably will not solve other HCV forest conservation imperatives.
4. Provides the green light for an unacceptable expansion of artificial tree plantations in Tasmania. This would be completely unacceptable. In the current regulatory regime and with the current forestry practices this would lead to more community conflict, not peace.

5. Fails to acknowledge the contribution to the conflict of the current Forest Practices legislation and the Forest Practices System including the lack of appeal rights. Fails to identify areas of that legislation urgently in need of reform.
6. Fails to deal with the plethora of other favouring legislative arrangements, which entrap and create situations of conflict due to their inherent injustices the largess creates.
7. In the event regulatory mechanisms over forestry are relaxed, as mooted or proposed, this unacceptable outcome in itself would result in increased conflict and environmental harm would also result.
8. Has a predominantly Wilderness-based conservation focus. Whilst it is fine to reserve wilderness forests, it is not acceptable that this occurs at the expense of biodiversity, threatened species and other important values, such as scenic protection.
9. Fails to protect many of Tasmania's most biodiverse forest ecologies and in the main would fail to achieve a comprehensive and adequate reservation of the remaining mapped (and of course the unmapped) unprotected Threatened and Under-reserved Vegetation Communities of Tasmania, when properly considered bioregionally under IBRA as JANIS intended.
10. Potentially reserves at best 326,000 Ha of unprotected native forest on public land and not the 572,000 Ha originally claimed. A substantial area, comprising existing RFA informally reserved land and of non-forest vegetation, is included in the ENGO signatories' reserve proposals' map.
11. Provides no strategic or practical mechanism for private land conservation, the most poorly reserved land tenure in Tasmania. Much of the Threatened Vegetation Communities are on private land. The RFA target shortfall for private land has not been recognised or addressed in this process.
12. Fails to advocate protection of cultural heritage landscape values. Tasmania has no protection for its special landscapes. These scenic landscapes are a vital asset to tourism and the state's marketing image. They are a vital regional asset to Northern Tasmania and other regions too, of course.
13. Does not identify or deliberate over public interest issues, which must be paramount in achieving a durable solution. Will not provide a social license for forestry.
14. Fails to advocate responsible planning and legislated reform of forestry.
15. Indeed it clearly intends to water down already weak biodiversity and Forest Practices Code (FPC) provisions, which are already hopelessly inadequate at protecting intact HCV forest on private land.
16. Failed to ensure a moratorium commitment. The Heads of Agreement (HoA) unacceptably failed to deliver any secure reservation outcome whilst giving

industry its funding agenda up front. This was a very poor negotiation. There remains no conservation outcome.

17. And maybe one of the most important, it has completely failed to understand the small and diminishing size of the forestry industry in Tasmania. It is reported recently that now it employs less than 1,000 people or under half a percent of the workforce in Tasmania. (See recent Australia Institute press on this subject.) The outcome of the Tasmanian Forest Agreement 2012 pays disproportionate attention and resources to a failed industry.
18. Fails to restructure and redesign forestry in Tasmania so it may survive in the future without more handouts.
19. Fails to restructure and redesign forestry in Tasmania in such a way so it may gain a social license.
20. Seeks to convert a vision statement, established within the privately negotiated and agreed TFA into a fixed and legislated State Policy without any public input or consultation.
21. Within the process the SOP signatories inappropriately gave a letter of comfort to the Tasmanian Farmers and Graziers Association (TFGA) that assured it that private land was not a part of the process with the aim to get them out of the process in 2010 we believe, which was obviously against the SOP. Of course it was also inappropriate that the TFGA agreed to such a ploy.
22. Entrenches unacceptable cable logging of steep sensitive slopes, quite probably contrary to the FPC 2000.
23. Creates an artificial and irrationally limited definition of the forestry industry in Tasmania.
24. Fails to deal with the pulpmill permit in the Tamar valley, a proposal riddled with conflict.
25. Fails to deal with a myriad of issues, which actually go to make up the overall posy of nettles of forestry conflict.

These outcomes are unacceptable to TEA and as we say, are issues that mean the TFA and the TFA Bill (with WOG amendment) will not resolve the conflict. Many of them are discussed in more detail below.

At this stage having read The Agreement (TFA), The Bill (TFAB) and the associated Second Reading Speech, as well as most of the Independent Verification Group (IVG) material and other recent forestry documents and the recent forested carbon related report (title) by Mackintosh we consider that this peace process will definitely not solve the conflict over forestry in Tasmania.

Please bear in mind, some of our members have been involved in this conflict since 1973. Many since the 1980s. We are aggrieved at the unjust process and what is

worse under the proposed legislation (including the recently proposed WOG amendments) it would continue.

To achieve adequate forest protection and conservation of all the values (biodiversity, scenic landscape, carbon, geodiversity, wilderness, heritage, timber, local amenity and so forth) will require the design of an equitable and inclusive public process and expert assessment. There is significant new knowledge. In our view an expanded reserve system as part of the NRS is justified

Likewise to design a future industry. Forestry affects the whole community but most people have not been consulted in this process. A public consultation process that aims to reform and redesign forestry is essential. We continue to believe that a Commission of Enquiry is needed.

We consider it somewhat unlikely that any process can completely satisfy all stakeholders. Therefore in furthering the three goals of the Statement of Principles - To resolve the conflict over forests in Tasmania, protect native forests, and develop a strong sustainable timber industry - an appreciation of where the public interest lies should be developed and articulated.

It is essential for the LC SC to recognise that this is not a two-sided conflict. There is a vast array of stakeholders, many issues and positions. Most Tasmanian's have an opinion on forestry. This LC SC process will have galvanised various sectors into action.

That said we welcome this process and the opportunity it affords. Thus it is essential that an independent process be developed which allows for proper community consultation and a resolution in the public interest outside of a mere consideration of the TFA Bill 2012.

That is one of the main problems with the current so called 'peace process'. It has pitted the loggers against a select group of conservationists. It pitted forestry against forest conservation. That is not a logical idea. TEA has long taken the position that these two subjects should be dealt with separately, not pitted against each other. Sadly as a result the resultant TFA was a poor negotiation from the start.

A proper process (yet to be developed) should be created, described and published so that people may make comment and have their views, proposals and solutions properly considered.

TEA has openly criticised the Tasmanian forest peace process on several occasions (to Mr Kely and Premier Giddings for example) and we made a number of suggestions (good ones, we thought, of course), almost all of which have been studiously ignored. There is nothing satisfactory about a lack of inclusion and about a manifestly unjust process; it was and remains deeply offensive.

It is surely accepted that there are several inadequacies of the Tasmanian Forest Agreement 2012. TEA would raise the broad issues of lack of genuine forestry reform and avoidance of any strengthening of forest practices legislation as critical failures. Also the avoidance of private land, where over 25% of Tasmania's forests currently and will continue to reside, is highly concerning in a scenario where logging of public land is being curtailed. Private land contains the highest

biodiversity and is the hardest issue to solve. This ‘peace process’ has not even fulfilled its own Statement of Principles. Indeed some evaluation against the SOP should occur now, as a cross check if you like.

Indeed, in its current form, for a variety of reasons, the ‘Tasmanian Forest Agreement 2012’ is extraordinarily unacceptable. TEA would rather see the agreement fail than have this one, despite the reserve proposals, the adequacy of which we discuss further on in this briefing.

Legislative Reform of Forestry

TEA considers legislative and regulatory reform the most important aspect to transform forestry into a sustainable industry. Reform of all legislation where forestry is unreasonably assisted or exempted and/or favoured as well as where the people of Tasmania are unfairly disadvantaged is long overdue. Achieving such reform, mainly of State legislation, may require a Memorandum of Understanding type agreement that ensures reforms are implemented.

In particular a broad right of appeal to forestry operations is crucial to allow disputes over logging operations, regardless of tenure, to be fairly resolved. This has been largely denied Tasmanians for decades.

Legislative reform to ensure adequate and consistent rights of public participation in all land use planning decisions, including forestry activities is urgently and crucially required. This can occur within the current Forest Practices Act or under the planning legislation. Either would be acceptable to TEA.

Legislative reform must be far broader than that constrained by any interpretation of the Tasmanian Forest Agreement 2012, if a durable outcome is to be achieved. The current legislative package is completely unacceptable to TEA.

We consider it inappropriate and unworkable to encourage Forest Stewardship Certification (or any other certification scheme) without first enacting adequate legislative reform over forestry and forest practices. Genuine legislative reform of forestry has long been on the agenda but seemingly governments are not pursuing it.

Legislative and planning reform to level the playing field of forestry is the most equitable avenue to resolve the conflict in a durable way. We consider that governments must provide justice and avenues of redress regarding forestry to ensure the wellbeing of the community.

TEA’s legislative reform proposals represent a core principled position for both a more comprehensive and equitable reform of forestry as well as biodiversity conservation and carbon sequestration. They are contained throughout this submission document.

In considering the Tasmanian Forests Agreement Bill 2012 (No. 30), TEA believes insufficient time has been given to investigate the implications of The Bill.

Climate Change and the Potential Income to Tasmania and Tasmanians from Sinking and Trading Carbon over Tasmania's Forests

The Climate Commission's 2011 report, "The Critical Decade" flags that the conservation of more forests should provide a welcome outcome in terms of mitigating climate change.

It would be advantageous for all owners of forested land to embrace the concept of 'carbon sink forests' as a potential income stream. The Federal Government's Carbon Farming Initiative gives a potential value to forest conservation and the subsequent income flow. Those who conserve their forests as 'carbon sinks' should elicit a positive response when the value to the Tasmanian economy from an alternative income from greater conservation is more clearly understood. This non-contentious initiative should gain significant community approval.

The undertaking by the Federal Government to recognize the conservation reserves created under the TFA can only be enhanced once Clause 4 of the Kyoto Protocol is ratified allowing international trading in 'carbon sink forests', especially those on private land.

A significant and detailed study of the carbon opportunities of Tasmania's forests titled: "Tasmanian Forest Carbon Study by the company Co2 Australia Limited", has been completed, dated 31 July 2012.

Building on that report an analysis of the potential lost opportunity was recently presented by The Australia Institute's Andrew Macintosh and Richard Dennis who state:

"... analysis suggests that, by guaranteeing that harvesting in Tasmania's native forests remains below the levels in the 2000s, the TFA should lead to the Australian government receiving an average of 7.4-8.2 million credits per year over the period 2012-2032. ..."

These carbon benefits do not have to accrue to the Australian government. The revenues could be wholly or partially allocated to Tasmania.

These options were brought to the Tasmanian government's attention in March this year. ... Then, just prior to the signing of the TFA, Premier Lara Giddings announced that the government had engaged consultants, CO2 Australia, to undertake a feasibility study on how it could turn the outcomes from the TFA into carbon credits.

... However, by allowing the industry and green groups to dictate the structure and content of the TFA, the Tasmanian government may have jeopardised its chances of getting any of the available carbon credit benefits.

... if Tasmania takes Commonwealth money to restructure the industry and establish the reserves, it won't be able to "double dip" by also claiming carbon credits. Prime Minister Gillard told the Premier this in July 2011 ...".

Thus recent work by others indicates that over the 20 years to 2032 the returns to the State of Tasmania from Carbon credit offset payments for the forests reserved is in the order of \$7.2 to \$8.4 Billion. At \$7.0 Billion this means \$350 Million per annum as an average. Of course the price of carbon is set to rise in steps meaning the greater part of the value will come later in the period.

TEA considers it to be a huge mistake to forgo the wealth that carbon credits can generate.

It is not just the offsetting. Like the change in the perception of Tasmania following the change in the direction of Hydro after the Gordon below Franklin campaign, opportunities will flow from Tasmania being seen as a climate-friendly community.

Setting aside State Forest as ‘Carbon Sink Forests’ and generating a carbon income from those areas could be forecast and thus able to be included in a genuine, strategic approach in budgetary terms.

It is crucial for The Tasmanian Government to capture the potential for a carbon income from the forest about to be set-aside in reserves.

‘Carbon Sink Forests’ is a concept we have expressed before (such as to the Premier) and we maintain it would provide an almost ironclad guarantee of both income and conservation function, potentially forever – a win, win if ever there was one. No conflict there.

It is highly desirable and equitable that existing private forest reserve owners be also able to benefit from carbon trading. Currently that is not the case. Most but not all private reserves of forest in Tasmania were created under the Regional Forest Agreement and the ongoing management of such areas should have an income stream opportunity consistent with the reservation status.

There is also an important need for owners of smaller areas of private forest in Tasmania to be able to trade the carbon held within their forests. Currently this is difficult but this represents a further opportunity due to the large area of forest under private ownership. This would inevitably inject money into the Tasmanian economy.

TEA considers the past native forest liquidation strategy, as expressed as far back as Helsham to be a monstrous, unmitigated, total failure. There is a strong need to build a new paradigm regarding retention of carbon rather than its liquidation. How that imperative is handled and how the opportunity is developed should be workshopped with the community.

Indeed it may be more beneficial to reduce further the production of timber for the long term benefits of sinking carbon, These are direct and indirect economic benefits as much as a further reinforcement of the positive image of Tasmania as a world leader, among more developed economies, attracting interest among tourists, businesses wishing to relocate and investors.

TEA recommends that all secure forms of Private Forest Reserves should be easily regarded as carbon sinks under The Federal Government’s Carbon Farming Initiative and that securely reserved private land since 1997 (the start of the RFA) qualifies for carbon sink incentive to the owner.

Amend Schedule 1 of the Nature Conservation Act and Schedule 3 of the Forestry Act 1920 to include carbon sequestration as a management objective for forest (and other) reserves.

Private Land - Logging, Conservation And Protection

TEA claims that under the current situation, natural forest on private land, often key habitat of threatened species in Tasmania, is being logged to extinction.

Private land and the complexities and sensitivities that go with private land has been avoided in this 'peace process' and in the TFA and the private land stakeholders, the owners of private forests, have also not been consulted. That is appalling.

The TFGA claimed in February 2011, somewhat opportunistically to the represent private forest owners and stated:

“The “Statement of Principles” (SOP), signed on 14 October 2010, states that the document and its implications do not apply to the State’s privately owned and managed native forest.

Private forest owners in Tasmania acknowledge and agree that change needs to occur in the management of the State’s native forest estate and that a number of parties have to date put in a considerable amount of work to this end.

Private forest owners, along with a number of other groups, will be affected if changes such as those contemplated in the SOP were to be implemented. To date, these groups have not had the opportunity to have an input to the discussion.”

And

“Importantly, private forest owners acknowledge that it is time to update our forestry industry operating model. The historical model is outdated and needs updating and rejuvenating.”

However the SOP stated:

“Private Forests: Encourage and support, but not mandate, private forest owners to: seek assistance for certification; and protect, maintain and enhance high conservation value forests on their properties.”

What the TFGA did not state was that they had been given a letter of comfort regarding the private land issue.

I was talking on the phone with Jim Adams, CEO of Timber Communities Australia (TCA) recently (and who is, interestingly, also Chair of Forest Stewardship Council (FSC) Australia), clarifying whether TCA actually signed the TFA, which he assured me he did on behalf of TCA but he said not in time for it to be included on the 23rd Nov 2012 document itself.

During the conversation I guess we drifted onto other subjects. In any case Mr Adams told me about the “letter of comfort” (his term) that was sent to the TFGA by signatories (to either the SOP or the HOA?) over private land being excluded from the so-called forest 'peace process'. My understanding is that the TFGA was participating in the process at the time, back in 2010.

In any scenario where forestry must exist on a reduced land base, potentially relying on intensification, the lack of firm and specific proposals that address the consequences of this outcome through a strengthening of the Forest Practices Code (FPC), the FPAct, and other legislation is highly unwise and irresponsible. Indeed the TFA and the TFAB suggest that the FPC would be watered down. We

strenuously object to such a terrible and irresponsible outcome, which would exacerbate social conflict and environmental harm.

In Private Forests Tasmania's (PFT) document 'Tasmanian Private Property Wood Flow Estimates 2002 to 2031' see:

<http://www.privateforests.tas.gov.au/files/active/0/woodflowweb.pdf> one can see a planned massive reduction in native forest pulpwood production from 1,700,000 tons in the current period (2007 to 2011) to 550,000 tons in the period 2017 to 2021.

We assert that such a clearly planned reduction in production indicates past unsustainable high levels of cut, a mining out of native forests.

The Government should consign this rapacious PFT plan to the past, if it wants to solve conflict. Indeed we assert such a plan was formulated in a complete policy vacuum and at the whim of the management of PFT.

However all the mechanisms to restart the mining out of private forests are in place and shamefully supported by this process, the Tasmanian Forest Agreement 2012 and the unfortunate, almost inevitable, consequences of conflict flowing from it.

Remnant vegetation on private land is mostly of the highest conservation value. Because of the "not mandate" commitment in the Tasmanian Forests Statement Of Principles To Lead To An Agreement (SOP) of 14th October 2010 regarding private land: ("*Encourage and support, but not mandate, private forest owners to: seek assistance for certification; and protect, maintain and enhance high conservation value forests on their properties.*") we reasonably fear that without adequate Commonwealth funding adequate protection of biodiversity on private land will almost certainly fail, especially considering the Forest Practices Act 1985 states under Section 37. Procedure, &c., of Tribunal:

"(12) The Tribunal shall, in making a determination under this Act, have regard to the financial effect of its determination on the parties to the appeal."

Section 16 of the FPAAct likewise:

"16. Compensation may be payable where application refused

(1) Subject to this section, where—

(a) the Authority has refused to grant an application for a declaration of land as a private timber reserve only on the ground referred to in section 8(2)(d) or (e);

(b) the owner of the land has appealed to the Tribunal against the refusal to grant the application and the appeal has been dismissed; and

(c) timber on the land is thereby made less valuable to the owner of the land by virtue of the fact that he or she is prevented from using the land for timber production— he or she is entitled to compensation for the value of the timber crop growing on that land in accordance with this section."

The above clause/s becomes a fettering reason for not proposing private land to be conserved. TEA considers the clause should be amended to have regard for the fact that in certain cases there is an imperative to conserve crucial elements of biodiversity in the public interest.

We consider it is unreasonable to expect land to be conserved voluntarily, in effect, gifted to the state by private landowners. Some sort of funding is vital and currently, although targets remain to be met there is no funding program for private land conservation, other than a very slow revolving fund at the behest of the Tasmanian Land Conservancy which is trying to pay back Jan Cameron for buying some of Gunns land. So in practical terms there is no fund.

We do acknowledge the PAPL scheme, which provides no payment to landowners for volunteering to conserve their land. This scheme remains important but small in area per annum protected.

Tasmania has good expertise in conserving private land. A fund for doing so would utilise that expertise better.

We also consider it unacceptable that important elements of biodiversity are incrementally destroyed.

The mooted watering down of the Forest Practices Code under the TFA only supports our fears for private land. We deal with the unsatisfactory issue of certification later in this document.

The current RFA conservation target shortfall indicates the Commonwealth should fund new private land conservation program as a high priority. That Commonwealth funding should be forthcoming now. A program should be created to work in conjunction with a tightening of land clearance controls.

Additional public land reservation in Tasmania would probably both increase the value of private forested land and increase pressure to log those lands too. Thus a new Private land program should be designed to better suit landowners' needs and achieve existing and holistic conservation targets. The funding for private land conservation should be managed and controlled by the Commonwealth and implemented by DPIPWE and others.

We consider it reasonable and wise that logging should be permanently excluded from Threatened Vegetation and Under Reserved Vegetation regardless of the proposed use, initially through changes to the PNFEP. Likewise such vegetation should be protected through legislation from both harm and conversion.

TEA does not support the dubious practice of offsets. Someone should demonstrate the fulfilled offset of conserved endangered *Eucalyptus ovata* forest from the Meander Dam's destruction of 40 Ha of *E ovata* forest through inundation. It is entirely unreasonable and illogical to agree to the destruction of Threatened Vegetation on the pretext that some of the remainder somewhere else will be protected. It is a weak, unsustainable position. We claim this does not represent sustainability as per the RMPS definition.

Conservation and protection are not activities that should be regarded as a consequence of development. They are activities that are required to meet our national and international obligations, to meet our public interest obligations, to ensure the survival of the other species besides *Homo sapiens* and to ensure the maintenance of the life protective qualities of the planet. In the event that

conservation and protection activities are not adequate, sustainable development cannot occur and intergenerational equity is denied.

Threatened Species and Biodiversity Protection

This vitally important public interest issue is repeatedly overlooked in Tasmania.

The protection of Threatened Species in native forests currently rests inappropriately in the hands of the self-regulating, industry-funded Forest Practices Authority.

Identified Key fauna habitat of Threatened Species is being logged out. We consider this is a vital public interest matter where unique Australian fauna habitat is diminished, degraded and removed by forestry, aided by the FPA under an RFA, which removes any Commonwealth oversight over forestry.

It is a statistical fact that a massive draw down on the state's life supporting natural forests has and is occurring. They are being converted either to managed forests, a shadow of their former selves where natural forest with high biophysical naturalness (BN) (say BN 3 to 5) is diminished to a low BN (say 1 or 0) of silvicultural regeneration or a very low BN under conversion to artificial tree plantations. The impacts of that unsustainability are many. The area and extent of the diminishment of biophysical naturalness of production forests seems to be overlooked by the FPA in assessing the ecological worth of the managed forest estate.

Most conservation efforts in Tasmania to date have not had a focus on fauna. The Wedge-tailed Eagle nest program is an exception but it can hardly be termed adequate conservation.

There are estimated to be only 80 breeding pairs of Grey Goshawks In Tasmania. All breeding habitat of this unique animal should be conserved. Further, the Government (DPIPWE) should stop shooting them at their Orange Bellied Parrot breeding cages on the NW coast.

Almost 50% of Australia's Spotted-Tailed Quolls live in Tasmania (an estimated 3,500 to 6,000 individual animals); this obligate carnivore needs large natural territories. Its key habitat was inadequately considered in the RFA's Comprehensive Regional Assessment (CRA) and thus by the 1997 RFA. An update occurred during the Independent Verification Group (IVG) process but the significance of that report 7A (see **Appendix B**) was not conveyed in IVG summary reports and not considered in any adjusted reserve design outcome of the Tasmanian Forest Agreement 2012, as consideration of the design was limited to the ENGO reserve proposals.

The Swift Parrot is another example where conservation efforts and the State/Commonwealth recovery program is failing in Tasmania. Why is forestry still knocking down these vital habitats of the Swift Parrot? Why are they being allowed to do so? Where is the peace for the Swift Parrot? An employee of the FPA was retrenched over his attempts to conserve Swift Parrot habitat in Southern Tasmania.

The RFA's mapping of key fauna habitat for threatened species urgently needs to be updated via the DPIPWE Natural Values Atlas. Critical habitats are not identified under the Act.

Recently the State of Tasmania failed to List the Eastern Quoll, an RFA Priority Species and one that scientists have determined has suffered a major decline (50% or so) in the last two decades. In our view this was probably, purely a financial decision.

Tasmania's Threatened Species performance is woeful and its resistance to competence high. If the FPC were watered down because of this Tasmanian Forest Agreement 2012 and set-asides and other provisions relaxed, biodiversity would inevitably suffer further. It is just good fortune that the Tasmanian Government celebrates the extinction of the Thylacine on its letterhead.

The pathetic budget and limited powers of the Threatened Species Unit within DPIPWE must be reviewed and increased as a matter of urgency and we argue it clearly should be given independence from DPIPWE itself. The power to control forestry and the ability to protect Threatened Species across all land uses and tenures is essential. In other words TEA recommends, remove the role of Threatened Species protection from the industry funded Forest Practices Authority (FPA) and provide it to a new, adequately funded, independent Threatened Species Authority. Do not allow more species to become extinct.

We consider that survival of Endangered and Threatened Species is far more important than illusory forestry profit from a failed industry, failed Managed Investment Schemes and declining job levels.

Note that it will be essential to reserve or set aside regrowth forests for biodiversity reasons and reserve design and landscape connectivity purposes as well as for geoconservation and cultural heritage scenic landscape protection purposes.

In **Appendix D** we provide the document 'Tasmanian Threatened Species Prioritisation June 2010' written by the Threatened Species Section of Department of Primary Industries, Parks, Water & Environment (DPIPWE). Funding for the work described in this report was provided by the Tasmanian NRMs (Prioritisation of Threatened Flora and Fauna Recovery Actions for the Tasmanian NRM Regions – Contract No. FF209) and by the Australian Government Department of Environment, Water, Heritage & the Arts (Recovery Plan Implementation in Tasmania 2009).

You may wonder what the relevance of this document to the TFA and the TFA Bill might be. The NRS and other conservation mechanisms are intended to ensure that Endangered and Threatened Species do not become extinct. This document places a priority on the conservation of Listed Species in Tasmania, flora and fauna. In List 1 of the report are all the Listed Species in order: *“Rank indicates the order in which projects should be initiated in order to minimise extinctions.”*

The ranking is from one to 171 with 171 being the lowest priority. TEA has extracted the list from 161 to 171. These seemingly are regarded as the lowest of the very low:

161	<i>Litoria raniformis</i>	<i>Green and Golden Frog</i>
162	<i>Brachionichthys hirsutus</i>	<i>Spotted handfish</i>
163	<i>Galaxiella pedderensis</i>	<i>Pedder Galaxias</i>
164	<i>Beddomeia launcestonensis</i>	<i>Hydrobiid Snail (Cataract Gorge)</i>
165	<i>Haliaeetus leucogaster</i>	<i>White-bellied Sea-Eagle</i>
166	<i>Pseudomys novaehollandiae</i>	<i>New Holland Mouse</i>
167	<i>Sarcophilus harrisii</i>	<i>Tasmanian Devil</i>
168	<i>Niveoscincus palfremani</i>	<i>Pedra Branca Skink</i>
169	<i>Prototroctes maraena</i>	<i>Australian Grayling</i>
170	<i>Galaxiella pusilla</i>	<i>Dwarf Galaxias</i>
171	<i>Dasyurus maculatus maculatus</i>	<i>Spotted-tailed Quoll</i>

So the bottom ten species includes an Eagle, the Tasmanian Devil and the Spotted Tailed Quoll. This in Tasmania, the Thylacine state!

Why is all this relevant? Well the reserve system should address more of the threatened species issues by expanding the priority areas for the threatened species.

Where it involves private land other mechanisms need to be developed as a matter of urgency. The proposals for reservation are not sufficient or adequate. TEA urges you to read the DPIPWE report in **Appendix D**.

Tasmania is still logging habitat for threatened species and endangered vegetation communities.

Threatened Species Legislation is currently weak and largely useless. The TSU is perceived as a rubber stamp for developers.

- Reform and strengthen Threatened Species Legislation to better protect Threatened Species
- Properly and securely protect threatened species especially the key habitats of threatened fauna.
- Properly fund the Threatened Species Act and unit within DPIPWE. Budget increase for TSU for long term monitoring and research.
- Stop logging important habitat of any threatened species. Stop loss of habitat for threatened species and loss of the extent and fragmentation of endangered vegetation communities.
- List all species that would be threatened by the fox now. If the DPIPWE thinks the fox is in Tasmania it must list all those species at risk.
- All Critical habitat areas to be listed under the Act without delay, regardless of land tenure.

- Implement Auditor General’s recommendations·Stop the TSU from writing a lame response.
- Any land that is “inhabited by threatened species” is ‘vulnerable land’ for which a forest practices plan is required to remove any vegetation (subject to safety exemptions etc).
- Under D3.3 of the Forest Practices Code, threatened species to be managed in accordance with procedures agreed between FPA and TSU (attached).
- “Critical habitat” is that which is critical to the survival of a listed species. Currently, critical habitat may be declared and recorded on the land title under s.23 of the TSPA. A land management plan must be prepared for the critical habitat within 90 days of the declaration (s.29(4)).
- The Secretary may enter into a land management agreement regarding the land management plan (s.30). It will be an offence to disturb any threatened species contrary to a land management agreement (s.51(1)(c)).
- An interim protection order can be made to protect a threatened species, even outside their critical habitat.
- Offences only made out under TSPA if person has knowingly taken / disturbed the listed species. This places the onus on TSU to prove knowledge.
- It is not an offence against s.51(1) of the TSPA if a listed species is taken under a certified FPP (s.51(3)) or in the course of authorised dam works.

Recommended amendments

- Remove “knowingly” from offences listed in s.51 of the TSPA.
- Remove exemptions for works authorised by FPP or dam permit – increased resources must be made available to allow a dedicated member with the TSU to assess applications for FPPs. Replace references in Forest Practices Code to “agreed procedures” with requirement for any application affecting threatened species to be assessed by the Conservation Management Branch.
- Significantly increase maximum penalties for breaches of the TSPA, up to 1,000 penalty units.
- Include a broader definition of ‘critical habitat’. For example, s.13 of Nature Conservation Act 1992 (Qld):
 1. Critical habitat is habitat that is essential for the conservation of a viable population of protected wildlife or community of native

wildlife, whether or not special management considerations and protection are required.

2. A critical habitat may include an area of land that is considered essential for the conservation of protected wildlife, even though the area is not presently occupied by the wildlife.
 - Require land management agreements to be entered into in respect of critical habitat to ensure that an offence provision exists to enforce management practices.
 - Insert new s.19(14) of the National Parks and Reserves Management Act 2002 to provide:
 - (14) If a land management agreement in respect of critical habitat under the Threatened Species Protection Act 1995 exists for any reserved land, the provisions of the land management agreement prevail to the extent of any inconsistency with the provisions of a management plan for the area.
 - Include a new S.24A requiring public authorities to have regard to critical habitat in decision-making. For example, s.50 of the Threatened Species Conservation Act 1995 (NSW):
 - A public authority must, on and after publication of a declaration of critical habitat, have regard to the existence of critical habitat:
 - (a) in relation to use of land that it owns or controls that is within or contains critical habitat, or
 - (b) in exercising its functions in relation to land that is within or contains critical habitat.
 - Require maps of critical habitat to be maintained and sent to EPA, TPC, FPA, PWS, NRM, Crown Land Services, all councils with management responsibility for critical habitat, affected landholders and Crown lessees (e.g. s.54 NSW Act). Register of maps should also be available for public inspection.
 - Include a further provision in s.19 of the Forest Practices Act preventing an FPP being certified for forestry activities on land containing critical habitat, other than in exceptional circumstances.

End Land Clearance

We strongly recommend that now is the right time to deal effectively with the issue of ongoing land clearance in Tasmania, thus allowing those potentially affected the opportunity to receive adequate financial recompense from secure private land reservation from a new Commonwealth private land funding package. A new package needs to include threatened fauna, not just vegetation.

Currently land clearance regulations are a disgrace in Tasmania and no Commonwealth funding should flow without this issue being addressed. This is also an EPBC Act matter as land clearance is a threatening activity under EPBC. Forests (for example on VDL's Woolnorth property continue to be cleared (for dairy) and yet are important habitat for species priority Numbers 167 and 171 being the disease free population of *Sarcophilus harrisii*, the Tasmanian Devil and the *Dasyurus maculatus maculatus*, the Spotted-tailed Quoll. The reason for the clearance of forest does not matter; it can be for a subdivision or for a centre pivot irrigator for example but is still the end of the native forest. Land clearance regulations currently do not apply to subdivisions.

We advocate land clearance legislation be enacted as a matter of urgency and that the Forest Practices Authority's PNFEF policy system (see sub-section below) currently in use be upgraded into State legislation.

We see an end to land clearance now as meeting the spirit of the RFA commitment. It would also be a motivating factor to encourage landowners to sign on to a Private Land Reservation Program and would make such a program more effective and economical. We cannot understand why the TFGA is not pushing for this outcome.

Until Tasmania has proper land clearance controls over private land important Threatened Species habitat will continue to be logged.

This latest Tasmanian proposal, the massive extinction logging and clearance program termed Woolnorth by the foreign owned Van Diemens Land Company where some 1,800 Ha of forest is proposed for destruction. The conservation offset proposed does not solve the loss of 1,800 Ha of high conservation value forest. Somehow Evan Rolley, former head of Forestry Tasmania and CEO of the foreign owned Ta Ann is the Project Officer for this Woolnorth Project, a part of the foreign owned Van Diemens Land Company.

Why is it proposed? For dairy expansion! Clearing of land is expensive and in this instance would result in the loss of important Threatened Species habitat for Tasmania's two largest carnivores, the Tasmanian Devil and the Spotted Tailed Quoll. We cannot see why Tasmania (and the Commonwealth) should allow foreign companies to drive species towards extinction so that shareholders can profit.

If there was a Commonwealth funded program that supported the conservation of such critical remnants combined with useful legislated restrictions, Threatened Species could be properly protected.

Strangely Environment Tasmania (ET) has a policy focus on ending land clearing but has gone weak on the issue:

"Land-clearing is the permanent destruction of native forest or vegetation and replacement with non-native species or materials. It is the single greatest threat to our wildlife. In the last decade Tasmania has had the record for the highest rate of land clearing in Australia. 3 Whilst the 'Policy for Maintaining a Permanent Native Forest Estate' is committed to the end of broad-scale clearing of native forest on public land by 2010, and the clearing of native forest on private land by 2015, there is no legislation to back up this policy, nor is there any comprehensive legislation to prevent the clearing of non-forest vegetation."

You will find an older policy document on ending land clearing within ACF too.

Permanent Native Forest Estate Policy

Forest Practices Authority currently controls land clearance. The current arrangements are entirely unsatisfactory and are permitting a plan of extinction logging.

The Permanent Native Forest Estate Policy was developed to give effect to obligations under the RFA. It would be preferable to have a comprehensive State Policy addressing forestry and land clearing to provide a more coordinated statewide approach to this issue. TEA's preference is to replace Permanent Native Forest Estate Policy with legislation and an independent organisation.

Policy is inadequate and allows the ongoing land clearance activity of destroying forest including important habitat of endangered species.

This is currently a policy that is created outside of the State Policies and Projects Act. Operation of this Act in creating policies has not been outstanding at all.

Remove from the Forest Practices Authority the controls over land clearing. Vest such controls within the RMPS such as within the EPA or a specific and properly funded authority to monitor clearance activity.

Overhaul land clearing restrictions and stop this nonsense of giving everyone full advance warning including what they may destroy and the timeframe.

A cessation of the clearance and/or conversion of forest with high conservation values on private and public land.

Threatened Vegetation Communities. Logging seriously depletes the natural values of Threatened Vegetation Communities. TEA recommends no logging in Threatened Vegetation Communities.

The RFA commits to protection of Threatened Vegetation Communities.

Introduce comprehensive legislation stopping land clearance now.

Section 19(1AA) of the Forest Practices Act 1985 provides that an FPP will not be issued for clearing of threatened native vegetation unless:

- The clearing is justified by exceptional circumstances (including safety, bushfire risk, court orders or biosecurity risks); or
- The forestry activities will have an "overall environmental benefit"; or
- The clearing is unlikely to detract substantially from the conservation of the vegetation community; or

- The clearing is unlikely to detract substantially from the surrounding conservation values.

Recommended amendments

- Section 19(1AA) should be amended to preclude an FPP being issued for any threatened native vegetation community other than in exceptional circumstances. We cannot think of any sufficiently deserving exceptional circumstances.

Regional Diversification of Sources of Income

We favour new regional initiatives to create jobs. Tasmania - the most decentralised state of Australia, suffers from its remoteness, its low level of education, its small population and physical size, conservative social attitudes and a lack of diversity in its sources of income.

We are completely opposed to any new regional initiative that relies on native forest extraction or decimation of nature by clearance. We consider that the scale of new developments should be in keeping with the state's size and resource base. The prospect of foreign buy-ups under our weak regulatory environment are very worrisome.

Plantations have substantial impacts and afford few jobs because they are mostly mechanised. The conversion of viable farmland to MIS plantations has seen regional job losses, investors' losses, repeated scheme failures and bankruptcies and this land use fiasco has not been supported by the community. Read: conflict set to continue!

It is essential to look at opportunities in tourism, agriculture and horticulture and to investigate other opportunities for regional Tasmania. New jobs can be fashioned for people leaving the forestry industry but that will take skill and dedication. Tasmania must diversify its sources of income.

Reform of Forestry – a smaller and far more responsible industry

Governments and all stakeholders need to be included in a process to design a responsible and socially acceptable forestry industry that is smaller, more responsible, more caring and more durable. The TFA Bill Schedule 1's 'Vision For Tasmania's Forests' statement is simply not acceptable.

This industry can be reformed but governments must be careful to tightly word any assistance and to design that assistance to achieve a genuine transition rather than to further entrench unacceptable extractive logging activity based on the demise and liquidation of the primary forests of Tasmania.

A substantial and speedy transition significantly reducing the amount of extraction from native forest is strongly supported by TEA. This can be achieved, provided

Commonwealth funding does not once again prop up the extractive, destructive status quo.

Woodchipping of extracted native forest should be concluded in as short a time as possible. Export woodchipping has been a major issue of conflict and contention for the Australian community over four decades.

There cannot be a substantial transition out of native forest liquidation in a situation where industry players have aspirations for ongoing export native forest woodchipping or furnacing forests, as is currently the case.

TEA is highly critical of the ENGO signatories' and their endorsement of export woodchipping and other means of liquidating Tasmania's native forest. It is completely unacceptable. It is against their own policies – shame.

TEA firmly opposes the substitution of any form of biomass burning for export woodchipping of native forests in Tasmania. That would be a recipe for more conflict. We also oppose feeding native forest into a mill for power generation. This is a polluting activity, not widely known but we foreshadow this will become a bigger issue. We do not consider the re-opening of the Triabunna woodchip mill to be a useful solution to forestry's woes.

We especially oppose any sale of public forested land including Forestry Tasmania's (FT's) freehold titles where public funds were sunk into prime quality private land buy-ups for the purpose of establishing plantations.

The oft-claimed public interest benefit of jobs in native forest extraction has virtually completely evaporated. Any misguided strategy to revive such a failed externally funding-dependant industry should be discarded. Think of it as being asked to breath life into an Egyptian mummy.

Sawlog Quota Issues and Other Contract Supply Matters

We have thought long and hard about the vexed quota issue. TEA remains opposed to a legislated Minimum Sawlog Quota. Indeed we advocate that any legislated quota needs to be opposed.

TEA considers there is no point logging out the remaining forest resource asset to reach an unachievable fixed, legislated quota target with no reference to demand, price or productive capacity of the forests. It is an unbelievable and unsustainable, stupid idea from the dim dark ages of the past.

The Gunns' 210,000 m³ of sawlog quotas must be completely surrendered, not partially sold to another party. This is a crucial issue.

We are pleased that Gunns exited native forest logging. We wish to thank Gunns CEO, Greg L'Estrange, for his foresight and courage. He has given the State an opportunity.

Other sawlog quota holders should also be strongly encouraged to surrender their quotas and those surrendered quotas most certainly must not be traded or reallocated. The recent quota surrender process was rorted in our view.

TEA recommends against any reallocation of quotas as proposed by Bryan Green in 2012. Expunging the quotas will require legislative reform and agreement of both the Tasmanian Government and the Upper House regardless and regardless this aspect must occur. Anything else would be a despicable breach of trust.

The Tasmanian Forests Agreement Bill 2012 (No. 30) seeks to enshrine an ongoing quota system, which has already been shown to have failed. It adjusts the quota downwards and that is welcomed But we forecast that if passed, the proposed reduced quota minimum of 137,000 Cu M of Cat 1 and 3 Sawlogs would again fail and would again require more legislative amendment and would generate ongoing conflict.

TEA considers that a legislated minimum quota remains a recipe for more liquidation of remaining unprotected natural forests including important habitat of threatened species and thus would be a threatening process to species survival - more unsustainability. TEA does not support the proposed 137,000 cu metres minimum annual supply of Cat 1 and 3 sawlog extracted off State Forest.

We are aware that under the Tasmanian Native Forest High Quality Sawlog Contract Voluntary Buyback Program that the amount of applications would allow the quota to be reduced to a level significantly below 137,000 cu metres to something in the order of 120,000 cu metres. If a quota system has to be in place then it is reasonable that the lower figure which has been supported voluntarily through buy back applications is not rorted.

But the real issue for TEA is that as far as we are aware the buyback has been quite successful despite discouragement by industry. The result as we understand it is that buybacks have/are occurring which brings the quota potentially down to 120,000 cu metres as opposed to 137,000 cu metres. What has happened to achieving the 120,000 cu metres quota when the buybacks have been, or are being, paid for by Governments? That would have allowed the ENGO 572,000 reserve ask to be fulfilled and with a resultant lessening of conflict.

Forest sawlog quotas have been surrendered and a buyback scheme has paid to quash quotas. Gunns Limited relinquished most of its sawlog quotas and was paid. But instead of some genuine industry transition the issue of the sawlog quotas has become some ridiculous co-optive bargaining chip, which has already been paid out with public money.

Public money has been used to assist an industry in strife but the legislated quota which has been paid out has not been adjusted commensurate with the applications/payouts.

The notion that in the FPA Bill legislation there is an option to revert to the 300,000 Cu metres volume is very offensive and we urge such double dipping be eliminated.

TEA strongly recommends the removal of the minimum Crown Sawlog Quota from the State legislation including the new The Tasmanian Forests Agreement Bill 2012 (No. 30), as no public interest benefit accrues from this provision.

Indeed we claim the Tasmanian sawlog quota system is in itself obviously an undue, arcane restriction to achieving a flexible, durable, vibrant industry.

However if a legislated quota system was to be unadvisedly retained, crucially, it must surely revolve around a maximum level of cut, not a minimum cut. A minimum cut can always be exceeded and thus becomes a farce and a recipe for the liquidation of primary forest. Secondly, any quota should not refer to actual volumes of wood but rather use a units system where the wood volume can be adjusted but where respective entitlements of quota holders can be preserved even when the forested wood resource almost inevitably diminishes.

TEA considers the quota system is almost certainly, directly against a determination of the uses of production forest for the best and highest return. It is a sheltered workshop situation.

We recommend the end of the Cat 1 and 3 sawlog quota system and for any sale of Crown Wood to become more open where anyone can purchase a sawlog for example, perhaps a bit like E-bay or some other tender system.

The unduly restrictive, legislated Concession system was abandoned some time ago as reforms under the FFIS and now the sawlog quota system has reached its use-by-date too.

The only problem in removing the quota system entirely would be the possibility of impacts on the current beneficiaries especially in this time of economic stress. Perhaps there should be a period of transition or further transitional assistance to the native forest sawmilling sector, we do not have the detailed answers. But we are firmly convinced that rather than simply adjusting the quota from 300,000 cu metres down to a minimum of 137,000 cu metres we would be better off without the quotas altogether.

Tasmania could better control the economics of the State owned production forest estate and better maximise the return to the State from the forest timber asset, regardless of what form the return might take, without the quota system.

In short the absence of a quotas would leave the State with more flexibility and less long term obligation for which it, in essence, is creating a subsidised workshop climate. Just imagine if you had a legislated level of supply of Tasmanian Scallops and the beds run dry.

It is noted that the IVG resource studies were critical of the amount of wood FT contracted to supply Ta Ann and considered this to be a gross sustainability problem. The question is whether the contract negotiation was in the public interest, whether the contracts are legitimate and so on. Such matters should be scrutinised.

TEA is having trouble finding the final Peeler Wood volume, which seemingly has been agreed as apart of the agreement, other than in the media. We believe it is

intended to reduce the Ta Ann contract volume significantly and provide the foreign owned corporation with a very substantial compensation package.

We have long considered that Forestry Tasmania was over cutting the forests. A quick drive into the forests shows the sorry situation. The proposed resort to an expansion of cable logging (obviously, including on very steep and erodible soils) is a virtual admission of increased environmental pressure outside of the reserve estate for the purpose of filling quotas. We claim there is no actual public interest benefit in doing forestry in sensitive environments.

We can provide ample evidence of the destructive impact of cable logging and invite the Legislative Council Select Committee to view a slide show of forestry activity including cable logging. We see a slide show as being more achievable time wise than a field trip. That said we would be prepared to undertake a field trip provided we had sufficient advance notice.

Without reforms that actually go beyond this TFA Bill (and its WOG amendment) the mining out of the remaining HCV forest on State Forest and the eventual collapse of the remaining and reduced forestry industry is we fear inevitable. It is just a matter of time.

TEA does not support the mining out of remaining natural forests of Tasmania under the guise of supplying a sawlog quota when everyone knows it is all about woodchipping, not about jobs, not about, sustainability, not about sawlogs – just woodchipping.

TEA recommends the Deletion of Section.22AA of the Forestry Act 1920.

Forestry Jobs

Since the 1997 RFA the paper mill at Burnie has closed, the paper mill at Wesley Vale has closed, the Triabunna Wood Chip Mill has closed and several sawmills including the local Gunns one at Deloraine have all gone. Recently Norske Skogg Mill at Boyer needed an urgent injection of subsidy funding to stay alive.

So as a conservation and environment ENGO unrepresented in this process, we consider that we have not caused the job losses at all. Indeed there has been a steady decline of jobs in forestry over a period of several decades, ever since Export Woodchipping started.

Indeed the jobs issue is well documented and the steady decline has occurred regardless of the gross volumes of wood exported and otherwise processed

Since native forest woodchipping began in the 1970s, forestry industry employment has steadily declined and continued to fall, even when levels of woodchip extraction were massively and unsustainably increased, such as under the RFA in 1997. Although in 1997, at the start of the RFA, forestry jobs were around 6,000, now in 2012 they stand at a claimed less than 1,000, such has been the dubious outcome of the Tasmanian Regional Forest Agreement. Even if this latest unconfirmed employment figure is somewhat low, the fact is that it is highly unlikely to be above

2,000 people employed. Industry analysts are clinging to a 2011 analysis, which is now completely out of date as several large forestry enterprises have shed jobs, or folded during 2012.

See TEA's table below and for more recent statistics see Schirmer's CRC studies.

<u>Wood Products & Forestry Industry Employment Decline 1986 to 2012</u>			
Year	Forestry Industry Employment (direct)	Forestry Sector percent of total employment	Source
1986	8,900	4.9%	FFIS 1991
1990	8,400	4.3%	FFIS 1991
1996	6,558	2.5%	RFA 1997
2001	3,850	1.9%	Examiner 7-4-2001 derived from p27 of Forestry Tasmania 1998-99 Annual Report.
2006	5,916	2.6%	Schirmer CRC forestry
2008	6,463	2.7%	Schirmer CRC forestry
2010	4,343	1.9%	Schirmer CRC forestry and Tas Govt Economic Forestry Sector Profile
2011	3,260	1.4%	Schirmer CRC forestry
2012	975	0.42%	The Australia Institute

TEA acknowledges there may be some variability in the figures derived from differing sources but the inexorable trend is extremely clear and the jobs decline is, we argue, something that should be considered in the land use policy deliberation.

Note that in the TFA, an obscure arcane definition of the "*Tasmanian Forestry Industry*" has been developed. The TFA states in the Definitions section:

"Tasmanian forestry industry for the purposes of this agreement means those businesses and workers that depend on the growing, managing, harvesting, transporting or processing of trees or wood products from state-owned native forests and plantations in Tasmania."

At no stage can we accept this definition. We can imagine the ABS accepting and believe the LC should not accept it either as it absurdly limits consideration of the industry to that based on "*state-owned native forests and plantations in Tasmania*".

Comparing the employment of forestry to other Tasmanian industries and sectors is instructional. For example tourism Employment (2007-08) was 13,200 people, or 5.6% of Tasmanian employment. (source: Tasmanian Economic Development Plan)

Export Woodchipping of Native Forests

Since the 1997 RFA, when woodchipping was deregulated, export woodchipping increased from less than 3 million tons to about 5.5 million tons annually, before declining, post Global Financial Crisis (GFC). The RFA deregulated woodchipping so twice the area of forest was logged and woodchipping doubled with no increase in sawn timber and 42% less jobs. More jobs lost while more forest is destroyed. It is a fact that during the RFA sawlogs were woodchipped and the whole situation drove recovery rates from sawlogs down.

TEA remains opposed to export woodchipping and is appalled at the Tasmanian Forest Agreement 2012's proposition for a continuation of export woodchipping.

Rather we favour a smaller industry where only viable regrowth forests, outside Threatened Species habitat, are lightly selectively logged (the old way) and that plantations are thinned and utilised for higher values. Gunns has done some of this already. On the best sites, former farmland, which was purchased by MIS schemes, trees are growing, but what was the cost to the community? This is not a simple issue.

Forest Practices Act

The Forest Practices Act is poor legislation with virtually no public interest functions. Does not provide for mediation. Currently the FPA regulator also proceeds with an amount of policy work and writes political type spin.

TEA recommends ·As a preference either abolish the Forest Practices Act or overhaul and reform the Forest Practices Act. Remove entirely all the undemocratic aspects from the FP Act. Create transparency and equality within forestry systems. Include a public process that considers all the existing arrangements under that Act and canvasses modern alternatives and solutions. Build equitable and viable mediation provisions into all Acts where land use planning is conducted over forestry.

Recommended amendments

- Reform Forest Practices Act to be similar to the Water and Sewerage Industry Act:
- FPA to have either a policy setting or regulatory function. But not both.
- Applications for forestry made to planning authority, but must be referred to FPA (or another body)

- FPA can veto proposal, or recommend approval with or without conditions. Planning authority cannot approve if FPA veto, but can refuse even if FPA recommend approval.
- Decisions subject to appeal to RMPAT.
- Forestry activities to be included in LUPAA / planning schemes.
- Remove exemptions from LUPAA for forestry activities in State forests and PTRs.
- Develop State policies for forestry / plantations and land clearing and amend planning schemes to implement policy. Can also be supported by a planning directive setting out relevant assessment criteria for forestry applications.
- Including an independent public process that considers all the existing arrangements under that Act.
- The objectives of the Act are not defined and in any case are inadequate. For example even “sustainable management” is not defined. (discussed elsewhere)
- Introduce rights of appeal over forestry operations regardless of land tenure. This is a crucial reform which we discuss elsewhere.
- Forestry operations should be Discretionary and thus advertised and subject to appeal rights preferably within the FPA system or LUPAA or similar body such as RMPAT but it would be acceptable to have appeal rights under the Forest Practices Act.
- Section 19(1AA) of the Forest Practices Act allows the FPA to authorise clearing and conversion of threatened native vegetation communities in various circumstances. This should be amended to prevent clearing and conversion in all but emergency circumstances.
- Insert provisions in the Forest Practices Act 1985 requiring the FPA to maintain a register of FPPs and supporting documents (subject to trade secret provisions), and to allow the public to search the register and obtain copies of the documents (see ss.22 and 23 of EMPCA for a model of this).
- Insert provisions requiring draft FPPs, plans and supporting documents to be available for inspection during a 14 day consultation period (as per s.57(4) of LUPAA), or on FPA’s website.
- In the event of continuation of the FPA and the Forest Practices Act introduce appeal rights within that legislation, both for private and public land.

- Ensure that any person may conduct appeals against a FPP. ·Allow a reasonable time for appeals.
- Under suggested amendments, FPPs will be treated as a schedule to a permit and will be publicly available pursuant to LUPAA.
- Legislate accessibility to obtain copies of Forest Practices Plans and associated documents.
- Make all FPPs public documents. Publish entire FPPs on a website.
- Ensure that the documents can be ordered simply and without wrangle or animus. ·
- All associated scientific/specialist reports to be a part of that right of access.

The Forest Practices Authority is a regulatory failure that is one of the important reasons for the ongoing conflict over forestry in Tasmania. Recognition of the failure of the FPA is vital to move forward. This is not an independent organisation but rather an industry encouragement body. Indeed recently it has become a Government forestry consultancy company. We are not suggesting Tasmania should not do such things but let's be clear about who is doing what and how probity and transparency and justice are achieved. Otherwise conflict will not be solved.

FPA currently determines funding priorities for biodiversity research and deliberates over the nature of the research. Accordingly the FPA controls the degree to which research may expose forestry operations as being unsustainable.

Forest Practices Regulations

Relatively recent amendments to the Forest Practices Regulations shifted responsibility for land clearing associated with development back to councils. This was opposed only on the basis that it is premature – councils do not currently have the resources to perform that role.

However, if an independent, adequately funded body was established to monitor clearance, we would strongly support land-clearing proposals being subject to assessment by that body.

Forest Practices Tribunal

Forest Practices Tribunal is undemocratic and unnecessary. TEA recommends:

- Abolish the Forest Practices Tribunal by repealing this part of the Act.
- Use instead the RMPAT under the RMPS and LUPAA.

- Alternatively, establish a land and environment court with rights of appeal to a higher court.
- In 2012 the Building Appeals Board was moved to the RMPAT and this is a viable option for the FPT too, especially as the registrar is already handling FPT work.

Private Timber Reserves

Industrial forestry has Private Timber Reserves (PTR) to remove land permanently and entirely from the current LG planning schemes and that has occurred to the tune of some 500,000 Ha of private forested land in Tasmania.

These PTRs also provide for virtually no rights of objection other than at the time of application for a PTR. Even at the PTR application stage (which is advertised) most people have no rights of objection to a PTR, unless one is within 100 metres of the PTR boundary, which may be set back within the property in question.

Private Forests Tasmania - the private forestry encouragement agency, manages such PTR applications with the burden of proof on the objector under the Forest Practices Act 1985. A LG Council can object if there is community pressure. But Councils could hardly exercise this avenue with Forestry that it is a 'Permitted Use'. Thus without a 'Discretionary Use' status of Forestry in Planning Schemes, the arguments against an application for a PTR are likely to be discarded by the Forest Practices Tribunal who hears such appeals. That is a further injustice.

The point we want to make is that the PTR mechanism allows for dedicated forestry on private land in perpetuity, seemingly a secure restrictive pro-development covenant on title. Thus in a situation where a substantial amount of the private forest is under PTR why must the remainder also be beyond the appeal of the potentially affected citizen?

Private Timber Reserves remove rights from the community and cause unsolvable problems and disadvantage especially for people living near them. This is an area of conflict that needs a resolution.

- Abolish Private Timber Reserves completely by repealing this part of the FP Act.
- Reform unjust aspects regarding Private Timber Reserves.
- Introduce full rights of objection and appeal against the application for and declaration of Private Timber Reserves.
- This PTR mechanism, ostensibly for protecting unfettered forestry on private land, would be more suitably subsumed into a proper statewide land planning process and strategy including a forestry policy.
- Place a moratorium on PTRs whilst new arrangements are established.

- No more Private Timber Reserves under the current legislation and wind down and finally remove those existing.
- Develop sustainability criteria for PTRs. Remove the ‘every last tree’ approach.
- Revise the criteria and rewrite the PFT manual for assessing applications for Private Timber Reserves so that there is a more holistic assessment of private land where the owner intends to conduct in perpetuity forestry.
- Remove PFT from the role of processing applications. Simply it is a conflict of interest to be an encouragement agency and then to be assessing applications with any rigour.
- Re-establish the public register of PTRs. (PFT ripped it up)
- Extend the establishment criteria to include consideration of catchment scale impacts and the broader landscape land use implications including for threatened species and on adjacent lands.
- Convert all existing PTRs to a standard land use zone in planning schemes (e.g. forest resource zone).
- The name ‘Private Timber Reserves’ leads to confusion because there are also Private Forest Reserves. Rename Private Timber Reserves and Stop using the term “reserve” in the name. Use instead a name such as “Private Timber Resource Area” or “Private Timber Forestry Area”. Aim to remove any confusion with secure conservation reserves.

Forest Practices Code 2000

The first FPC we have found was dated 1980. It was produced by the Forestry Commission. Indeed the FPB and then the FPA all came out of the Forestry Commission as did the current CFPO, Mr Wilkinson.

The first FPC under the Forest Practices Act 1985 was in 1987. There was another version in 1993 and then the current one in 2000. There was a review process started in about 2006/7 but in 2010 that process was stalled by the Minister pending the outcome of the ‘peace process’, which started as a Round table proposal because the CMFEU wanted to gain funding for workers who were losing their jobs, post GFC.

The latest review of the FPC related to the Biodiversity provisions in the main but our understanding is that the Code has actually been updated but not released as a draft for comment. We must be clear we consider that an updating of the FPC to be of vital importance.

The current TFA proposal is to render the FPC an instrument of the TFA. We completely oppose that proposition as a recipe for conflict and environmental harm.

We should also make it clear we consider that there are severe shortcomings with the FPC 2000, which must be addressed if community conflict is to be addressed and resolved in regards to forestry operations.

Current review of the Forest Practices Code lacks proper process and transparency. There is a massive bias towards industry with minimal, sham-like public consultation with the general community to the disadvantage of the community.

Reform the current process of the FPA regarding a new Forest Practices Code with appeal rights.

Vastly improve enforcement in any new Code. The self-regulatory approach has failed to resolve conflict.

It may be more 'transparent' to require a draft Forest Practices Code to be assessed by the Tasmanian Planning Commission (as for management plans for reserved land under the National Parks and Reserves Management Act 2002). However, unless and until the Forest Practices Act is brought within the RMPS, it is unlikely that the Commission would accept that role.

Good Neighbour Charter

The Good Neighbour Charter is a flimsy behavioural charter that is inadequate to deal with the community concerns, is not solving conflict over forests and has no obligations.

Preferred option is to replace the Good Neighbour Charter with good accountable legislative and regulatory constraint. Overhaul the 'Good Neighbour Charter', including 'will' statements.

- Consider the neighbourhood not just the adjoining neighbours.
- As a first step, incorporate all commitments under the Good Neighbour Charter in the Forest Practices Code to improve accountability.
- Notification requirements and access to documents are addressed in other sections of this submission paper.

Chemical Pollution

Chemical regime of forestry plantations is unacceptable to the community. Aerial Spraying - Code of Practice inadequate

- The preferable solution is to ban Aerial Spraying in forestry plantations and in native forest.
- Reduced reliance on chemical spraying and especially on aerial spraying.
- Introduce stringent controls including adequate notice provisions. [People currently often get only 24 hours notice.]

- Establish substantial setbacks from roads, dwellings and other habitation and any sensitive use as well as streams and water tanks and storages.
- Rights of objection and rights to be advised for people in the vicinity, say up to 2 kms to aerial spraying operations.
- Cessation of the use of triazine chemicals and any other recognised carcinogenic chemicals
- Ban triazine and other persistent herbicides completely. Is necessary for community health.

Currently Agricultural and Veterinary Chemicals (Control of Use) Act provides:

- Anyone listed in the Aerial Spraying Code of Practice is to be notified (includes schools within 1km and residences within 100m)
- Owners who have resided within 1km of the area being sprayed for at least 12 months can seek a direction from the Secretary that they be notified of spraying events.
- Tenants who have resided on property being sprayed for at least 12 months can seek a similar direction.
- The Aerial Spraying Code does not specify when notice is to be given. Notice given pursuant to a direction of the Secretary is to be in accordance with the direction
- The Aerial Spraying Code establishes the following buffer areas:
 - 1km of school during school hours
 - 100m of dwelling or boundary of residential / commercial zone
 - Over waterways

Recommended amendments

- Amend s.31 of the Agvet (Control of Use) Act 1995 to require notice be given to all landowners and occupants within prescribed distance, regardless of length of residence and without need to seek direction from Secretary.
- Establish register for other interested parties to be informed (e.g. people with health concerns, organic farming enterprises). The Guidelines for Planned Burning 2009 is an example of this approach.
- Amend r.9 of the Agvet (Control of Use) Regulations 1996 to extend prescribed distance to 2km and introduce minimum and maximum notice periods (e.g. not less than 48 hours, not more than 14 days).

- Amend Schedule 5 of the Agvet (Control of Use) Act 1995 to require applications for spraying permits to be advertised and an opportunity to object.
- Amend Schedule 3 of the Agvet (Aerial Spraying) Order 1996 to include triazine chemicals in list of chemicals not to be aerially sprayed.
- Amend the Aerial Spraying Code to include stricter setbacks from various boundaries and sensitive uses.

Heritage – Forestry Exemptions

Forestry has exemptions from Heritage Act.

TEA recommends removing forestry exemptions from Heritage Act whilst the new Bill is currently before the Legislative Council.

- The definition of ‘works’ under the Historic Cultural Heritage Act 1995 includes any removal, destruction or lopping of trees “otherwise than in accordance with forest practices as defined in the Forest Practices Act 1985”

Recommended amendments:

- Amend the definition of works to remove the exclusion of removal, destruction or lopping of trees in accordance with a FPP (that is, delete everything from “otherwise” in (d) of the definition).

Scenic and Cultural Heritage Landscapes

Forestry often degrades the visual amenity of an area. Whilst this means different things to different people the fact is that in almost all 29 Municipalities of Tasmania, regardless of what visual or heritage issue concerns you over forestry developments, one can do nothing about it through any formal LUPAA process. Citizens may lobby the industry or the landowner if one finds out in time but are given no power at all, no rights whatsoever.

No statewide study into community opinion regarding scenic landscapes has occurred in Tasmania as far as we are aware. The FPA has control of landscape assessment regarding forestry but their long serving expert on landscape, Bruce Chetwynd retired in 2012 and has not been replaced (FPA News 2012). Scenic assessment and planning for forestry is now left to the FPOs writing the FPP and in our view those people are inadequately trained to deal successfully with landscape matters. A most unfortunate situation. Forestry scars landscapes and such damage results in conflict and anger. It means that forestry is most unlikely to get a social license.

Those scars are long lasting and in many instances virtually irretrievable. Such scars leave an almost indelible impression upon visitors to Tasmania the backbone of our tourism industry. Almost everyone holds disdain for a scarred landscape. A large amount of change and scarring has been wrought on the precious landscapes of Tasmania under the RFA.

Landscape protection policy, laws and strategies are completely inadequate in Tasmania. TEA is not highly expert in Cultural Heritage Landscape assessment but the writer is trained as a professional photographer and thus has a well tuned eye for Aesthetic Naturalness and a scarred and degraded view.

The historical landscape consultant, Gwenda Sheridan has, at our request, made some suggestions and comments to TEA at our request that may assist:

“The U.K. response by its government agencies has been to divide the entirety of England and Scotland into 159 ‘Character areas’ (at the national scale) and Scotland into 21 units - based on natural heritage features. The methodology employed is called Landscape Character Assessment, (LCA). It is underpinned by a number of government agencies such as Scottish Natural Heritage, The Countryside Agency, Historic Scotland and English Heritage. Similar programmes are being put into place for Wales and Ireland. The Assessment takes place at broad, regional and local levels. This grew out of earlier work by the Countryside Commission’s earlier work in the 1990s. The method can be applied at local, regional or at the national level. This is a methodology that takes an holistic direction. LCA aims to identify what makes a place distinctive, it provides a framework for assessing, then better managing the landscape, land use and place - from a very local neighbourhood perspective to a much broader area. The Forestry Commission of both England and Scotland is assessed under this methodology. Forests such as those in Tasmania would be called Ancient forests. The community is involved; there are overlays called Historic Landscape Characterisation and Quality of Life Assessment. Meanwhile other Australian states, the United States and Europe have all developed policy on cultural landscapes. Tasmania’s non-compliance in this respect of its heritage after ten years of reviews, reports and analyses, stands in stark contrast to what is happening elsewhere.

Tasmania has some of the most extant examples of cultural nineteenth century evolved landscape in Australia; Their patterns are quite unique and will not be found exactly as they appear here, elsewhere in Australia. They are quintessentially Tasmanian and yet they reflect as well a time and a place that was landscape patterning in England; the combination of landed rural estates with pastoral and agricultural land marked by enclosure. A repetitive pattern to Tasmanian evolved landscape lies in early grant patterns and in the juxtaposition of the ordered, structured, more formal type landscape and its juxtaposed “wild” forested counterpart which forms the framework to what is seen and experienced, one a foil to the other. This has been pointed out in published material, delivered consistently at public addresses across time.

Very relevant to this submission is the Historic Landscape Characterisation overlay to LCA carried out in partnership with local government. English Heritage describes this ‘as a powerful tool that provides a framework for broadening our understanding of the whole landscape and contributes to decisions affecting tomorrow’s landscape,’ [Sheridan’s emphasis]. English Heritage further noted that England’s rural landscape was ‘one of the jewels of our national heritage.’ It is therefore not too much of a quantum leap to suggest that Tasmania’s rural

landscape is also one of the jewels in Australia's national heritage. One however not yet recognised as such or adequately protected in legislation. Additional comments from English Heritage were that,

'it is too easily overlooked when we concentrate on individual buildings or archaeological monuments and its historic dimension can be too easily missed if landscape is admired as beautiful scenery.'

The English Historic Landscape Characterisation is in line with the European Landscape Convention, which came into force in 11 ratifying countries on 4 March 2004. It was signed by the U.K. in February 2006 and ratified on 21 November 2006. It came into force on 1 March 2007. It seems most curious on the basis of these international directives and their implementation that Sheridan was informed in November 2006, that 'cultural landscape' was not a 'useful' term.

Time and place has moved well beyond the 'warm and fuzzy' and the 'too hard basket' as being excuses for not assessing landscape values. Elsewhere they are recognised, are incorporated into policy, into practical working planning documents, and into legislation."

I can remember in 1971 visiting a designated scenic area in southern England. It was only small area along a country roadside. It was a special experience. So in more civilised places on the planet scenic cultural heritage landscapes have been a focus of conservation for over 40 years and still Tasmania seemingly cannot deal with this issue, and all the while year after year another scenically important landscape is lost scarred or degraded. It does not have to be that way of course.

In the PTR 1698 Appeal landscape scarring and conservation were raised and the FPA's Mr Chetwynd gave evidence that the current FPS Visual Management system was out of date and needed revision.

TEA argues we need much, much more than simply revising the FPA's processes in regards to this matter of State importance.

Tasmania's 29 LG Councils should recognise that the cultural heritage values and scenic amenity of Tasmania are important assets that contribute greatly to the community's economic life and general wellbeing, and form the cornerstone of the State's important tourism industry, which employs several times more people than forestry. It is totally unacceptable that new planning schemes are developed without important world-class scenic landscapes being protected. The current measures being put in place will in most cases be insufficient.

In Meander Valley Council area several years ago the company Inspiring Place was contracted to do a scenic management study. It is worth considering the potential of such work in the broader context. We include the document in **Appendix G**. We do not claim it to be perfect but what we do know is that the study which cost several tens of thousands of dollars was effectively scrapped by conservative elements on Council who could not see that this may be more important than forestry, well rather they could see it but took the strategic step of burying this important matter. The conflict continued. The Municipality was further scarred; the economic opportunity of the retention of landscape quality was not understood.

The Tasmanian landscape is of great economic value to Tasmania. It is an intrinsic part of the Tasmanian brand. TEA has some suggestions over this important matter:

- Acknowledge current protection of landscapes is completely inadequate.
- Quantify the economic value of the outstanding Tasmanian landscape.
- Encourage and fund more highly trained human resources to manage and protect the landscape of Tasmania.
- Identify and protect the outstanding Tasmanian landscapes as an urgent regional priority.
- Comprehensively assess Tasmania's landscapes and determine the values held by the community.
- Establish a Government regulatory and assessment authority to oversee the protection and management of scenic landscape in Tasmania.
- Completely remove the assessment and control of the protection of landscapes from the Forest Practices Authority.
- Institute independent scenic assessment protection for all areas that are subject to logging operations.
- End the farce where in many instances the company doing the logging is writing the forest practices plan and conducting scenic landscape assessment.
- Introduce Cultural Heritage Landscape legislation without delay, using UK legislation as the basis.
- Achieve secure scenic protection for landscapes. This would include comprehensive protection of important landscapes, places on the National Estate for their scenic significance, scenic viewpoints and other views of relevance to tourism, local communities and those of heritage interest and significance.
- The proposed restructure to have FPA, as a referral agency will allow planning authorities to be ultimately responsible for accepting or rejecting landscape assessment provided by the applicant.
- Any State Policy on forestry / land clearing should include landscape protection objectives in line with the European Landscape Convention commitment to *“protect, manage and plan for landscape values across all landscapes, rural and urban, large and small, coastal and inland, protected or degraded.”*
- A RMPS Planning Directive could include clear guidance in a Landscape Protection schedule regarding the values to be protected, appropriate assessment criteria and methodologies etc.

- Introduce legislated protection of cultural heritage landscapes. Ensure every local government planning scheme is protecting the outstanding regional and local landscapes from insensitive development.

RMPS and Regional Planning

Current regional planning initiative needs overhaul. If regional planning is to proceed, institute regional planning authorities and include rights of appeal at the draft stage and before the interim planning scheme stage.

Otherwise a denial of natural justice situation is overtly created via legislation that is not in the public interest.

Recommended amendments

- The simplest way to achieve this reform would be to delete Division 1A of LUPAA, other than the provisions regarding regional land use strategies.
- A new provision could be inserted providing for regional planning authorities to be established by the Minister, with its composition to be determined in the Minister's order (as for combined planning authorities under s.16 of the Major Infrastructure Developments Act)
- The definition of "planning authority" could then be amended to include regional planning authorities
- Amend s.22(6) to include the three regional districts in the area for which a planning scheme can be developed.
- Amend ss.20 and 32 to require a planning scheme to be consistent with any regional land use strategy.

These amendments would allow regional planning authorities to develop planning schemes under the normal provisions, requiring draft schemes to be available for comment and determination by the Planning Commission.

Precautionary Principle not included in RMPS objectives. This principle is currently limited to EMPCA.

- Amend the objectives of the RMPS to include - To adopt a precautionary approach when assessing risks and impacts in relation to resource management decisions.

Common Key Elements Template (CKET) requires another overhaul.

- This is the de facto statewide model planning scheme and constrains all planning schemes via Planning Directive No 1. It gives forestry permitted use classification in the rural zones, thus the beleaguered people of Tasmania have no redress to protect themselves from forestry.

Currently onus of proof for all planning applications currently on the appellant. This is not a recipe for sustainability. TEA advocates placing the onus of proof on the developer. Requires legislative amendment. Provides greater possibility of achieving sustainability.

- The criteria in all planning schemes should be framed in terms requiring the developer to “satisfy Council” or to “demonstrate” – this places an onus on the applicant to provide evidence that a proposed development will not have adverse impacts / that impacts will be managed.
- On appeal, the Tribunal will also be required to “be satisfied” of particular criteria, therefore appellants will have less of a burden. It is unavoidable that an appellant will need to provide some evidence to counter any evidence that the developer puts forward to “demonstrate” likely outcomes.

RMPS, LUPAA and Planning Schemes and the FPA – Appeal Rights or Conflict?

Forestry is conducted under Forest Practices Plans under the Forest Practices Act and must comply with the Forest Practices Code. Forestry land use is also regulated under the Land Use Planning Appeals Act LUPAA and local government planning schemes to varying extents. This shemuzzle is a major recipe for conflict and TEA asserts must be a priority for resolution.

A Forest Practices Plan (FPP) must ostensibly be consistent with the Forest Practices Code (FPC). But ‘The Code’ is not a very precise enforceable document giving a litany of weaselling ‘ifs’, ‘buts’, ‘shoulds’ and ‘maybes’. Often the FPC is not based on science. TEA claims it often does not protect the public and it does not protect neighbours’ amenity. Our claim that it allows environmental harm is easily supported.

Under the Forest Practices Act 1985 there is an unjust situation where there are no appeal rights for citizens against a Forest Practices Plan (unless you are an aggrieved logger) and that ordinary people have no right of input into a Forest Practices Plan. Usually a neighbour or other person won’t even know that one is written. Until it is too late that is, when it is finalised and beyond negotiation. That is the way that unsustainable system is designed and we argue the LG Councils have a duty of care to put in place mechanisms that address that gross shortcoming now. It is important that LG Councils and the TPC recognise this unjust situation. There are practically no conflict resolution mechanisms in the FP Act over FPPs and no mediation provisions in the Act either.

LG Councils must be aware that the forestry notification system called the “Good Neighbour Charter” has no appeal rights either. It just looks like consultation but is, in effect, a publicity sham. It is no substitute for a proper newspaper notification

system such as could easily be included with a Discretionary status in the new Planning Schemes.

When a Forest Practices Plan is created under the Forest Practices Act there appears no obligation to a person requesting such a plan to be provided a copy of the plan. Such plans are often complex and detailed and whilst most forestry companies will show you a plan on the bonnet of a car (usually only after repeated requests) they mostly seek to reduce your knowledge of their operation by withholding a copy of the plan and denying such a request. This unfortunate and scurrilous behaviour is just another of the many good reasons for making forestry a Discretionary Use in the Rural Zone of LG Planning Schemes and of course by adjusting the CKET to allow for that status. If one writes to the Forest Practices Authority (FPA) one will often be sent off to talk with the developer thus there is no third party dispute resolution at all. Indeed often their unjust system generates a dispute. Generally the FPA will not give you a copy of the FPP either; indeed it will claim it does not have one, but merely the cover sheet and their own reports on the matter. All of this is completely unacceptable and intolerable in 2013. LG Councils and the TPC has at its disposal a remedy for all of these problems and could act responsibly. The FP Act could be amended to allow for appeals of course.

Forestry is a dangerous land use activity full of risks to people and the environment and to consign it to a 'Permitted Without Permit' status in Local Government (LG) Planning Schemes under LUPAA, whilst being cognisant of the extended conflict over this land use is socially irresponsible of Governments in our view. Planning over forestry, on private land especially is still in the dark ages.

Virtually all forestry operations (on all land tenures) have a Forest Practices Plan but these are often inaccurate, inadequate or do not consider important cultural and environmental issues. The 'in accordance' words in most of the LG planning scheme are meaningless because Council does not scrutinise the plan in a Permitted Without Permit situation. All Forest Practices Plans need copious diligent scrutiny or independent assessment. We urge that LG Councils perform that role and ensures the scheme assists it to do that aspect of its job. Planning Directive 1 (PD-1) which malfeasantly mandates certain policy positions actually prevents Forestry being regarded and classified as 'Discretionary'. Something better than this inadequate provision is urgently required.

The current Permitted Use (with or without a Permit) status of forestry in many LG planning schemes provides virtually no opportunity to stop, constrain or modify any forestry developments in Rural Zones, the place where most forestry occurs. We believe this is unjust and unacceptable and must change if conflict is to be given an avenue to resolve in some civilised, fair and just way. This vexatious deficiency is against choice and democracy. Currently there is no democracy around Forestry under the FPC as there is no right of appeal under the FPA 1985 and thus the FPC and FP Act simply do not support intergenerational equity.

The implication of the Permitted Use (without a Permit) status of Forestry under the tutelage of the PD-1 and its associated Common key Elements Template (CKET) is that the LG Councils and especially its disadvantaged community also has little knowledge of or protection from the forestry activities in the Council area and the social consequences is conflict and anger. The people of the municipality (everyone

in Tasmania) generally have no right of redress through the Land Use Approvals Process (LUPAA) where Forestry is not 'Discretionary'. Forestry, in effect, ceases to become a part of the sustainable development system entirely and TEA regards that the FP Act cannot meet any claim for sustainable development, as there is no social justice. LUPAA is avoided (by way of the Permitted status) because, we argue the industry does not have the confidence to be involved in any fair and reasonable system of sustainable development and the Tasmanian Planning Commission (TPC) has no conscience or understanding of the public interest.

Native Forest Forestry and Plantation Forestry cannot claim any sustainability until (along with the retention of ecological capital) people have the fundamental right of objection and appeal. Because the Forest Practices System only provides for complaint and not a proper appeal it does not provide for any sustainability in the cultural sense. One can write a letter and the Forest Practices Authority can basically ignore it, or worse pass it on to the loggers. Currently there is no independent Tribunal to review the decision of the industry or the Forest Practices Authority or to hear your appeal against either. It is an atrocious situation that can and must be rectified by the simple expedient of changing forestry from Permitted (without a Permit) to Discretionary in the LG Council's Resource Zones in the new regionised schemes.

State Settlement Policy Desirable

Tasmania is the most decentralised state of Australia. Many of the conflicts over forestry occur in the rural parts of Tasmania. There is a need to plan a reasonable strategy for future settlement that reflects current settlement patterns.

Many people live in the countryside but most Local Governments have given little thought to how that may occur and where increased settlement may occur so as to mitigate the potential for any increase in conflicting land uses.

TEA proposes a Settlement Strategy and or Policy be developed which firstly reflects rather than undermines the realities of settlement but also brings it into some sort of rational pattern of land use.

In our Municipality, Meander Valley there was a lot of conflict and community anger over the PAL Policy in 2007. Council has done some interesting work over this matter since and has some solutions regarding settlement in rural areas but currently is seemingly being thwarted by the TPC and the Minister's office.

On the other hand Launceston City Council has largely ignored the existing settlement patterns of the municipality's rural areas in an act of expedience.

The significant amount of rural residential use (a higher value land use) (now termed Rural Living in the CKET) in certain parts of Tasmania indicates that invasive extractive industries should be able to be constrained by either LG planning schemes or by the FP Act.

This should be able to occur without running into claims for compensation. After all if a developer fails to get some project up he does not have legislated recourse to compensation where the decision made by the RMPAT was a proper one.

It is clear that for high impact uses mining only occupies a small area of the landscape but that is not the case with forestry.

So in all of that aspect developing a Policy over Settlement would be wise in our view. Other states have such Policies but Tasmania does not think enough of its citizens to deal properly with the land use conflict in a fair and just way and that means several mechanisms need to be pursued.

We make the point that without Policies sufficient interpretation to the objectives of the LUPA Act is not provided to guide planning schemes. The untransparent outcome has been to inappropriately use the CKET and PD-1 as a policy instrument.

Roads, Road Safety and Log Trucks

Forestry is often conducted down small roads that meet few standards. Log trucks often present a safety problem on small roads where the truck takes up the whole road putting other motorists under threat. Most of these roads are not fit for the purpose.

PTR driven forestry especially must not constitute a threat to safety of the community. LG Councils have clear planning obligations regarding access to its road network that should not be subverted by a PTR declaration.

Log trucks are unsafe and in many cases not suited to the roads concerned. Many roads in Tasmania are not fit for the purpose of being used for carting logs.

- Reduce maximum state road speed limit from 110 kms to 90 kms. This would reduce the threat from dangerous and unsafe log trucks.
- Remove log trucks from certain (unsuitable) roads altogether, the ones not fit for the purpose. Identify unsuitable and unsafe roads as a priority.
- Redesign the log jinker so it is safer and less prone to rolling over.
- Retire all unsafe log trucks
- Under s.41 of the Local Government (Highways) Act, a council can order that particular traffic likely to damage a road cannot use the road – this can be used to prevent heavy vehicles using particular roads.
- Since before the GFC road maintenance of forestry roads had declined massively. Anecdotal reports to TEA have described the dearth of gravel and work done to maintain roads on State Forest. Some forestry roads are used by the community. An assessment of which roads are required to be maintained for general use is required and a solution that addresses future maintenance responsibilities is obviously required. Roads and bridges are expensive, especially when you have to build them to handle log trucks and other heavy traffic.

- Closing and restoring unnecessary forestry roads especially on State Forest will reduce risk of spread of weeds, dumping rubbish, illegal firewood cutting and substantial maintenance expenditure. Funding for a program is warranted and materials could be recovered and used elsewhere subject to soil health considerations.

Water and Forestry

Increasingly there will be conflict over water and forestry if more equitable reforms are not forthcoming. We cannot see how this TFA solves the conflicts over water.

We are aware of the State Water Quality Policy and rights under EMPCA but consider that the issue of adequate catchment protection and water quality has largely been avoided.

In our view Tasmania is exercising no catchment protection where forestry is Permitted (without a Permit). Science shows the impact of forestry degrades water quality.

Hydrologist Dr David Leaman raised grave concerns about the maintenance of water quantity under intensive silvicultural forestry regimes. An ongoing reduction in water quality or quantity is not sustainable development.

Logging currently is still conducted in catchment headwaters and in those places the FPC 2000 is weak. TEA makes the following observations, comment and suggestions:

Provide and ensure safe, clean, unpolluted water to all Tasmanian towns and communities on a reliable and ongoing basis. Tasmanian Government to recognise water is more important than logging.

Forestry including forestry roading damages both water quality and quantity.

TEA advocates: No logging in catchment headwaters, especially on steep slopes. No further works in catchment headwaters and no further road building in catchment headwaters.

We also advocate legislative amendment to securely protect catchment headwaters from forestry operations. Establish reserves in catchment headwaters and proclaim areas for catchment headwater protection. TEA

Any land within a streamside reserve is 'vulnerable land' for which a FPP is required to carry out forest practices. Under C4 and D2 of the Forest Practices Code, harvesting of native vegetation cannot be carried out in these streamside reserves (other than for crossings).

Clearfelling is not permitted within 50m of a Class 1-3 watercourse or 10m of a Class 4 watercourse for 2km upstream of a town water supply intake (unless approved by the local government – NB: local government have obligations to ensure water quality under Public Health Act 1997). No more than 5% of a town water supply catchment is to be logged annually.

Wider streamside reserves “should” be specified where necessary to protect water supply.

Recommended amendments:

- Identify an appropriate definition of ‘catchment headwaters’.
- Include “catchment headwaters” in the definition of ‘vulnerable land’ under the Forest Practices Regulations.
- Amend the Forest Practices Code to provide that forestry activities must not be carried out in catchment headwaters.
- Insert further provision in s.19 of the Forest Practices Act 1985 preventing an FPP being issued for forestry activities within catchment headwaters, other than in exceptional circumstances.
- Include “protection of water catchment values” in s.20 (1) of the Forestry Act 1920 as a basis for declaration of a forest reserve (NB: the management objectives already include protection of water quality and catchments).

Water catchment values can be adequately managed under one of the existing reserve categories. All reserve categories under the National Parks Reserves Management Act and Crown Lands Act 1976 include “*protection of natural values*” as a criteria, and “*preserving the quality of water and protecting catchments*” as a management objective.

Section 128 of the Public Health Act 1997 requires any public authority or person in control of water to manage the water resource in a manner that does not pose a threat to public health.

Councils are required to monitor the quality of water within their municipal area and may take necessary action to avoid health risks (e.g. boil water alerts, order to provide alternative source of water).

The Director can also require any public authority to monitor water under its management or control. The Director could issue an order to FT requiring annual monitoring of water quality in State forest areas.

There has been significant conflict over water and catchment management regarding forestry impacts.

TEA considers that currently forestry has too much largess over catchment management issues and that water and catchment protection are more important public interest matters than forestry.

Reform of Forestry Tasmania

We were pleased the Tasmanian Government has separated the urgently needed reform of Forestry Tasmania (FT) from this Tasmanian Forest Agreement 2012

process but see little progress occurring to date since the August 2012 announcement.

We support the restructure of Forestry Tasmania as an important Government priority. FT has proved to be an economic disaster. Mind you the previous form of the organisation, the Forestry Commission was also an economic basket case. Documented is a long history of the organisation not providing a return to the State. On the other hand the recipients of the wood, private woodchip corporations were making plenty of profits. The whole situation was, and remains, unacceptable.

Indeed, we strongly support the dissolution of FT all together. The whole GBE, a product of a previous conflict, the Forest and Forest Industry Strategy (FFIS), has completely failed and has been a financial disaster, as some foresaw.

Our understanding is that Bryan Green, as Minister for Forests and Deputy Premier, has decided to accept the URS report on the restructure of Forestry Tasmania and is ostensibly proceeding with reforms. The following is his press statement of the 29th August 2012.

Reforms to secure Forestry Tasmania's future Wed 29 August 2012

Bryan Green, Deputy Premier

Forestry Tasmania will remain a standalone corporate entity responsible for commercial wood production as part of reforms announced today to put the Government business on a profitable and sustainable footing.

The Deputy Premier Bryan Green said FT's core role would be to manage commercial forest activities to supply Tasmania's timber industry.

Mr Green said most non-commercial functions such as the management of reserves would be transferred to separate Government agencies.

"The reality is that Forestry Tasmania in its current form is not sustainable and a restructuring of the organisation is unavoidable," Mr Green said. "The business is no longer able to fund the non-commercial activities it is required to under the current structure.

Mr Green said the Strategic Review of Forestry Tasmania by URS confirmed the business faces substantial cash losses if markets do not improve.

"These losses are predicted to be in the order of \$20-25 million a year for the next five years.

"That is why we made the contingency in this year's budget to assist Forestry Tasmania should it be needed. "The status quo is not an option given the deficits being forecast for the business.

"The Government is determined to steer a responsible course through the worst downturn we have seen in the forest sector and a major part of that is making sure Forestry Tasmania remains strong and viable.

Mr Green said the restructuring would help provide certainty for Forestry Tasmania employees across the State.

"It has been a very difficult and uncertain time for employees but I assure them the best long term interests of the industry are at the heart of every decision we make.

Mr Green said the Strategic Review of the organisation recommended a new structure was needed take the business forward.

"The transition will involve senior Government officials working closely with Forestry Tasmania to determine how and when non-commercial functions should be transferred.

"The engagement with Forestry Tasmania has already begun.

"It is no secret that FT is in an extremely difficult financial position which has been highlighted by the Auditor General and the Legislative Council's inquiry into its financial performance.

"The Government cannot ignore the impact of the forest downturn which has seen half the jobs and a third of the businesses in the native forest sector disappear in recent years.

Mr Green said the restructure would reduce the level of commercial and financial risk to the Government.

"As custodian of the business we are ultimately responsible for ensuring State forests continue to be managed properly while providing a return to the State.

"As we transition to a new structure, the work Forestry Tasmania does, particularly its non-commercial activities, will be more widely recognised and appreciated by the community.

"We need to move to a resilient and robust business model as quickly as possible to provide certainty to management and employees of the business, industry, Tasmanian taxpayers and all those with an interest in the ongoing management of our State forests," Mr Green said.

TEA supports the end of Forestry Tasmania as an independent GBE responsible for State Forest. We remain concerned that the much needed reforms may be floundering.

Right now is a very opportune time to institute such reforms so that a future forestry sector is not going to go through a repeat performance. It is vital the reform be genuine and fundamental, a token effort would be a mistake.

We consider that it is inevitable that the reserve estate is likely to increase and that the opportunity of Carbon Sink Forests requires less extraction for low value purposes such as export woodchips and hence there is less roading and less management required for achieving a return to the State in the public interest.

An Expanded Reserve System on Public land

We strongly support the immediate and secure reservation of additional State Forest and other public land as a part of the National Reserve System (NRS) and also have proposed an additional initiative to convert State Forests to Carbon Sink Forests.

One can see from our vegetation analysis elsewhere in this document that we think the current ENGO signatories' set of proposals to be inadequate. We consider the current proposals do not adequately deal with threatened fauna either. However we support clauses 33 to 36 of the TFA.

TEA recommends that the whole of the existing and any expanded reserve system be managed by the Parks and Wildlife Service (PWS) or a Parks Authority with an appropriate budget.

Forestry Tasmania (FT) should be released from those community service obligations of public conservation reserve management, which seemingly it has found so onerous. It does a poor job.

Parks & Wildlife Service should manage Forest Reserves and in many instances their tenure upgraded. We support an additional budget allocation to PWS to manage its expanded reserve estate.

TEA sees the conservation of Tasmania's fantastic natural assets in an Australian and world context. The high percentage of land reservation of Tasmania caused by the World Heritage Area should be seen as a national asset. Many forest vegetations remain very poorly reserved.

ENGO's High Conservation Value forest (HCV) reserve proposal mapping is less than complete in the north of the state such as around the Tamar, across the northern lowlands and also in places like the Derwent Valley and in many dry forest areas in general. That is, many of the high biodiversity areas are not included in the ENGO reserve proposals, which claim to be reserving HCV forests in Tasmania.

In our strong view the ENGO signatories' reserve proposals as now amended in the Tasmanian Forest Agreement 2012 must be further revised and expanded to include areas containing the Key Habitat of Threatened Fauna and other HCV areas. The ENGO's ad hoc HCV map of reserve proposals unfortunately excludes significant amounts of this land and is thus unsatisfactory. Rather the ENGO's map urgently needs to be expanded to more completely conserve Threatened Species habitat, Threatened Forest vegetation and Under-reserved forest vegetation in Tasmania. We detail these Biological Diversity shortfalls further on.

Secure conservation reserves must also include areas of catchment headwaters due to the overriding importance of water assets.

Likewise areas of geoconservation significance should be adequately reserved.

Likewise, significant scenic, forested landscape should be protected as an asset of high value to the community and for tourism.

We remain concerned that World Heritage expansion agenda may become a de facto bottom line. This would leave the areas of higher biodiversity out in the cold.

Such matters are an essential part of any responsible comprehensive reserve recipe aiming to solve conflict and achieve sustainability across Tasmania's landscape, rather than the obviously limited, wilderness-dominated agenda.

Comment on Reserves and their Inclusion

TEA has long advocated an expanded reserve system in several locations across Northern Tasmania. The Lots included in CPR 9580 and Schedule A of the WOG amendment to the Bill include some of the areas TEA has proposed but not all of those. In general the older proposals are included and most of the newer ones are not.

We can provide more information on this aspect if the Select Committee so desires. We refer the Select Committee to TEA's IVG Submission (with the relevant mapping) (but not all the appendices) dated the 14th February 2012, which we include in **Appendix H**.

As a matter of principle we support our colleagues and former colleagues reserve proposals.

Secure Conservation Reserve Tenure

The document: plugin-TFA - Sub 34.3 - W-O-G Attachment 3.pdf which is the proposed amendment to the TFA Bill 30 of 2012 lists the proposed reserves in Schedule A Future Reserved Land and describes the land parcels as Lot 1 through to Lot 295 inclusive. The table has eight columns as described in the amendment.

We have looked at both the CPR Plan 9580 and Schedule A and regarding the purposes proposed for the reserves we wish to evaluate the proposals further before making any comment on a reserve by reserve basis, which is the only way to view the issue. We seek the Select Committee's cooperation in allowing TEA to make further representation on that matter. There is a large amount of information to consider.

It would be helpful to know the reasons for the mining statements. In other words what are the relevant areas of high mineral prospectivity for?

In general we consider that good quality reserve tenures, which reflect the conservation intent of reserving the land, should be applied. In some instances the tenure of the already gazetted reserve which adjoins some of the proposed additions to existing reserves should be reviewed and where possible the level of protection upgraded.

Secure Conservation Reserve Tenure and Mining

TEA does not consider mining compatible with secure conservation reserves in almost all instances. TEA considers the tenure of Regional Reserve to be of a very low standard and offers little protection. It totally amazes us that fantastic state icons of international stature such as Mount Roland only have the tenure of Regional Reserve. How absurd!

Secure Conservation Reserve Tenure and Forest Reserves

Forestry Tasmania's Forest Reserves are regarded as State Forest under The Act. Ensure that all Forest Reserves are separate land tenure and are mapped on the 1:25,000 & 1:100,000 map sheets and that they are not portrayed as State Forest by government agencies.

Section 4B of the Forestry Act 1920 defines "State forest" broadly to include land declared to be State forest, purchased by FT for forestry purposes, entered into or deleted from the Register of Multiple Use Forest Land, or acquired by the Minister to improve forest management.

Section 20 provides that land within a State Forest that is declared to be a Forest Reserve is to be deleted from the Register of Multiple Use Forest Land, but s.17(13) provides that such land remains as State forest. Recommended amendments:

Amend s.4B to explicitly exclude any land for which a declaration of forest reserve under s.20 persists. In the event of a revocation of the Forest Reserve, the land would go back to being State forest unless s17(13) was revoked.

Signposting for Forestry Tasmania's Forest Reserves is not adequate. Many RFA reserves are not signposted at all.

- Legislate to ensure that Forest Reserves are adequately signposted and to also ensure that the activities prohibited are also signposted.
- Section 25 of the Forestry Act 1920 provides that FT "may erect signs" in respect of forest reserves. Section 25(1A) provides that FT will "wherever practicable, erect signs stating that a particular road is a forestry road." Recommended amendment
- Insert a new s.25(1AA) requiring FT to erect signs stating that land is a forest reserve and setting out the restrictions on use of the land.

Currently FT claims they have no jurisdiction to deal with the shooting of wildlife on their Forest Reserves.

- Ensure that Forest Reserves explicitly prohibit the killing of native wildlife.
- FT are required to manage forest reserves in accordance with the management objectives in Schedule 3. These include conserving biodiversity, but also include taking of wildlife species. For this reason, it would not be possible to introduce a general prohibition on shooting in forest reserves.
- Regulations can be made under s.33 for any matter 'necessary or convenient' to giving effect to the Act.

Recommended amendments:

- Introduce amendments to the Forestry Regulations 2009 to prohibit any shooting on Forest Reserves.
- Amend rr.16 and 17 of the Wildlife Regulations to provide that a person must not take any protected or partly protected wildlife on a Forest Reserve.

TEA considers that the Forest Reserves currently managed under the Forest Act 1920 should be transferred to Parks and be reserved under the Nature Conservation Act and that all secure conservation reserves (on public and private land) henceforth should be created under this Act. The Forest Reserves should be converted to a tenure that excludes mining where possible. A majority of them have little mineral prospectivity in any case.

- Forest reserves currently remain as State forest and are therefore not able to be reserved under the Nature Conservation Act 2002. If, as proposed above, the definition of State Forest under the Forestry Act 1920 was amended to exclude declared forest reserves, such reserves could be declared in different reserve classes under the Nature Conservation Act 2002.
- Forest reserves that are within the TWWHA are classified as ‘reserved land’ under the National Parks and Reserves Management Act 2002. Any management plan affecting a forest reserve is to be approved by FT.

Recommended amendments

- Amend s.4B to explicitly exclude any land for which a declaration of forest reserve under s.20 persists.
- Delete s.20(2D) of the Forestry Act 1920. Consider introducing a new class of reserves – forest reserves – under the NCA, with the same management objectives as in Schedule 3 of the Forestry Act 1920. That could smooth the transition from FT to PWS. Amend s.18 of the NPRMA to include all forest reserves in the definition of “reserved land”.

No Pulp Mill in the Tamar Valley

The State approval process for Gunns’ Pulp Mill development was rorted by the Tasmanian Parliament and was unjust and unfair. There were several hundred appellants before the RPDC. That sort of public interest outcry is unlikely to dissolve.

There were a large number of objections to the RPDC numbering over 700 if memory serves correctly. That is a vast level of objection. I would be very surprised if for example the current TFA Bill attracted that level of objection or even interest, by way of comparison.

State approval for the pulp mill was ultimately obtained through the purpose made Pulp Mill Assessment Act, 2007 and conditions of the approval described in the Pulp Mill Permit in accordance with S6(8) of the Act.

Gunns CEO eventually, honestly acknowledged they made a mistake with fast tracking. Yet they did not take responsibility for that mistake. Sadly, nor did the Tasmanian government.

Now with Gunns Limited in receivership there remains just far too much opposition in the Tamar community to think that a pulpmill would go ahead in this location in any peaceful way regardless of who builds it.

We support the lapsing of the Permit, which we consider, like TCT, was not substantially commenced. There are no footings, which is the usual test for substantial commencement. Gunns 5th October 2011 Fat Sheet states:

“The mill has in place all Commonwealth Government approvals necessary for construction to begin and operations to commence.”

We note there is a court challenge (presumably laying dormant) before the Supreme Court over this matter, see: Tasmanian Conservation Trust Inc v Gunns Ltd [2012] TASSC 18. We are unaware of the state of this legal matter but wish to comment that this conflict seems unresolved.

Gunns Limited stated the proposed mill would be of such a scale that timber would have to be imported into Tasmania from Victoria and SA - an indicator it had the scale wrong.

We favour repeal of the Tasmanian pulp mill enabling legislation. Any new proposal must have a proper planning and consultation process.

Isn't it interesting that the pulpmill process was severely criticised as lacking probity yet the current forest peace process has similar and severe shortcomings.

Our recommendation is that the now old Gunns' Permit be quashed and to rescind the Pulp Mill Assessment Act, 2007.

Communities Impacted

Some may see communities impacted as simply the forestry community but we consider all Tasmanian communities are unreasonably impacted by forestry to some degree. Water catchments are degraded, landscapes scarred and massively altered and local amenity harmed by harmful forestry. People are sprayed with toxic chemicals. Neighbours to plantations receive one day's notice to vacate their homes while spraying of noxious chemicals occurs. This sort of behaviour is unacceptable.

The offensive thing about the ENGO signatories' approach and their negotiation is that the compromise they reached at both the IGA stage and the Tasmanian Forest Agreement 2012 stage, as well as within the supporting Tasmanian Forests Agreement Bill 2012 (No. 30), unfortunately overlooks all of those long-standing

community conflicts, of which they are completely aware. They have therefore failed, completely and utterly failed. Such untrustworthiness is to be deplored.

Of all the aspects of environmental problems you could expect a regional environment group to handle, forestry is the one over which the community calls on The Environment Association (TEA) Inc. time and time again. For the 'peace process' to avoid dealing with such fundamental issues is highly unsatisfactory.

Plantations and Managed Investment Schemes

Plantations are an intensification of use and have been associated with unsustainable land clearance and conversion in Tasmania. The massive expansion of artificial tree plantations have been a source of angst in our regional community since the RFA. Conflict has been widespread and is ongoing.

Plantation Forestry displaces agriculture and will almost inevitably cause rural decline because forestry employs far less people than agricultural activity. It seems this is known but ignored.

The greater threat to agriculture is forestry and not rural living encroachment. Many parts of Northern Tasmania have been gobbled up by plantation forestry, for example the small and formerly bucolic Holwell or the well known example of Preolenna, (See DeVito in **Appendix E**) once good dairy country and there are many others. We provide a map of Gunns Ltd plantation estate including joint venture partners to provide an indication of the extent of land use especially in the hinterland of the area. It is **Appendix F**.

Forestry can destroy a local community through the massive buy-up of most lands in an area. There is nothing in the LG planning schemes, the PAL Policy or anywhere else to prevent or mitigate this. There is no balance. There is no equity. There is no justice. There is no Policy for Forestry and the focus on public land reservation as a solution for the conflict is farcical.

One could argue it is in many ways LG planning schemes are organised for companies such as Gunns Limited or its successor despite the great groundswell of opposition, including to its pulpmill proposal just up the Tamar. The new LG schemes currently being developed under the charade of regionalism urgently needs to be changed to fix this problem. After all Great Southern has gone, FEA has gone and MIS has been a complete failure as forecast. But the people living and contributing to Tasmania remain.

High quality farmland has been consumed and Threatened Species habitat converted to plantation, our special cultural heritage landscape scarred and people sprayed with noxious chemicals.

Most of the Managed Investment Scheme (MIS) Plantation companies have now gone broke or ceased trading leaving many innocent investors financially disadvantaged. MIS forestry should be abolished now. Let Tasmania have a level playing field. MIS does not provide or encourage a strong sustainable forestry industry.

Managed Investment Schemes for forestry plantations provides unfair advantage to forestry and enables more unsustainable forestry than would otherwise be possible.

- End the opportunity to create Managed Investment Schemes for forestry plantations.
- MIS taxation driven forestry in any form should be terminated.
- Dealing with this industry's unfair taxation advantage would be a very wise Commonwealth initiative.
- Remove the exemption for forestry Managed Investment Schemes under Division 394 of the Income Tax Assessment Act 1997 (Cth).NB: This issue was subject to review in 2007 and a decision made to retain the exemption, despite changes made to other agribusiness MIS arrangements such as viticulture.

Further plantation expansion in Tasmania is a recipe for rural decline. We oppose it in its current form, with the current lack of policy guidance and with the current standards. Plantations don't generate jobs but rather the opposite occurs as has been statistically shown elsewhere in Australia by the CRC for Forestry. The same outcome is likely in Tasmania.

We consider it would be desirable to have a policy on plantations under the State Policies and Projects Act to take such matters out of the state Protection of Agricultural Land (PAL) Policy and set a planned policy direction, including dealing with various issues from a land use planning perspective.

TEA remains deeply unhappy about the rabid, unrestricted expansion of plantations in Northern Tasmania. They have lowered the quality of life in rural, northern Tasmania. Conflict over them continues.

We wish to refer you to **Appendix E**, which provides a number of documents, being Cases of Conflict and Disadvantage over Plantation Establishment and Management. These sagas were written by the people concerned who suffered at the hands of forestry. They formed part of evidences in a hearing of the Forest Practices Tribunal in 2006.

We consider that recognition of the massive problems of plantations has been foolishly avoided by the Tasmanian Forest Agreement 2012. Still some ENGO's have not grasped the importance of a firm and responsible position on the subject. No more plantations.

Plantations in their current form are not acceptable to many Tasmanians. Significant areas of plantations are growing below their expected performance level. Agricultural land consumed by forestry reduces the land available for food production, reduces water assets and impacts on remaining farms.

- Promote and encourage only Organic Plantations in non-contentious locations.

- Plantations to be assessed and those that are under performing restored to native forests and Carbon Sink Forests.
- Protect agricultural land from expanding forestry plantations through changes to the PAL policy. Amend the PAL Policy to exclude plantations from the definition of “agricultural use”

Without a strengthening of land clearance controls and standards (via legislative reform) the situation could arise, if economies picked up, where MIS gets another run, (although we concede the investor would have to be either a fool or solely interested in a tax write-down reducing their liability), or for whatever reason, an expansion of plantations on private land could get a second wind.

There is no logical strategic land use assessment and policy in Tasmania. But one is urgently needed and would benefit the economic welfare of Tasmania. It is urgently overdue.

An intensification of forestry may to some seem like a conservation opportunity but if as a result of more reserves of natural forests, such an outcome were to lead to more plantation conversion in biodiverse rich private forests and dry forests on public land (in the north and east of Tasmania) then the Tasmanian Forest Agreement 2012 would be a completely unacceptable and unwise deal based on a false premise that a volume of reserves might achieve adequate (or be a surrogate for achieving) biodiversity conservation outcomes in places which require them. Conservation biology does not work that way.

Some tree plantations that are inappropriately sited need to be rehabilitated to their original form, either native forest or farmland. There should be no expansion of the plantation forestry estate nor should any solution such as the TFA be silent on such relevant matters. TEA strongly recommends that the establishment of tree plantation should consistently be Discretionary in a planning sense in the Local Government’s Rural Resource Zones across Tasmania and prohibited in all other zones.

Fire Management and Bushfires

TEA considers forestry’s management of fire to not be adequate. This matter has not been adequately dealt with. There is a lot of contention over fire management and fires are a risky and life threatening activity. The issue has come up so we include some thoughts on the subject. There is a range of issues:

There is a serious lack of adequate firebreak maintenance by both plantation companies and joint venture partners. If we were to conduct a field trip we would show the LC SC weed-infested firebreaks that are not maintained and several other properties, most with poorly maintained or non-existent firebreaks. We can demonstrate this deficiency on various sites and by photographs.

When I look around in my local area I see the vast majority of eucalypt plantations are minus any proper and maintained firebreaks. Such close spaced vegetation is a serious risk. Plantations are more risky than mature native forest in our opinion.

Please find in **Appendix J** the document: 'Interim Fire Management Guidelines For Forest Plantations'. Document endorsed by the State Fire Management Council, 10th December 1999.

People will be best protected by better regulatory control regarding the lighting of fires in the first instance.

At least 50% of all fires in Tasmania are deliberately lit. There is no doubt that the Tasmanian Fire Service (TFS) could tighten up their system of regulation with a far greater number of Permit days and more total fire ban days.

Fuel reduction burning contains significant risk. Lighting a fire in a native forest area is dangerous over much of the year in Tasmania. It is appropriate that it be treated with great caution.

It is surely the TFS who has responsibility for this issue, as it relates to private land.

In looking on the TFS website TEA can see it is increasing its local area plans for bushfire prone areas. That initiative is to be supported. I am sure we would all wish for more such plans. Local plans are probably more important for saving lives than a statewide plan in a situation where resources are limited.

Living in a bushfire prone area personally I would be loath to light a fuel reduction burn and would hope my neighbours did not do so either. The reduction of fuel around buildings can occur without lighting a fire of course.

The recently introduced TPC state bushfire prone areas code:

http://www.planning.tas.gov.au/_data/assets/pdf_file/0016/210436/Planning_Directive_No._5_Bushfire-Prone_Areas_Code_-_19_September_2012.pdf is useful but more regulation is clearly needed.

The last fire escape around here, some years ago now, was lit by an FPO of Gunns Limited and the TFS was called. The FPO escaped any obvious disciplinary action as far as I could tell.

The Tasmanian Regional Forest Agreement (RFA)

Regional Forest Agreements around Australia were a mechanism associated with Comprehensive Regional Assessments created under the National Forest Policy Statement of 1992. In general they have almost universally failed to solve matters of social conflict. To use a modern term they have failed to provide the forestry industry with a social license.

The RFA did not resolve conflict over forestry, nor did the subsequent Tasmanian Community Forest Agreement. Indeed it clearly worsened the conflict. The RFA ostensibly remains in place in Tasmania but is in tatters.

The 1997 RFA and its attendant CRA were based on knowledge that has now been superseded and improved with new knowledge. Indeed it may be claimed to have

been a catalyst for new knowledge. However certain RFA reservation targets still have not been met bioregionally or on a statewide basis. The original RFA vegetation mapping was vastly less accurate than the current TAS Veg II and as a consequence of that poor accuracy it allowed for forestry to destroy important vegetation and habitats whilst complying with the rules. The private land was so poorly mapped that any conservation effort such as under the PFRP had to remap candidate properties. The IBRA regional targets were not used. The old growth forests were massively under mapped and this was intentional. The whole RFA was a recipe for more conflict. Tasmania remains with a conservation estate, which does not adequately protect biodiversity after 15 years of the RFA, and it has lost significant irreplaceable forests.

The design of a new agreement and any new process should bear these failures in mind. There have been numerous unsuccessful attempts to reform forestry and resolve the conflict over forests. Considerable thought must be given to the reasons for the ongoing problem.

Considerable thought needs to be given to designing a future forestry industry. Regardless of the chasm of divergent opinion it is vital that a process of policy development engages in broad, inclusive public consultation. The current legislative Council process cannot perform this role.

The 3rd five yearly review of the RFA was due to occur in 2012 – it didn't. We consider the RFA has in reality collapsed. We think you should too.

Compensation

During the 'peace process' TEA recognised the need for some form of incentive to provide a guaranteed final exit from established forestry activities. The RFA provides for the Commonwealth to pay compensation for additional reserves and removal of land from wood production.

Gunns had made an independent decision to exit native forest logging and pursue a pulp mill in the Tamar Valley for which they agreed they did not have a social license. They wanted FSC certification for their activities. They handed back much of their sawlog quota and in the process effectively halved the forestry industry in Tasmania. It must be noted that subsequently it has been determined that the forests were being over cut, obviously to supply Gunns and other's quotas.

The industry was already in great decline with the demise of MIS Plantation companies and eventually Gunns joined the others in the hands of Korda Mentha.

The Environment Association (TEA) supported funding for an industry exit with dignity and for retraining but on the sole proviso that genuine conservation outcomes that retain, in the main, the stored carbon and the biodiversity of the natural forests, whilst lessening the conflict for the broader Tasmanian community, occurred. This has obviously not occurred and indeed we consider the negotiation has been completely rorted in favour of industry and with little benefit to Tasmania. We remain critical of this aspect.

Any Government payment arrangement to a forestry company must have the effect of completely quashing the company's current Crown sawlog quota/s with a surety of no new quota being generated; no transference of any such rights to any other party or land tenure.

A social solution for the forestry industry collapse problem required a funded solution in several areas. We consider that for industry this has largely occurred. But notably no other long-term outcome has yet occurred, contrary to the SOP. This is not acceptable.

The Ongoing Conflict and Developing Acceptable Responsible Forestry

Conflict over forestry is not limited to being between forestry and environmental groups. There are many stakeholders.

There may be an opinion in some parts of the community that the ENGO signatories are asking for too much. Events and consequences of forestry cannot easily be undone in many cases and in some are completely irreversible and thus what one set of stakeholders seeks is not sufficient.

In this peace process it was determined that public forests have been overcut. We have long claimed such a situation was occurring. Such matters are relevant and should be better taken into account.

We could not list here all the many conflicts over forestry but we offer to provide information on some of these important matters in a hearing. We mention them here to demonstrate that the conflict over forests is more widespread than the ENGO signatories and Industry solution as expressed via the TFA suggests. Some conflicts are brief and little documented and others have generated vast amounts of documentation.

The Australian Forest Standard - A Standard in Name Only.

The Australian Forestry Standard (AFS), developed by the Australian logging industry and the Australian Government and Government agencies, is the Australian member of the PEFC Council. It is also a main element of the Australian Forest Certification Scheme (AFCS), started in 2000 to provide an "Australian forest certification scheme".

"Similar to other certification schemes, the AFS contributes to the expansion of large scale tree monocultures as long as it allows the conversion of forests to plantations. As an added negative attribute, it has also been heavily criticized by local environmental NGOs. In 2002, National Australian environmental non-government organisations (ENGOS) had expressed in a letter their complete rejection of the Australian Forestry Standard (AFS)."

The above statements based on information from: "Open letter to European Union Environment and Trade Ministers, timber retailers, consumers and other interested

parties”, June 2003; and “Open letter from Australian national ENGO’s campaigning for forest protection and sustainable forest management”, October 2005, published at <http://www.wrm.org.uy/bulletin/111/Australia.html>

We and others have been unable to contact the certifying agent of AFS for a number of years now. It is well known that The Australian Forest Standard do not respond to queries or complaints regarding breaches of their standard. This lack of communication renders the AFS standard is useless.

It is common knowledge amongst the conservation movement that the AFS is not enforced and complaints aren't acted upon. It is not acceptable nor is it accepted.

We suggest you look at the relatively recent Planet Ark saga here reported on 1-8-2012 in Pro Bono News:

“Some of Australia’s major environmental groups claim the organisation known for establishing National Tree Day, Planet Ark, has turned ‘dark’ on forest issues and its celebrity founders have withdrawn their support.

The reaction comes after Planet Ark’s controversial involvement in the ‘Make It Wood’ advertising campaign which promotes the increased use of certified, responsibly sourced wood as a building material, along with the organisation’s decision to join the timber industry’s certification system for wood products, called the Australian Forestry Standard (AFS).

Planet Ark has also received a two year sponsorship agreement with the timber industry worth \$350,000 per year.

The Director of environment group My Environment, Sarah Rees, says these are confronting issues for big NGOs who traditionally don’t come out against each other.

“Discussions with Planet Ark with organisations including the Wilderness Society and Greenpeace over 14 months have failed to get Planet Ark to amend its attitude to the issues of clear-fell logging.

“Planet Ark has dug its heels in with its message that all wood is good wood and this is just not right,” Rees said

“The role of the environmental organisations is to ethically educate the public on forestry issues but Planet Ark has muddied that message.”:

The AFS does not have a social license. It is now desperate to appear to be consulting the community.

The Tasmanian Forest Agreement 2012 endorses the AFS and this is just another reason to reject the Bill as it endorses a process that just doesn't function. TEA does not support AFS at all and we are not aware of any conservation organisation which does apart from the Tasmanian ENGO signatories of course.

Forest Stewardship Council Certification - Not Supported

We hold substantial concern that Forest Stewardship Council (FSC Australia) is unreasonably being used inappropriately and irresponsibly as a surrogate for negotiating and creating a strengthened legislative framework over forestry operations in the Tasmanian Forest Agreement 2012.

TEA asserts that the Forest Stewardship Council certification of wood and companies is not a surrogate for proper legislative rights and processes under the laws of Tasmania.

FSC Australia, otherwise known as Responsible Forest Management Australia Limited (ACN 120 667 870), A company limited by guarantee registered in Victoria and trading as FSC Australia. Currently Jim Adams, CEO of Timber Communities Australia (TCA) which eventually signed the TFA is, interestingly, also the Chair of Forest Stewardship Council (FSC) Australia). ACF and TWS have also been deeply involved both in FSC and in the TFA.

Concurrently The Tasmanian Forest Agreement 2012 is arguably also signalling the gutting of the Forest Practices System in Tasmania, an imperfect and unsatisfactory system at best and one that TEA and others have for decades sought to improve. We would be very surprised if even the FPA did not express their concern. The FPS and its shortcomings is a part of the conflict. Its shortcomings exacerbate conflict but those shortcomings cannot be fixed by certification processes whilst the legislation and codes remain deficient. It is an illogical proposition. Indeed FSC would entrench shortcomings in the FPC and as a result conflict would remain and /or be aggravated.

Because under The Tasmanian Forest Agreement 2012, private land is land obviously affected by the certification clauses and FSC we raise this issue now.

TEA is a relative newcomer to FSC processes and we are seriously not impressed with the recent Gunns' FSC certification process, which continues through the Rainforest Alliance, despite Gunns' receivership. The process lacks natural justice and is so complicated and un-transparent as to give rise to TEA claiming FSC to be a deliberate and cynical PR spin machine. There is mounting international recognition of the serious shortcomings of FSC. Lets face it; FSC is primarily a marketing benefits scheme for the logging industry.

There is considerable effort by Gunns to gain FSC certification. FSC for Gunns Limited is like a pulp mill approval. Gunns or their administrators can (and would) sell it. FSC FM certification (full) would also significantly improve their chances of finding a pulp mill partner to build a Tamar Mill. It obviously would be a much more attractive package with FSC certified plantations and other estate land.

For these two reasons and coupled with the simple fact that Gunns does not deserve FSC, simply because it does not meet the FSC standard – which is in fact very low, we are most concerned with the current state of play in the forest peace process and the Tasmanian Forest Agreement 2012.

FSC certification in Australia is operated under Interim Standards of the certifying organisations who certify under the FSC system, as there is no Australian National

FSC Standard. FSC means the Forest Stewardship Council A.C., an international not for profit organisation registered as a civil association in Mexico, or FSC IC, a not-for-profit organisation registered in the Federal Republic of Germany.

There has been no stakeholder deliberation over the finalisation of a National Standard in Australia. It is said FSC Australia does not have the money to produce such a standard. Stakeholder engagement in the creation of such a National Standard would be fundamental to FSC principles.

We note at: <http://www.fscaustralia.org/about-fsc/members-board-and-officers>

“Policy & Standards Manager – vacant”

How can a policy of an FSC National Standard in Australia be developed without a Policy & Standards Manager?

Instead, in Australia, the certifying company’s adapted generic standards (such as Rainforest Alliance) are being used as Interim Standards for full FSC FM certification and other FSC certifications since about 2007. This was apparently condoned (unwisely and potentially illegitimately we believe) by FSC Australia.

However, in the 2002 Assembly of FSC, under Final Motions and Results from the FSC General Assembly (GA) 2002 one finds:

*“Policy-36: Motion to phase out the use of certifier’s interim or generic standards
Results: Voted by ballot. Votes in favour 78.93%. Votes against 21.07%. I Passed
Motion: The General Assembly mandates the Secretariat to develop more detailed guidance on the development of Interim Standards. This guidance is to be approved by the FSC Board. This is to be more specific guidance on the interpretation of the FSC P&Cs at national and sub national levels. This would lead towards an eventual phasing out of the use of individual CB Interim Standards. This effort must incorporate input from CBS, FSC Regional Offices and other stakeholders. Where there is an NI with a draft standard, the CB must incorporate input from the NI.”*

Further, in the minutes of the 4th General Assembly (GA) December 2005 (Manaus, Brazil) of FSC one finds:

Policy 48 Motion to phase out the use of locally adapted certification body’s generic Forest Stewardship Standards (Interim Standards) was passed:

Amended Motion 48 (Integrated Motion 20)

“The GA mandate and requests the FSC secretariat to: Devise an appropriate way to phase out certifications using certifier’s interim standard within five years after this motion is approved by the GA or by five years after the first FMU certificate has been awarded in a respective country holding no certificates.”

- 1. Catalyse, initiate and give technical support to establish national certification standards and increase support for national Initiatives.*
- 2. Devise bridging mechanisms for countries without national standards or countries with outstanding disputes over the standard setting that prevent finalisation of a national standard. Develop an International Generic Standard that will be used as a bridging mechanism for conducting*

certification assessments where a national standard has not been finalised. Provide guidance for supporting the process of adaptation to a National/Regional Standard with input from stakeholder and consultation.

Discussion> The Policy motion number 48 was amended and merged with motion 20 – Motion to phase out the use of locally adapted certification body's generic FSC interim standards. The proposer identified interim standards as one of the problems of FSC according to several reports of WWF. The motion was strongly supported by speakers across chambers.

So, one can see that since 2002 repeated motions in the FSC General Assembly have been passed, to not use and to phase out locally adapted certification body's generic FSC interim standards.

But in Australia such interim standards, such as The Rainforest Alliance one being used to certify Gunns Limited, were not even introduced until after 2005, such is the highly dubious processes of the FSC. This serious problem continues and the latest FSC motions in 2011 just show how weak the management of FSC is, in reality.

TEA decided to oppose Gunns FSC certification in 2010. Not many community conservation groups, working in the public interest, work on FSC.

Dealing with the complexities of FSC criteria is hard, detailed work that requires time, expertise and sound proof from past activity to indicate the behaviour of the proposed future activity. Interestingly when one provides such proof with the FSC process (under the Rainforest Alliance anyway), one does not necessarily get anywhere or even find out the outcome of one's representation. Then one must go to an appeal. That is atrocious and unjust.

For the public, FSC is unwieldy, complicated, not transparent, technical, voluminous and probably difficult for many to engage in participation. The pathways to appeal are also not straightforward or transparent. In our view it is a way of stopping public participation even though on the surface of things it looks so reasonable. We consider FSC is a sham. There is, in fact, no truly external appeal for a review of decisions. FSC has developed its own appeal body under a different name. (One is meant to be conversant with a vast array of documents and jargon to become FSC literate.)

Worse than the above criticisms, there are some simple but massive intrinsic flaws in the FSC system that to TEA strikes it out completely. We can almost tolerate some gentle bias such as exists in the otiose Forest Practices Tribunal and other petty corrupt jurisdictions in Tasmania but FSC is far worse.

Importantly and most unacceptably, in FSC one makes a representation to the certifying company, which gains financial benefit from determining FSC certifications for the forestry company's operations that one might be criticising or opposing from a perspective devoid of vested interest. So for a not for profit, the issue of a conflict of interest in the certification system is a very important one.

Just imagine, if certifying companies using the FSC standard actually stopped granting the certificates to their clients because their processes were too rigorous so

as to not virtually always allow certification: Would they get more work, would they keep their client? No!

So what happens is that the poor community member, the stakeholder (if they find out about the process) makes submission to the certifier, that is the company the loggers have chosen and any non-compliances identified ostensibly get raised with the logging company by the certifier (but you cannot be sure and have no way of checking, as it is done in private.

Then a solution between the logger and the certifier as to how the logger will meet the FSC standard is reached. Once the non-compliance is ostensibly rectified the matter goes out for comment again but only over the remaining areas of concern. One then makes submission again and again etc until the FSC Certifier finally gets the logging company over the line. It can take years and years. There are standards where the logger can be disqualified but I suspect no certifier has ever disqualified a client outright.

It has been said to TEA that this is the best of the certification systems. Is it really? Who says? Prove it, we say! And in any case, why would certification be the best solution to the private forestry conflict problem, or even the best solution for the unreserved Tasmanian HCV forest problem on public land?

From www.ecosmagazine.com, Published: 2010 A minefield in the forests

“Mr Michael Spencer, Chief Executive of FSC Australia, agrees that market access is the key benefit, arguing that focusing on price premiums is a mistake.”

“ ‘Whether that market access translates into a price differential will inevitably depend on the market forces of supply and demand,’ says Mr Spencer. ‘In some product categories, it can mean a substantial price difference; in others, it can mean virtually none.’ ”

TEA continues to claim certification is a marketing device for the loggers.

The deficiencies of self-regulation are well known and riddled with dangers. It remains inadequate and unacceptable in managing biodiversity outcomes. We can provide numerous examples to illustrate our point.

Justice for all is the best solution. Very simple. TEA does not consider FSC to be a just system. Indeed in Australia it is not even a properly functioning system as there is no FSC Australia National Standard and this after several years of FSC Australia operation. Apparently there is a “straw dog” draft Standard dated 2008 and no final standard four years hence.

Now the standard remains a “straw dog draft” (something there merely to be knocked down) and the stalled process has become deeply questionable.

The FSC Australian Standard is probably some years away and is dependent on gaining funding in the order of \$1 million or so, mainly to ensure there is a decent consultation process. FSC Aust needs to set up a special reference committee and technical working group, which is arms length from the Board, and this has not occurred either. Neither is there anyone employed by FSC to get the process started.

FSC Aust is in the process of hiring a Policy and Standards Manager probably next year. There is thus no formal FSC process for comment yet as there is no document to comment on. The number and depth of the problems for FSC Australia are significant. Note TEA is not a member of FSC.

TEA notes that people involved in the Tasmanian Forest Peace process have also been, or are, involved in FSC Australia. These include Lindsay Hesketh (ACF), Sean Cadman (TWS and FSC), and Jim Adams and of course other Wilderness Society (TWS) staff, have all been, or are, on the FSC Board. None of these people has declared a conflict of interest, as far as we know, in their actions to include FSC in the Tasmanian Forest Agreement 2012. Some were also involved with the IVG whilst being paid by conservation ENGOS.

TEA remains firmly convinced that the path to resolving conflict over forests is via equitable legislation - adequate and equal rights for all, rights to information, rights of appeal in independent planning jurisdictions and mediation provisions. All those aspects could easily be improved in the Forest Practices Act 1985 and within other legislation including the EPBC Act and by removing the various RFA and forestry exemptions or via LUPAA.

Indeed FSC takes no account of corrupt and favouring legislation. Thus FSC actually builds on and justifies inherent injustices. For example our aerial spraying code allows no advance warning in a variety of situations. Well that becomes okay under FSC. But it is not okay, is it? One is actually certifying the uncertifiable, the Tasmanian forestry system.

TEA has just completed a representation to the Rainforest Alliance over Gunns FM Tasmanian estate, opposing certification to FSC FM standard. We can forward it to you for your information if you wish. It is about 50 pages long and incomplete. One needs departmental resources to respond to such applications under FSC. TEA is experienced in doing submissions and planning appeals so when we say working on FSC is onerous we have something to compare it with and plenty of experience in doing such work.

Gunns may get full FSC (FM) certification for the obnoxious establishment of plantations over the last two decades, even though their activities are harmful, their plans and maps useless and their consultation grossly deficient. They already have Controlled Wood (CW) certification and that is unacceptable to TEA. Many of those CW plantations could actually be put to bed. Many are not performing very well.

In TEA's opinion, Tasmania needs to urgently review the Tasmanian Forest Agreement 2012 position, which supports a contentious third party (FSC) organisation over which The Parties to the agreement have no control.

The Government, in our view, clearly needs to influence the Tasmanian Forest Agreement 2012 in a number of areas, including in our view, preferably seeking the removal of the certification clauses and their replacement with stronger legislative reform initiatives, as was part of the originally agreed Statement of Principles.

TEA is currently very concerned about the relatively one-dimensional position on FSC. We consider the Tasmanian Forest Agreement 2012 is on shaky ground, both

in choosing FSC itself and in choosing this method of resolving conflict when, the mechanisms best within Government's purview, control and sphere of influence is the legislative laws and reforms it can initiate, work upon, veto and enhance.

Tasmania's Forests, Some Elements of Biodiversity Analysed

The area of the state of Tasmania's is 68,401 square kilometres, of which the main island covers 62,409 square kilometres. The State includes the island of Tasmania, the 26th largest island in the world, and the surrounding 334 islands.

The ABS 1362.6 Regional Statistics 2007 describes Tasmania to be 6,842,324 Ha in total. Of that area the largest single land tenure category in area terms is Private property at 2,616, 751 Ha. Other tenures are smaller in extent by over a million Hectares.

It is generally accepted that in Tasmania there is 3,597,913 Ha of forest and 1,451,521 Ha of non-forest, on all land tenures. Of the forested land some 1,495,680 Ha is contained within secure reserves on public land, an area of 89,978 Ha is (mostly securely) protected on private land and 281,541 Ha is in Informal Reserves on public land. A total forested reserved area of 1,867,199 Ha is currently exists in Tasmania.

The current ENGO signatories' reserve proposals (as per their full demand of 572,000 Ha) would only add some 313,141 Ha of forest on public land and some 12,628 Ha of forest on other (probably public) land to the National Reserve System (NRS). The remainder is already informally reserved.

The final reserve proposals that were agreed on totals approximately 525,000 hectares.

On the 22 November 2012 certain key industry, union and some environmental groups, after a drawn out clandestine process, have developed what has been claimed to be an agreed position on the future of Tasmania's forest industry and environment – the Tasmanian Forest Agreement 2012 (TFA). This Agreement has been presented to Government for consideration and is the subject of this Select Committee inquiry.

The Environment Association (TEA) Inc. disputes the claims made about this agreement such as the excerpt below:

“This is a landmark Agreement that will make possible a better future for the Tasmanian forest industry, environment and communities. The Agreement includes a shared vision and agreed objectives, it addresses supply and market issues for industry, provides for protection of over 525 000 hectares of native forest with important conservation values and delivers governance arrangements to oversee implementation. Legislation will need to be passed through Parliament to allow implementation of the Agreement.”

Thus it seems the agreement collapses in the event that the Tasmanian Forests Agreement Bill 2012 (No. 30) fails to become law in the event the Legislative Council's review rejects The Bill.

The Environment Association (TEA) has not had the resources or time to recalculate the areas proposed for conservation from 572,000 Ha down to the final 525,000 Ha area of the Tasmanian Forest Agreement 2012 (TFA) but the description and statistics below referring to the full proposal makes arguments which are still pertinent. The reduction in the final area only makes the conservation side of the TFA proposal worse not better.

For TEA to recalculate the respective areas discussed below we would need to be provided with the underlying statewide data. Currently that has not been provided or made public. Please note that with GIS calculations the mere provision of some PDF mapping is not sufficient. TEA recommends and requests the data be made publicly available.

Informal Reserves Proposed to be Re-Reserved – Actually Inflate and Distort the Proposed Reservation Increase.

Importantly it should be realised that the ENGO signatories' reserve proposals would (under their full proposal) take some 175,668 Ha of native forest already Informally Reserved under the Regional Forest Agreement (because the vegetation required reservation) or because the area had already been reserved informally (or proposed to be reserved informally) under a previous process such as the Recommended Areas for Protection (RAPs) process arising from the 1986 memorandum of understanding into Export Woodchips and move them into existing secure, gazetted conservation reserves.

For the purpose of the analysis below the Australian and Tasmanian Governments already considers those informal reserves to be a part of the National Reserve System (NRS).

Because this already (informally) reserved component of the ENGO proposals for secure reserves is so large in proportion to the overall conservation demand we consider this matter to be an important consideration.

By the way, governments and the FPA consider prescriptive set asides made during logging to not be a part of the NRS.

Thus we maintain the ENGO signatories' full reserve demand is in reality actually less than 326,000 Ha not 572,000 odd hectares (which is now only 525,000 Ha) of forest.

Further we consider that this action of seeking to upgrade only some of the informal reserves to secure reserves actually potentially endangers the remaining informal reserved forests, being an area of some 118,501 hectares, primarily on State Forest.

Within that area of 118,501 hectares of protected forest there are some significant and important large, well-shaped areas of forest containing vegetation which is

100% required for conservation under the RFA and which has been assessed and reserved mainly by Forestry Tasmania but currently only informally reserved, an inadequate reservation status, one which can be reversed with little oversight or scrutiny but which has been accepted under the RFA. It is not logical to have some large informal reserves proposed to be upgraded and not others. After all, one notable secure reserve in our region, Notley Gorge State Reserve is only 14.2 Ha, so quite small reserves can play an important role.

Within the Independent Verification Group (IVG) process TEA advocated that several others of these (within our study area) be also upgraded, as they too have high conservation values (HCV) but our input was not adequately considered in our view, although one such area we proposed to the IVG is now proposed to be upgraded via the January 2013 WOG TFAB amendment and associated WOG CPR plans. This area is known as The Badgers, some 1,423 Ha being a range north of Sheffield and which adjoins the much smaller Caroline Creek FR of 212.41 Ha. Isn't it interesting and inadequate that an area of 1,423 Ha was only informally reserved under the RFA whilst the adjoining 212.41 Ha was securely reserved. We support the upgrade of the informal reserves where appropriate.

The secure reservation of informal reserves should not be an issue of contention, after all they are already in the NRS and were mainly created under the RFA. The only issue is what tenure to give them.

TEA recommends the conversion of the well shaped and sized informal reserves and large prescription conservation areas within public State Forest currently managed by Forestry Tasmania to secure reserves managed by the Parks and Wildlife Service.

In our view where an overall review of the reserve estate is occurring it is wise to look at such matters in a systematic way.

The Reservation Status of Non-Forest Vegetation in Tasmania

When one looks at the total extent of non-forest vegetation there is 1,451,521 ha statewide and one can see there is a higher reservation level of the non-forest category (than forests) with 999,430 Ha in secure public reserves. This level of reservation situation relates only to non-forest reservation on public land rather than private land. It is largely caused by the substantial areas of non-forest contained within the World Heritage Area. There is 36,234 Ha of non-forest in the ENGO signatories' forest reserve proposals.

The Reservation Levels of Tasmanian Forests and the Limited Assessment

In looking closer at the breakdown of the forested areas into their components to analyse some of the likely benefits to, and problems for conservation in public interest terms, should the Tasmanian Forest Agreement 2012 (TFA) be implemented, we consider below a limited assessment for the statewide reservation levels of the forest vegetation and the amount in each category of Threatened,

Under-reserved forest communities, Old growth forest, Rare/Depleted old growth and Under-reserved old growth forest, both on public and private land.

In fact, the levels should be assessed on a bioregional basis and this is the most relevant consideration for CAR criteria as set out in JANIS.

It is also relevant to consider the current and possible future land tenure and its impact on the accepted categories of forest in reservation terms and thus how the forest will be managed under the proposed legislation.

It is important to understand that the Independent Verification Group (IVG) ostensibly only considered the conservation values of those (HCV) areas of land nominated by the ENGO signatories for formal protection that is the 572,000 Ha. This matter can be found in the IVG Terms of reference seemingly dated 30th August 2011 where it states:

2 In consultation with the Signatories, design and implement an independent and transparent verification process to assess and verify stakeholder claims relating to sustainable timber supply requirements (including at the regional level), available native forest and plantation volumes in both the short and longer term, and areas, conservation values and boundaries of reserves from within the ENGO-nominated 572,000 hectares (Clauses 20 and 28). In making its assessments, the Group will have access to and use the best available data (including data on demand and usage), including that held by Forestry Tasmania and others.

And

5 Assess and provide advice about stakeholder claims relating to conservation values, areas and boundaries of potential reserves from within the ENGO-nominated 572,000 hectares of High Conservation Value native forest. (Clauses 20 and 28)

Thus HCV areas outside of the ENGO's 572,000 Ha were outside of the TOR of the IVG. We consider this a major failing. We consider the material in this section of our submission shows that important and critical forests for biodiversity conservation purposes lie outside of the 572,000 Ha ENGO area.

However interestingly in part we believe those 572,000 Hectares are not the same hectares as the ones the ENGO's actually started with as conservation propositions. Needless to say, anyone else's additional reserve or conservation proposals were (seemingly with the exception of the Badgers) not considered by the IVG.

We therefore have limited confidence in the work of the IVG in the main, especially because of the TOR problem and we especially have limited confidence in the Capstone summary reports, which we view as strongly suspect and not reflecting some of the detailed reports done by competent scientists for the IVG process. However to review all that detail here would be a large task, beyond the scope of this submission.

We do wish to draw your attention to a couple of the IVG reports which we consider to be important and where the information presented in essence suggests reservation of forests outside the 572,000 Ha may be required. TEA has included these reports in **Appendix B** to this submission. The reports are:

IVG Forest Conservation Report 7A

“Report for the Independent Verification Group of the Tasmanian Forests Intergovernmental Agreement (IGA) on the distribution of carnivore refugia within the proposed ENGO forest conservation areas: Distribution of large marsupial carnivores - locations of core habitat and population strongholds for the Tasmanian devil, spotted-tailed quoll and eastern quoll in Tasmania. By Chris Johnson, Menna Jones and Brooke Bateman.”

IVG Forest Comprehensiveness Report 1A

“Knight, R.I. (2012). Analysis of comprehensiveness of existing conservation reserves and proposed additions to the Tasmanian forest reserves system. Report to the Independent Verification Group for the Tasmanian Forests Intergovernmental Agreement, February 2012. (Natural Resource Planning, Hobart.)”

We urge Legislative Councillors to read these two reports. Indeed TEA seeks to encourage the Select Committee to call both Dr Menna Jones and Mr Rod Knight with the aim of understanding the nuances and implications of their reports. Please note TEA has contracted Mr Knight on occasion to generate maps and GIS information on a fee for service basis.

The Reservation Levels of Threatened Forest in Tasmania

Threatened Native Vegetation Communities are as listed under Schedule 3A of the Nature Conservation Act 2002. The list is established through a scientific assessment process against criteria for “rare”, “vulnerable” and “endangered” (Threatened Native Vegetation Communities Process for listing/delisting communities published at <http://www.dpiw.tas.gov.au/inter.nsf/Attachments/LJEM-72M3ZV?open>). The Threatened Native Vegetation Communities List can be found at <http://www.dpiw.tas.gov.au/inter.nsf/WebPages/AWAH-6547ZL?open>.

Within the Tasmanian forest estate of 3,597,913 Ha there is some 253,565 Ha of Threatened forest, of which 86,237 Ha is contained within secure reserves on public land and 9,357 Ha is in informal reserves on public land and only 16,848 Ha is protected on private land.

The proposed ENGO signatories’ 572,000 Ha of reserve proposals would only add some 3,027 Ha of Threatened forest on public land to the National Reserve System. A small percentage of that legitimate class of HCV forest.

Significantly there is some 129,266 Ha of Threatened forest on private land that is not dealt with and not considered at all by the current IGA process and therefore not proposed for conservation by the current process. Thus, over half of the Threatened forest in Tasmania has been avoided, not assessed and no solutions explored except for some puerile reference to Forest Stewardship Council (FSC) certification and a proposed weakening of the Forest Practices Code.

Interestingly there would also be some 8,789 Ha of Threatened Forest outside of the NRS on public land, if the current ENGO signatories’ 572,000 Ha area of reserve proposals went ahead in full.

Threatened non-forest covers an area of 105,869 Ha and of that 46,254 Ha is unreserved and unprotected on private land in Tasmania.

The Reservation Status of Under-reserved Forest Vegetation in Tasmania

Within the Tasmanian forest estate of 3,597,913 Ha there is some 633,924 Ha of Under-reserved forest vegetation communities, of which only 101,321 Ha is contained within secure reserves on public land, 34,421 Ha is in informal reserves on public land and an area of 35,299 Ha is protected on private land.

The full ENGO signatories' 572,000 Ha of reserve proposals would only add some 30,669 Ha of Under-reserved forest communities on public land to the National Reserve System. This again is a small percentage of the total forest demand by ENGO signatories.

Significantly there are some 330,492 Ha of Under-reserved forest vegetation communities on private land that are not dealt with and was not considered by the current process. Thus, again over half of the Under-reserved forest communities in Tasmania have been avoided and no solutions explored.

Interestingly there would also be some 101,622 Ha of Under-reserved forest vegetation communities outside of the NRS on public land, if the current ENGO signatories' reserve proposals went ahead in full. That is, the ENGO's 572,000 Ha proposal would unwisely place this 101,622 Ha of under reserved forest vegetation in a Permanent Wood Production Zone. Currently it is in the main within the Multiple Use Zone on State Forest.

The Reservation Status of Old Growth Forest in Tasmania

Within the Tasmanian forest estate of 3,597,913 Ha there is some 1,109,549 Ha of old growth forest of which 739,322 Ha is contained within secure reserves on public land and 137,116 Ha is in informal reserves on public land and 15,156 Ha is protected on private land.

The full ENGO signatories' 572,000 Ha reserve proposals would add a useful 77,258 Ha of old growth forest on public land to the National Reserve System. However, significantly there is some 97,790 Ha of unprotected Old growth forest on private land that again is not considered by the current process.

There would also be some 39,712 Ha of old growth forest, post any agreement, outside of the NRS on public land, if the current ENGO signatories' proposals went ahead in full. This forest would almost certainly be placed in a Permanent Wood Production Zone and invariably targeted for extraction and thus trashed.

Importantly there is only some 62,569 Ha of Rare/Depleted old growth (OG) forest and 197,929 Ha of Under-reserved old growth forest out of the total forest area of 3,597,913 Ha in Tasmania.

The ENGO signatories' 572,000 Ha of reserve proposals (if applied in full) would add 4,569 Ha of Rare/Depleted OG and 12,868 Ha of Under-reserved OG to the National Reserve System.

Currently there is some 36,582 Ha of Rare/Depleted OG and 107,940 Ha of Under-reserved OG already within the National Reserve System in Tasmania, either formally reserved, informally reserved on public land, or reserved on private land.

Regarding these two important forest categories it must be considered that an area of 15,819 Ha of Rare/Depleted OG and 62,043 Ha of Under-reserved OG are all unreserved on Private land in Tasmania and again this has not been considered in the ENGO's 572,000 Ha driven process.

Shamefully no private land process in the Forest Peace process has been designed or implemented to address this vitally important fact. Indeed stakeholders concerning private land have been either given a letter of comfort, or driven out, or not included in the process, which has stooped to a rhetorical reliance on Forest Stewardship Council certification as a strategy for the conservation of the critical private land.

Current Reserve Proposals Not Sufficient

It is important that Tasmania's forest estate (both on public land and on private land) is further protected in secure conservation reserves; we do not quibble with that proposition at all.

However, we are not convinced the current proposal as set out in documents and maps (See **Appendix A**) and CPR Plans in the Government's WOG Submission, to the Tasmanian Forest Agreement 2012 Bill Select Committee LC inquiry, which concentrate on certain public land areas to the almost inevitable detriment of any consideration of forest values and other (non-forest) values on private land and other public forested land areas containing HCV forests is neither sufficient or acceptable. Certainly it is not in the public interest.

It is not that the ENGO signatories' reserve proposals should not be supported. Indeed, several of the proposals originated from our Association (TEA) and we stand by those proposals. But rather that the proposals are not sufficient and this came about because the whole of the unprotected forest estate was not considered in the process.

The Whole of Unprotected Tasmanian Forest Estate Not Considered

The Tasmanian forestry 'peace process' and the IVG process has short-sightedly failed to consider the conservation values of forest outside of the ENGO's reserve proposals. The TFA is thus fatally flawed as it has erroneously assumed that High Conservation Value Forest only exists within those 572,000 Ha of ENGO proposals that were rubber stamped by the Independent Verification Group.

TEA demonstrated to the Independent Verification Group (IVG) that High Conservation Value Forest exists outside of those ENGO proposals but our well-researched and documented argument (almost totally) fell on deaf ears because the IVG was mischievously constrained to only look at the ENGO reserve proposals.

Not only did TEA irrefutably demonstrate that HCV forest outside of the ENGO proposals exists but that it is highly likely to be destroyed under a conservation process limited to the ENGO signatories' conservation proposals under the Tasmanian Forest Agreement 2012 and its associated legislative Bill, the Tasmanian Forests Agreement Bill 2012 (No. 30).

**Statistics Presented above are Optimistic
Because ENGO Signatories' Demand was Whittled Down**

The whole conservation situation, as described above is worse than the described statistics because there is no likelihood of an agreement where the ENGO conservation demand will be met in full. Indeed the Tasmanian Forest Agreement 2012 appears to propose reserves to approximately 525,000 hectares, in three tranches and with some once off logging against the SOP.

This poor (private) negotiation has continued to whittle away the environment movement's reserve agenda. TEA is certainly unable to become aware of the full extent of the attrition in the small amount of extra time given us to make comment post the WOG submission, but our submission outlines a plethora of the fundamental problems.

We consider from the above forest conservation statistics that the Tasmanian Forest Agreement 2012 is not a sound agreement in the public interest.

The Tasmanian Forest Agreement 2012 obviously does not support the adequate conservation of biodiversity in Tasmania. Indeed it may be coherently argued that it could well undermine existing mechanisms to protect biodiversity.

We thus consider that an amount of our reserve agenda has been discarded and its values for biodiversity not properly considered. We consider the IVG was unduly influenced by certain parties and has a reduced validity as a result.

Independent Verification Group and Why it has Largely Failed

What was the Independent Verification Group (IVG) meant to verify? In conservation terms it was set up purely and only to validate the 572,000 Ha agenda of the ENGO signatories rather than critique that agenda in the context of possible alternative areas, which may have higher values. This artificial limitation has resulted in a major deficit in any broad assessment of HCV forests.

As a consequence the IVG was not charged with undertaking a systematic exercise at all. As already mentioned the terms of reference of the Independent Verification Group avoided analysis of areas outside of the ENGO signatories' proposals.

There was never any objective assessment of what HCV actually is. This was a major failing in itself. Significant scientific work and advice was effectively avoided or ignored. There is no evidence that certain identified issues were acted upon.

Sadly, the IVG also paid inadequate attention to options for managing conservation values of identified HCV forests.

The IVG failed to address the fact that degraded forests may be HCV forests, that degraded does not necessarily remove the HCV values. This is critical issue often overlooked by wilderness advocates.

We consider there is an amount of inadequate work and especially wish to recommend an avoidance of any reliance on the Capstone summary reports of the IVG.

There is ample evidence in some of the IVG reports that significant forest biodiversity values (HCV) of forests are alive and well and outside of the 572,000 Ha ENGO proposals but are crucially threatened under current and proposed reservation outcomes of the IGA and TFA.

It appears certain ENGO's and certain individual conservationists had substantial influence over Prof. West and the IVG process and the earlier parts of the process design. We consider such behaviour to be unsupportable.

TEA's arms length input into that process was largely ignored. TEA's valid and sound proposal areas for additional reserves that importantly include areas where an expansion of the reserve system outside of the 572,000 Ha is critically required have not been included.

Tasmanian Forest Agreement 2012

The signatories agreed to shared objectives which includes:

"A genuine, lasting end to conflict over Tasmania's native forests..."

This in our view is not well thought out. Firstly if we accept the words, how would it be achieved when private land is not included? Conflict over forestry management takes a variety of forms and certainly plagues more than just native forests. To seek an end to conflict over forestry issues requires a different shared objective.

If one of the shared objectives is to have:

"an ongoing, vibrant forestry industry in Tasmania based on native forests and, increasingly in the future, plantation"

That is an admission that there is proposed to be an increasing reliance on plantations - an intensified form of forestry with many impacts and I can assure you

a generator of conflict in several ways. But this agreement does not propose to solve the conflict over plantations. Does it?

But from the above-shared objective the TFA somehow, without solving the plantation conflict and without dealing with private land, wants to have “*an ongoing, vibrant forestry industry...*”. How could that be achieved, we argue it to be unlikely. The original adjective in the SOP was “*strong*”. We believe the industry must become “*viable*”, “*considerate*” and “*responsible*” rather than vibrant and/or strong if there is to be any hope of resolving the conflict over forestry as opposed to native forests. You may feel that we are being somewhat semantic but we think this aspect is important.

We do not see “*a strong focus on research and development to assist in driving these objectives.*” to be a priority . Surely there are many more important aspects that need to be addressed. Is this is merely another funding rort?

Nor are we happy with another of the shared objectives:

“strong, resilient communities and decent and secure jobs for workers and contractors”

The word “safe” is not included and regardless of which community the TFA may be referring to “safe” is essential. Without “safe” in the objective you will not solve the conflict. The community is entitled to both be safe and to feel safe in regards to the dangerous land use activity of forestry.

Nor are we happy with another of the shared objectives:

“protection of significant additional areas of native forest with important conservation values”

The problem is that the above statement is insufficient in that merely additional areas as proposed are not sufficient in conservation terms to resolve the conflict. It is widely recognised that a range of conservation mechanisms must be deployed to achieve a responsible forestry industry.

The whole forest conservation situation as described above is made worse again when one considers that the Tasmanian Forest Agreement 2012 proposes:

“Agreed wood production areas to be set aside in legislation as Permanent Timber Production Zone Land.”

Regarding the proposed “*Permanent Timber Production Zone Land.*”, which is intended to replace the Register of Multiple Use Forest Zone established as an outcome from the FFIS under the Forestry Act 1920, itself intended to be a form of resource security, we must advise we cannot support the proposed conversion of the remaining Multiple Use Forest to a Permanent Timber Production.

The fact is that State Forest serves a variety of life support functions, water catchment and recreation in various forms that may not be acceptable in secure reserves, other functions such as community roads, apiaries and so forth. To simply propose all that becomes “*Permanent Timber Production Zone Land.*” via an exclusive process will not solve any conflict whatsoever.

The TFA states that the Permanent Timber Production Zone Land (PTPZL) has been defined in the TFA Bill but the area of the PTPZL, unlike all other reserve classifications and unlike all other mapped areas has not had its area disclosed. We consider this simple but important issue to be a critical lack of transparency. It seems to TEA that despite the additional reserves proposed there remains a very substantial area of forest proposed to be set aside now exclusively for forestry.

And worse: Clause 52

“52. The outcomes of this agreement should be incorporated into existing State and Federal mechanisms, including the Regional Forest Agreement.”

There would remain significant informal reserves in the proposed Permanent Timber Production Zone Land area and although that seems to be vaguely recognised in the TFA (in the Certification section), it does not seem to be accorded any importance in the proposed legislation. That worries TEA and we consider the matter needs to be addressed to ensure that Tasmania’s obligations under the RFA continue to be met.

And a further worsening via Clause 53.

“53. The Signatories ask the Tasmanian Government to amend the Forest Practices Act guiding principles and objectives to give effect to:

a. the recognition of the vision in legislation and to the outcomes of this agreement, and

b. require the Forest Practices Authority to explicitly consider social, economic and environmental outcomes of their decision-making processes, while

c. maintaining the ongoing application of the Forest Practices Code.”

Sub point “c” suggests, unacceptably, that the existing FPC would become a toy thing of the TFA. Whilst the FPA is industry funded and so already its neutrality is under suspicion, and we wish to advise we have not been satisfied with the FPA, this clause would be the end. This would not resolve conflict – what, give the community a FPC with serves purely the TFA Vision? It would not work.

As for sub point “b” this *“explicitly consider social, economic and environmental outcomes of their decision-making processes”*, in our view, at least in the legislation. The FP Act 1985 legislation (as amended many times) states:

The Forest Practices Authority (FPA) is required to further the objectives of the forest practices system as set out in schedule 7 of the FP Act. By schedule 7, the primary objective of the forest practices system is to achieve *“...sustainable management of Crown and private forests with due care for the environment...”* Unfortunately the Act does not define the term *“sustainable management”* so in the absence of any such definition it is arguable that the reference to sustainable management should have the same meaning as *“sustainable development”* in the objectives of the Resource Management and Planning System of Tasmania, i.e. (LUPAA Sch.1)

"sustainable development" means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural well-being and for their health and safety while –

(a) sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations; and

(b) safeguarding the life-supporting capacity of air, water, soil and ecosystems; and

(c) avoiding, remedying or mitigating any adverse effects of activities on the environment.

But we would agree that a definition of “sustainable management” should be incorporated into the FP Act with public consultation. There are, in fact, many amendments that could be made to this 1985 Act which would lessen conflict with the community and improve the responsibility of forestry as well as making it an easier act to administer. We discuss some of those elsewhere in this submission.

Clause 16 (3) of the FP Act states:

“If – (a) the section 5 application was refused on the ground referred to in section 8(2)(d) or (e) wholly or partly because the declaration would threaten natural or cultural values..”

Thus we argue as a consequence there is an intent (a brief intent) within the Forest Practices Act to consider both natural and cultural values as a part of sustainable management. The Act is hopelessly constructed and has suffered inordinately from the multiple amendments but hidden away in its depths is the consideration of both social and environmental values. TEA regards there is only natural and cultural values and that the current fashion to separately include the value of “economics” along with that noxious “triple bottom line” mantra fails to consider that economic values are an artificial construct of society.

If it needed to be made clearer that forest outside of the proposed expanded reserve system was to be targeted for wood production, then clause 55 of the Tasmanian Forest Agreement 2012, does so:

“55. The Signatories agree that the production forest estate and the reserves forest estate should be managed by institutions that provide secure and durable management outcomes consistent with the intended purpose of those respective forest areas.”

It is completely and totally unacceptable to TEA that a guaranteed wood supply for forestry may be sourced from natural forest containing Threatened forest, Under-reserved forest communities, Rare/Depleted old growth and/or Under-reserved old growth forest on public land. Surely such provisions of the Tasmanian Forest Agreement 2012 are completely unacceptable to you too. That aspect would inevitably place the forestry industry on a further path of conflict and criticism, which would be hard for it to sustain. It would certainly not bring resolution to the conflict over forests. It would see harm to Tasmania’s reputation including in its markets, I am sure.

Then the Agreed Vision is set out in Attachment A and linked in to the Bill as Schedule 1.

“The Signatories agree to the long term vision for the forestry industry, the environment and communities in Tasmania, as set out in Attachment A, and that it should be recognised in legislation, as an expression of foundation policy.”

We can find no definition in the TFA for the term: *“foundation policy”*, a term used in 3. under Agreed Vision.

It is just amazing and grossly offensive that the Government has accepted that the TFA is proposing and the TFA Bill within Schedule one seeks to more or less permanently embalm the signatories Agreed Vision as an ad hoc policy. TEA does not support this proposal at all.

It is not that the State of Tasmania should not have a policy over forestry or indeed over forest conservation and protection (or both) or indeed one that achieves a distinct and deliberate, separate policy position over plantations and native forests. But please, surely in 2013 we can move out of the dark ages and have a proper inclusive process to create a State Policy or set of policies for forestry etc. If forestry is as important as some seem to think the question has to be asked: Why have not the resources and priority been dedicated to developing a policy for this industry and activity?

For the record we do not support the TFA’s Agreed Vision as set out in Attachment A. Further we maintain it is not a policy at all. Further that Agreed Vision is highly unlikely to resolve the conflict over forestry.

The assertion in the vision:

“Implementation of this agreement provides the basis for resolution of longstanding conflict surrounding the management of forests and for widespread public support for community, conservation and forest industry outcomes.”

Is not accepted to be based on reality. It has been made seeking to promote a privately constructed agreement, in the absence of community consultation and where a Government floundered and acquiesced hoping for something that would genuinely work. It is highly unlikely to be anything more than a first step but unfortunately that step is likely to be one that does not resolve the conflict.

The State of Tasmania has a State Policies and Projects Act 1993 that is designed to create land use policies and would be entirely suitable for the purpose. This Act states:

“5. Requirements for making of State Policies

(1) A State Policy –

(a) must seek to further the objectives set out in Schedule 1; and

(b) may be made only where there is, in the opinion of the Minister, a matter of State significance to be dealt with in the State Policy; and

(c) must seek to ensure that a consistent and co-ordinated approach is maintained throughout the State with respect to the matters contained in the State Policy; and

(d) must incorporate the minimum amount of regulation necessary to obtain its objectives.

(2)

5A. Matters to be contained in State Policies

A State Policy may contain matters relating to one or more of the following:

(a) sustainable development of natural and physical resources;

(b) land use planning;

(c) land management;

(d) environmental management;

(e) environment protection;

(f) any other matter that may be prescribed.”

TEA does not consider that “*Schedule 1 Vision for Tasmania’s Forests*” of the TFA Bill (derived from Attachment A of the TFA) qualifies to be a Tasmanian sustainable development policy.

Further under the FP Act has been created the PNFEP, a policy. It is far wiser and more flexible to have a policy sitting under legislation than embalmed within it like an Egyptian mummy.

As for the content of the so called “foundation policy” we consider that this submission shows our views on policy positions throughout which in any proper, decent, transparent and just process, we would make representation aiming to create a forestry policy and obviously in any creating of a forest conservation policy.

The state of Tasmania needs a suite of policies. At a very minimum we very badly need a scenic protection policy as well. Scarring of the landscape by forestry causes conflict. No one likes the sight of charred stumps. The FPA’s landscape manual is now seriously out of date and in any case other land uses besides forestry can impact of visual amenity. The state’s visual amenity is of vital importance to the tourism industry, an industry considerably larger than forestry. But Tourism has no security in legislation, there is only a mouldy old manual and almost no clauses in a now out of date FPC. Not good enough.

TEA considers there is a range of other detrimental effects of the Tasmanian Forest Agreement 2012.

TEA is unable in the current scenario and with the current Interim Agreement provisions to support such an agreement or even some minor modification or derivation thereof. We are completely convinced that the Tasmanian Forest

Agreement 2012 does not provide: *“a joint solution to the long running conflict that has divided Tasmania”*.

The Tasmanian Forest Agreement 2012 states:

“We call on all political parties and the community to support all of the industry, community, economic and conservation outcomes promoted by this agreement, and for governments to commit to the implementation and funding of its relevant terms.”

However and because of the deficiencies outlined in this document TEA is unable to support the Agreement in its current form. We consider that this agreement is highly unlikely to solve either forest conservation or forestry problems, or be durable.

We believe that this non-consultative non-transparent process will not bring long-term solutions or peace for Tasmanians or for the forests.

We earnestly and strongly support resolution of the divisive forestry conflict in Tasmania and will also support the other two goals of the 2010 Tasmanian Forests Statement Of Principles To Lead To An Agreement *“To resolve the conflict over forests in Tasmania, protect native forests, and develop a strong sustainable timber industry.”*

Indeed when one critically examines the 2010 Statement of Principles one finds that many of the Principles and other matters have been discarded in the Tasmanian Forest Agreement 2012 and the associated legislation, Tasmanian Forests Agreement Bill 2012 (No. 30).

Under the Industry section of the Vision for Tasmania’s Forests it states in 1:

“A strong, competitive forest sector based on sustainable managed publicly and privately owned native forests and plantations, ...”

But then one should not forget the definition of *“Tasmanian forestry industry”* on the previous page of the agreement:

“Tasmanian forestry industry for the purposes of this agreement means those businesses and workers that depend on the growing, managing, harvesting, transporting or processing of trees or wood products from state-owned native forests and plantations in Tasmania.”

We tend to discard the above definition as a piece of garbage.

TEA is strongly of the view that forestry in Tasmania occurs on both private and public land, across a range of land tenures and that the recognition of that fact is fundamental to putting oneself in the starting gate in the race to resolve the conflict. TEA could show through a number of the clauses, throughout the TFA the fact that this agreement will involve private land and naturally will influence private land outcomes and we argue that as a result the potential for conflict will be enhanced, not diminished, for much of the community.

That in some vitally important ways is the problem of the private, self appointed coterie of signatories who from the discarded SOP pursued this so called ‘peace

process' negotiation through a limited IVG to the TFA and the TFA Bill (30) of 2012, actually never sought to represent or consider the broader Tasmanian community.

We deal with Attachment A of the TFA below more as it has morphed into Schedule 1 of the TFA Bill

We note in the definitions of the TFA:

“Future Reserve Land means land placed under a Protection Order by the Tasmanian Parliament, pending formal gazettal.”

There was no definition of *Future Reserve Land* (FRL) in the TFA Bill but that there is now one in the WOG amendment which states:

“Insert the following definition: the future reserve land means the land described in column 2 of Schedule A.”

TEA considers that in the preamble/purpose of the TFA Bill it should also state something such as:

“To create protection orders for Future Reserved Land.”

We note in the definitions of the TFA:

“Funding Schedule for the purposes of this agreement means those funding initiatives identified by ENGO and Industry signatories respectively, to support the implementation of this agreement.”

But the Funding Schedule has not been included in the agreement. Thus if the Funding schedule is a part of the agreement then the agreement is incomplete. At the very least the absence of the funding schedule is a lack of transparency.

Triabunna Woodchip Mill

The TFA seemingly constrains durability to an achievement of reopening the former Gunns Triabunna woodchip mill. See clause 30.

“30. As a short term interim approach the Signatories call on Governments to urgently seek to achieve access to the Triabunna processing and export facility and to the Burnie wharf facility and short term woodchip stockpiling arrangements. The Signatories call on all relevant parties to do everything possible to facilitate these short-term solutions or to put in place suitable alternatives. Progress on this will form part of the Durability Report prior to the Protection Order.”

This is the sort of inappropriate co-optive deal that characterises the TFA. The owners of Triabunna were not parties to the TFA and they have no means of controlling such an outcome, yet it becomes a part of durability.

Cable Logging Proposals and Subsidies

We note that under the TFA there is an intent to re-establish cable logging of steep, often virgin, slopes with attendant risks to the landscape, soil and catchment values. We note that many of such sites are in catchment headwaters.

TEA members have been involved in campaigning against cable logging over a long period. We find the proposal to be a recipe for conflict.

Additionally, buybacks of sawlog quotas below the 137,000 cu metres have seemingly not been considered as an alternative to logging steep sensitive sites.

We find it incredible that the signatories have actually agreed to seek funding for subsidised cable logging machinery so that pristine areas can be pillaged.

Once-off Logging of New Reserves

TEA is opposed to a once off logging of any proposed reserves. For many areas in the north of Tasmania that would mean the logging out of the natural primary forest. This is a foolish proposition.

This is a matter for the management plans / management objectives for each reserve. TEA proposes inserting a new subsection in s.19 of the Forest Practices Act 1985:

(1AAA) The Authority is not to certify a forest practices plan involving any reserved land. ·

The definitions section would also need to be amended to include a definition of ‘reserved land’ including all reserved land under the Nature Conservation Act 2002 and forest reserves under the Forestry Act 1920.

Durability

Clause 42 says it all:

42. All elements of this agreement should be reviewed as part of each durability report, with key elements to be considered including progress with recognition of the agreed vision in legislation, implementing the reserve gazettals; achievement of wood supply commitments including specialty timbers; agreed transition plan and its implementation; short, medium and longer term residue solutions; ongoing public and proactive support for the outcomes of this agreement, including in markets for Tasmanian forest products; support for the recommendation that governments assess the World Heritage nomination; adequate progress with the achievement of certification, adequate and satisfactory outcomes in respect of this agreement, including but not limited to the clauses about Institutional Arrangements for Parks and Production Forest Management; equitable implementation of the industry restructuring and assistance packages; and support by governments for implementation of this agreement.”

But there is no methodology by which Durability compliance is determined. There is a lot of discretion and thus potential for conflict. We consider it, as it stands to be an unreasonably broad fetter with an overly large amount of discretion.

Legislation: the Tasmanian Forests Agreement Bill 2012 (No. 30)

Throughout our submission we have made comments and propositions which would affect the Tasmanian Forests Agreement Bill 2012 (No. 30). But we make some additional points below.

In the event the Legislative Council is supporting the Tasmanian Forests Agreement Bill 2012 (No. 30), we strongly urge the upper house to ensure that Section 5 (below) is rejected and discarded.

5. Inconsistency with other Acts

If any provisions of this Act are inconsistent with any provisions of the –

- (a) Nature Conservation Act 2002; or*
- (b) National Parks and Reserves Management Act 2002; or*
- (c) Forestry Act 1920; or*
- (d) Forest Practices Act 1985; or*
- (e) Forestry Rights Registration Act 1990; or*
- (f) Crown Lands Act 1976; or*
- (g) Land Use Planning and Approvals Act 1993; or*
- (h) Land Titles Act 1980; or*
- (i) Local Government (Building and Miscellaneous Provisions) Act 1993 –*

the provisions of this Act prevail to the extent of the inconsistency.

Schedule 1 – Vision For Tasmania’s Forests

TEA finds the wording and proposed vision in this Schedule 1 of The Act to be unacceptable and offensive. The claim that the vision presented in Schedule 1 and the Act itself will provide a recipe for the resolution of the conflict over forestry or indeed even over native forests is absurd.

“Implementation of this agreement provides the basis for resolution of longstanding conflict surrounding the management of forests and for widespread public support for community, conservation and forest industry .”

How could there be “...widespread public support for community...and conservation....outcomes” when most sectors of the community and many conservation groups were excluded from the process?

The section below and the other parts of the vision, which refer to conservation, are inadequate and will not (as discussed in this briefing) achieve adequate conservation of Biological Diversity. Thus whilst the vision includes the word “*biodiversity*” the term has no meaning as it is not included in the interpretation of the subject Bill.

Tasmania's vision is for –

(a) A protected area estate that is accepted and valued for its permanent protection of nationally and internationally significant conservation, biodiversity and heritage values.

The correct term is not “*biodiversity*” at all but rather as expressed in Section 3 of the Nature Conservation Act 2002 it is “*Biological Diversity*”:

biological diversity means the variety of –

(a) plants, animals and micro-organisms; and

(b) the genes contained in plants, animals and micro-organisms; and

(c) the ecosystems of which plants, animals and micro-organisms form part;

In any case TEA considers that right now the TFA vision cannot be met regarding the conservation and protection of Biological Diversity. The conservation vision completely fails to mention and deal with the conservation imperative of private land where the highest unreserved Biological Diversity values are present.

We could go on showing the Legislative Council the inadequacies of this Bill but time does not permit. Indeed the lack of time for scrutiny should see it thrown out.

Schedule One of the Tasmanian Forests Agreement Bill 2012 (No. 30)

Derived from Attachment A of the TFA this document is claimed to be fundamental policy.

We have already argued that enshrining this (and any other) policy in state legislation is unwise. Just imagine if the National Forest Policy was enshrined in legislation or the Protection of Agricultural Land policy became fixed and only parliament could change it. The inflexibility problems would increase and remedies would be far more difficult to achieve. What about the PNFEP Policy administered by the FPA? It would be highly inefficient to have such policies enshrined and embalmed into legislation.

Already the State finds Policies to be somewhat difficult to manage and update. Just imagine if you have a policy that can only be updated by both houses of parliament.

The second reason for objecting to this policy being a schedule of an Act is that it was not created in any bona fide way that satisfies the public interest test. It is an anachronism of a private agreement and the signatories to that agreement are inappropriately seeking to give their private vision a life of its own that potentially affects all Tasmanians. If you believe in due democratic processes you will simply discard this part of the TFA Bill (30).

Legislation: the Tasmanian Forests Agreement Bill 2012 (No. 30) WOG Amendment dated the 15th January 2013

At around the 15th January the Tasmanian Government made submission titled: ‘Tasmanian Forests Agreement Bill 2012, Whole-of-Government Departmental

Submission to the Legislative Council Select Committee'. This included a number of documents including proposed amendments totally 158 pages. Much of that document is taken up by Schedule A, a reasonable amendment, likewise the provision of plans is viewed as reasonable, if tardy.

We consider the proposed amendment, removing from the original TFA Bill the "protection order" process, which was obviously unnecessarily convoluted – an otiose provision that in TEA's opinion has rightly been proposed by the Government to be avoided.

TEA can see no reason for either the original or the amended clause Section 13 (9). After all why should the Minister have discretion here?

In regards to Clause 10 (2) (a) we recommend that in most instances biological diversity would be served by adding into the column 5 of Schedule A; "the taking of protected and semi protected wildlife". We consider it reasonable that protected areas actually protect biological diversity.

We question the accuracy of column 6 in Appendix A and would wish to look closer at this issue.

Index Plans: Tasmanian Forests Agreement Future Reserve Land WOG
Submission dated the 15th January 2013

These have been noted and inspected. We have been unable to compare the CPR 9580 plans with the four maps A to D, which ostensibly formed a part of the TFA, given the timeframe and the small scale of the mapping.

This CPR plan 9580 is not a set of final reserve areas but as it says: "*are indicative only.*"

We consider and request that the underlying data be made available to stakeholders and that appropriately scaled maps be produced and distributed as a priority.

Royal Commission into the forestry industry

We would support and participate in a Royal Commission into the forestry industry in Tasmania. We consider this to be required and long overdue. We will continue to seek an independent enquiry into forestry, including the current Tasmanian Forest Agreement 2012.

We do not intend this proposal to be one of disrespect to the Legislative Council but the proposal is for a broader inquiry with far ranging powers.

On Royal Commissions:

"A federal Royal Commission is a government inquiry established by the Governor-General pursuant to the Royal Commissions Act 1902 (Cth). The Royal Commissions Act allows the Governor-General, by Letters Patent, to issue such commissions, directed to such person or persons, as he thinks fit, requiring or authorizing [those persons] to make inquiry into and report upon any matter

specified in the Letters Patent, and which relates to or is connected with the peace, order and good government of the Commonwealth, or any public purpose or any power of the Commonwealth. (Royal Commissions Act 1902 (Cth) s 1A)

Royal Commissions are established on an ad hoc basis to inquire into matters of public interest. Their purpose is usually to ascertain factual circumstances and make recommendations.[2] There have been a number of high profile federal Royal Commissions, including those into the Australian Wheat Board, HIH Insurance, the building and construction industry, and Aboriginal deaths in custody.[3]

A federal Royal Commission has coercive information-gathering powers. For example, it has the power to summon a witness to give evidence or produce documents.[4] Further, the Royal Commissions Act creates a number of statutory offences for certain types of conduct. For example, it is an offence to fail to attend or produce documents to a Royal Commission; or to conceal, mutilate or destroy any document or thing that is likely to be required in evidence before a Royal Commission.[5]

A federal Royal Commission may order that evidence be taken in private. It may also limit or prohibit the publication of certain material, such as the evidence given before it or information that might enable a witness to be identified.[6] In addition, regulations may be made for the custody, use or disclosure of records of a Royal Commission that are no longer required for its purposes.(s 9. Custody of Royal Commission records may only be given to certain persons or bodies, such as a federal, state or territory attorney-general, the Director of Public Prosecutions, specified law enforcement and regulatory agencies, the Secretary of the Department of the Prime Minister and Cabinet, and the National Archives of Australia: Royal Commissions Act 1902 (Cth) s 9(3).)

A federal Royal Commission exercises powers that usually are exercised by courts. Nevertheless,

the function which is primarily distinctive of judicial power—the power to decide or determine—is absent. The commission can neither decide nor determine anything and nothing that it does can in any way affect the legal position of any person. Its powers and functions are not judicial.[8]

A federal Royal Commission is an ‘agency’ for the purposes of the Privacy Act. Its acts and practices, however, are not acts and practices to which the Act applies.[9] Accordingly, federal Royal Commissions are not regulated by the Privacy Act.

It has been argued that Royal Commissions have greater powers than courts to force revelations and even confessions, because they do not presume either innocence or guilt and do not make determinations. Accordingly, there is a risk that individuals appearing before Royal Commissions may be forced to make embarrassing revelations and face exposure, humiliation and adverse publicity without regard for the appropriate balance between privacy and open justice.[10]

Royal Commissions serve the important function of inquiring into matters of public interest. Central to the performance of this function is the ability of Royal Commissions to obtain information that may be unavailable by other means of investigation or inquiry. Although they do not exercise judicial power, they are given powers that usually are exercised by courts.

The exemption of Royal Commissions from the Privacy Act is warranted. To ensure that Royal Commissions handle personal information appropriately, information-

handling guidelines that apply to Royal Commissions should be developed by the Department of the Prime Minister and Cabinet, which now has responsibility for administering the Privacy Act. The guidelines should be developed in consultation with the OPC, which should, in turn, consult with all relevant stakeholders, such as the National Archives, about the content of the guidelines.”

Conclusion

TEA has been working on forests and forest conservation as well as forestry reform for a long time now: Some members since 1973, some since the 1980s and for some more recent members, for periods generally well over 10 years. Forests continue to be a strong focus of our activity as an Association. Conflict over forestry is the primary subject about which the community comes to us for information and assistance.

Forestry has in the past received generous government handouts that have not achieved useful or durable reform: this must not happen again. The status quo is completely unacceptable.

The past attempted solutions including the FFIS and the RFA have not been durable. TEA considers that historically the overt, unrepentant favouritism and bias towards the forestry industry by decision makers to have been entirely unwarranted. It has, in our view, resulted in decisions, which have disadvantaged Tasmania and has helped to keep it a socially poor and under-educated state.

The Tasmanian Forest Agreement 2012 attributes too much credence to the status of forestry in Tasmania, which has now collapsed and which we advocate should not be artificially resuscitated under the current unacceptable trade-offs within the Tasmanian Forests Agreement and the associated Tasmanian Forests Agreement Bill 2012 (No. 30) including the WOG amendments. Our position is supported by recent research and commentary from The Australia Institute.

Governments 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. We foreshadow that the Tasmanian Forest Agreement 2012 is highly unlikely to be durable either and our submission spells out in albeit brief and abbreviated form many but not all of the issues.

There is almost certainly a large number of other more detailed reform initiatives we would propose in any forestry industry reform, land use change and reallocation process which is much needed and would be of considerable public interest benefit to Tasmania. But a genuine engagement with the Tasmanian public has not occurred and genuine public involvement process has unwisely been avoided.

We urge Governments to urgently design a new comprehensive process with full inclusion, transparency and openness. Within the process there must be the flexibility to develop innovative strategic, legislative reform and policy 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 create a responsible, unsubsidised, viable, resilient forestry industry and associated industry transition.

A new, comprehensive, inclusive and transparent process from here on in is essential. This is not a two-sided debate, not a simple two-sided conflict, as has been erroneously portrayed in this so called ‘peace process’. An inclusive process is essential for any solution to be durable. Legislative reform of forestry is urgently needed and such reform is not being adequately provided in the legislative changes associated with the Tasmanian Forests Agreement Bill 2012 (No. 30).

TEA has long advocated that the issues of forest conservation and forestry industry be considered as separate subjects. This is of fundamental importance. Claiming interdependence is an industry strategy as typified by the rhetoric, the bleating cry of jobs versus conservation, which simply muddies the waters.

As long as governments erroneously perceive a ‘jobs versus conservation’ dilemma the solutions will be evasive and elusive. Making a co-optive deal between the competing poles of forestry and forest conservation is the recipe for further failure and an almost iron clad guarantee of another non-durable outcome over Tasmania’s forests.

We remain vitally concerned about unsustainable forestry, the imperative of forest conservation and the opportunity of the sinking of carbon to mitigate climate change. We note that important (HCV) natural forests continue to be destroyed as this process continues, both on public and private land. Why; why is it continuing?

TEA again 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 fair and just, inclusive process to date and has no confidence in the proposed solutions to actually resolve the conflict. The proposed reserves may lessen conflict for some but that is all.

TEA considers that the exclusive, coterie involved in the Tasmanian ‘forest peace’ process that has been lingering on over the last two and a half years or so has not served the Tasmanian public, has excluded public input, has excluded many valid and long term stakeholders, has been rorted and extended and has failed to achieve broad consultation and input.

The forest peace process can rightly be described as being not in the public interest, despite the fact that some additional areas of prized natural forest may become conserved if the Legislative Council agrees and passes the Tasmanian Forests Agreement Bill 2012 (No. 30).

TEA’s focus remains on achieving biodiversity conservation, recognition of the carbon trading opportunity and legislative reform rather than the fraud of certification or the current myopic focus on wilderness. We have good reasons for our position, which we have iterated in this briefing. Apart from the biodiversity vegetation issues, which are discussed above, TEA considers that Threatened fauna and a range of legislative changes, planning changes, and restructuring should urgently occur regarding forestry in Tasmania.

TEA is in no doubt a durable resolution will be difficult and require skill and perseverance but it would be a triumph and so important for Tasmania.

Sadly, this agreement and the associated legislation, Tasmanian Forests Agreement Bill 2012 (No. 30) will almost certainly not deliver peace for Tasmanians or Tasmania's forests.

We encourage this Legislative Council Select Committee to regard the Tasmanian Forest Agreement 2012 as merely a private agreement between a limited number of parties and call upon it to propose to the House to either amend or reject the associated legislative Bill, the Tasmanian Forests Agreement Bill 2012 (No. 30) with its WOG amendments. And further that the Select Committee recommend a proper open and transparent consultation process to meet the goal:

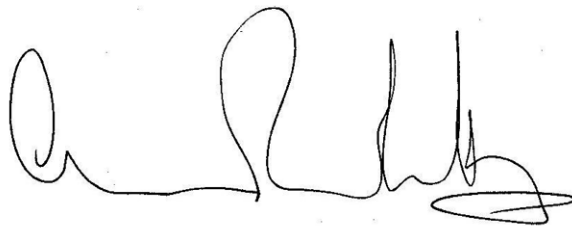
“To resolve the conflict over forests in Tasmania, protect native forests, and develop a strong sustainable timber industry”.

Upon reflection, we are not aware of a longer, more protracted, more divisive land use conflict anywhere in Australia. Bear in mind, some of our members have been working on this issue for 40 years now. Perhaps our final recommendation is: Avoidance is a poor strategy that fails to resolve, fails to solve. Please deal with this matter in a comprehensive, fair, just and unbiased manner.

We hope you have found our submission helpful and that you see the wisdom in our proposals, recommendations, observations and evidence.

We await your attention to and action over this matter and look to a future with solutions that will truly bring resolution to the conflict over forests and forestry in Tasmania, however they may be achieved.

Andrew Ricketts



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.

Appendix A

Maps pertaining to the Tasmanian Forest Agreement of 22 Nov 2012.

plugin-Map A 22112012 amos.pdf

plugin-Map B 22112012 amos.pdf

plugin-Map C 22112012.pdf

plugin-Map D NW 22112012.pdf

Appendix B

IVG_comprehensiveness_1A_comprehensiveness.pdf

IVG_conservation_7A_carnivores.pdf

Appendix C

plugin-hcvf-toolkit-part-1-final-updated.pdf

plugin-hcvf-toolkit-part-2-final.pdf

Appendix D

plugin-Tasmanian Threatened Species Prioritisation June 2010.pdf

Appendix E

Cases of Conflict and Disadvantage over Plantation Establishment and Management.

Proof of Evidence_Carpenter.pdf

Proof of Evidence_DeVito.pdf

Proof of Evidence_TBerry.pdf

Proof of Evidence_Walker.pdf

Appendix F

Gunns and JVsTas Overall Smart Wood release.pdf

Appendix G

scenicmanagementreport.pdf

Appendix H

TEA Map Submission to IVG 14th Feb 2012.pdf

TEA_Hollows_120125.jpg

TEA_plantations_120125.jpg

tea_priority-species_120125.jpg

tea_reservation_120125.jpg

Appendix I

tea_hollows.jpg

tea_plantations_120911_360.jpg

tea_priority-species_120125-300-2.jpg

tea_resnumbers-1.jpg

Appendix J

cb31_fm_guidelines_plantations.pdf

END