



IFA submission to Environment and Communications References Committee Inquiry into the Tasmanian Wilderness World Heritage Area

In response to the Committee's Terms of Reference the IFA reiterates its original submission position of 28 February 2013 to the World Heritage Centre (copy at Attachment A) and recommend the Senate Reference Committee and World Heritage Committee support the Australian Government's request to again undertake a minor adjustment to the Tasmanian TWWHA by either withdrawing the 2013 extension or adjusting the boundary to better reflect the key conservation and biodiversity objectives of the 2013 nomination.

The IFA remains concerned that the World Heritage Committee was presented with a submission from Australia in 2013 for the 2013 Tasmanian World Heritage Area extension that was portrayed as an outcome resulting from a comprehensive, scientifically rigorous process. However, the process and conclusions were in fact a hasty and superficial analysis of conservation values where no peer review was undertaken and many claims and conclusions were based on limited information. These claims were open to scientific interpretation and, in many situations, have been shown to be in error.

Indeed the Institute questions the actual need and process followed for the major extension of the World Heritage boundary in 2013. Many of the conservation values found in extension area were reserved in formal and informal reserves within a large matrix of production forest. The majority of these conservation values could not be construed as of "Outstanding Universal Value" as they have not been scientifically shown to have reached such a threshold. No data, maps or reference material appears to have been made publically available showing comprehensively and in detail the distribution of "Outstanding Universal Value" biodiversity or conservation values and how they were assessed in the extension area; nor how these assessed values relate to the comprehensive assessment of world heritage values in the "World Heritage Report" referred to in the Tasmanian Regional Forest Agreement¹.

The measure of value in the Senate Reference Committee's terms of reference "TOR a" should be a value that meets the "Outstanding Universal Value" test, which stands up to scientific scrutiny and peer review.

The IFA supports a reassessment of the 2013 decision as subsequent analysis by the Australian Government and members of impacted communities and stakeholders has identified areas in the extension that do not contain outstanding universal biodiversity or conservation values. Indeed, while still to be fully assessed, the 2013 minor extension include plantations, previously harvested coupes, and areas which have been actively managed for timber production.

¹ "World Heritage Report" means the Tasmania-Commonwealth Regional Forest Agreement Background Report Part I: World Heritage Report: Record of the Tasmanian World Heritage Expert Panel meeting and a Preliminary analysis of the forest and mineral resources in areas identified by the panel (June 1997) and published by the Tasmanian Public Land Use Commission in conjunction with the Commonwealth Forests Taskforce



It is also important to recognise that the Australian and Tasmanian Governments did not undertake a full socio-economic impact assessment of the Tasmanian Forest Agreement and the World Heritage extension 2013 and many communities are experience significant economic and social upheaval which has resulted in the break-down of family units and fragmentation of communities. Such assessments should have been put in place before finalising the Tasmanian Forest Agreement Act 2013 and its associated Tasmanian Forest Agreement 2012, the World Heritage extension 2013, Tasmanian Forests Intergovernmental Agreement (May 2013) and the Conservation Agreement signed by Mark Butler on the 25 July 2013².

During 2012 and 2013 the Institute raised serious concerns about the Tasmanian Forest Agreement 2012 in the 6 December 2012 letters to Prime Minister Gillard and Premier Giddings (Attachments B and C) and to Legislative Council Select Committee on the Tasmanian Forests Agreement Bill (Submission of 18 January 2013; copy at Attachment D). These concerns and recommendations in these letters and submissions are relevant to the Senate Reference Committees terms of reference and should be considered in your deliberations.

The Institute made a freedom of information request in relation to the Conservation Agreement signed by Mark Butler on the 25 July 2013. Copies of the FOI request and the Department of Environments response for the information is at Attachment E. In the response the Department did not provide any information that showed that the legislated requirements in the Environmental Protection and Biodiversity Conservation Act were adequately met in terms of

1. the Ministers satisfaction that the Conservation Agreement will result in a net benefit to the conservation of biodiversity (Section 305(2)); and
2. The Minister must not, in exercising powers on behalf of the Commonwealth under this Part, give preference to one State or any part thereof within the meaning of section 99 of the Constitution (Section 312).

The lack of supporting information to these two matters raises issues of the legal validity of the Conservation Agreement. Similar issues were raised in the letters to the Prime Minister and the Premier. As a consequence the Institute raises concerns around the legal validity of the former Australian Government's and former Environment Ministers' support of the Tasmanian Forest Agreement 2012 through the Tasmanian Forests Intergovernmental Agreement and the Conservation Agreement signed by the former Minister. These matters should be assessed by the Reference Committee as they are related to the processes associated with the World Heritage Extension 2013 nomination.

² Found at <http://www.forestsagreement.tas.gov.au/wp-content/uploads/Conservation-Agreement-5-August-2013.pdf>:

The Institute of Foresters of Australia

ABN 48 083 197 586



Attachment A

World Heritage Centre
UNESCO
7, Place de Fontenoy
75352 Paris 07 SP
France

By e-mail: wh-info@unesco.org

28 February 2013

Dear Mr Rao

**Re: IFA submission on the proposed extension to the Tasmanian Wilderness
World Heritage Area**

The Institute of Foresters of Australia (IFA) makes the following submission with respect to the request for extension to the Tasmanian Wilderness World Heritage Area made by the Australian Commonwealth Government (the State Party).

We note the Decision 32COM 7B.41 of the WHC in 2008. In that decision there was reference to:

3 (a) "...involvement of all relevant stakeholders to monitor, assess and manage the ecological integrity of the TWWHA and adjoining reserves..."
and

3 (b) "...submit a proposal for modifying the boundaries of the TWWHA to include the adjacent 21 areas of national parks and state reserves, which are currently not a part of the inscribed World Heritage property but are covered by its management plan."

We also note the report of the Reactive Monitoring Mission (15 to 20 March 2008) which stated in its summary of main recommendations (page 5):

"Considering the representation of old growth forest, including of the tall Eucalyptus forest within the area covered by the TWWHA and its management plan, as well as in the other reserves in Tasmania, and the fact that potential threats from production forestry activities are well managed, the mission does not recommend any change to the boundaries of the property to deal with such threats. However, it recommends that boundaries of the TWWHA be adjusted to include within it the 21 areas of national parks and state reserves, which are currently not a part of the inscribed property but are covered by its management plan."

The IFA supports the addition of the 21 adjacent areas amounting to 23,800 ha as described in 3 (b) above as minor extensions which resulted from the Tasmanian Regional Forest Agreement signed between the Tasmanian and Australian governments in 1997 and further enhanced by the Tasmanian Community Forest Agreement in 2005.

These extensions have been implemented in the period 2010 to 2012. The current area of the TWWHA is 1,411,323 ha which is nearly half of the approximately 3 million ha of conservation reserves in Tasmania, which amount to 47% of the total land area of the State.

It has come to our attention that the Australian Government (the State Party) has submitted a request to substantially increase the area of the Tasmanian Wilderness World Heritage Area. While this has been submitted as a minor extension the IFA is concerned that it is not minor and may have a major socio-economic and biodiversity conservation impact which has not been properly assessed. The proposal before you amounts to an addition of up to 170,000 ha, an addition of about 2.4% of Tasmania's land mass and an increase in the size of TWWHA by close to 15%.

In direct contradiction of the process requested in decision 3(a), there has been very little, if any, consultation with relevant stakeholders on the areas proposed for extension. In fact, the boundaries are still not decided to this day and therefore impacts on public and private landholders are not clear. There is no "management plan" for the proposed extensions and no opportunity to consider what the short and long term effects on forests and other vegetation categories will be. Furthermore, many of these areas have been subject to human exploitation for thousands of years, including more recent and severe disturbance over the past 210 years since European settlement. These human activities are now an established part of the social, economic and environmental 'landscape'.

There has been a process known as the Inter Governmental Agreement (IGA) which involved the Tasmanian State and Australian Commonwealth governments facilitating negotiations between a small number of powerful vested interest groups. These included eNGOs and forest industry representative organisations.

There was little if any consultation or consideration of the views of a professional body such as the Institute of Foresters of Australia. As far as the IFA is aware there was no consultation with communities likely to be directly impacted by the extensions to the boundaries of the TWWHA.

The IFA submits that these areas are important contributors to the livelihood and lifestyle of communities that live nearby and throughout Tasmania. Addition of these areas to the TWWHA would severely compromise those livelihoods and community activities. In addition the IFA is not confident that addition to the TWWHA would result in an improved approach to forest management, biodiversity conservation, micro-economic reform or social cohesion. In fact, on all four counts, the IFA is of the view that the outcome could be worse. The request to include these areas in the TWWHA reflects a lack of consideration of more modern approaches to conservation management on a landscape scale rather than discreet patches which are zoned "production" or "protection" with very little overlap.

The IFA is also concerned that a great deal of the government sponsored investigations behind the IGA were of dubious quality. There is anecdotal evidence of selective reporting, manipulation of results and opinions of leading experts and rejection of expert opinion or analyses which differed from the views of those commissioned to provide reports to the IGA process. Whether this is true or not, the IFA is concerned about the lack of scientific rigour and the haste with which many reports were prepared.

The IFA has also, for some time, been concerned about the lack of funding provided for appropriate management and research in Australia's conservation reserves. Successive Commonwealth and State governments have emasculated land management agencies particularly in relation to active management of anything other than fire-fighting and emergency management of major catastrophes. It can be clearly demonstrated that active forest management including harvesting and regeneration activities and a well maintained road network has contributed to protecting the TWWHA from fire. In addition the State forest management company, Forestry Tasmania, has until recently, contributed in the order of \$3 million per annum to forest research; the single biggest contributor in the State by a large margin. The Tasmanian Forest Practices system which is overseen by the independent Forest Practices Authority is a world leader in implementation and management of prescriptions aimed at conservation and protection of biodiversity, cultural heritage, geomorphology, hydrology, landscapes and soil protection across all land tenures.

The IFA respectfully requests the WHC to reject the current proposal and to call for the State Party to provide information on how the proposed additions to the TWWHA will meet the aspirations of the Tasmanian community for a sustainable lifestyle where there is an appropriate balance between social, environmental and economic objectives, before further extensions are considered.

Yours sincerely

Alison Carmichael, CEO



The Institute of Foresters of Australia

ABN 48 083 197 586

Attachment B

The Hon. Julia Gillard, MP
Prime Minister of Australia
PO Box 6022, House of Representatives
Parliament House
Canberra ACT 2600

6 December 2012

Dear Prime Minister

Re: IFA concerns regarding the Tasmanian Forest Agreement 2012

Public policy associated with public natural resource assets such as forests should be evidence-based, open and publicly transparent.

The Institute of Foresters of Australia (the IFA or “The Institute”) acknowledges the hard work done by the signatories in reaching the agreement on 22 November 2012. However the IFA has serious concerns about the Tasmanian and Australian Government implementation and legislation of the Agreement.

About the Institute of Foresters of Australia

The IFA supports conservation and sustainable use of Australia’s forests. The Institute is a professional body whose members are engaged in all branches of forest management, including conservation, forest industry, academia, research and sustainable natural resource management in Australia and overseas. Our members have professional expertise in ecosystem management, environmental protection, conservation, sustainable use of forest goods and services, ecosystem services, forest land development and valuation, forest science, and the planning and management of production and reserved forest lands.

IFA concerns about the Agreement

Significant concerns have been raised within the IFA around the future of forest management, forest conservation, forest industries and ecological sustainable development in Tasmania following the recent signing of the Tasmanian Forest Agreement 2012. Further, there is uncertainty as to the ongoing well-being of rural communities in Tasmania that are supported through the sustainable use of forest resources and associated industries based on wood and non-wood products.

The Tasmanian Forest Agreement 2012 places 504,012 hectares of public native forests, primarily from State Forests, into the reserve system. This translates to 1,676,000 hectares of nature conservation reserves with multiple-use State forests reduced to 469,000 hectares, of which the Institute estimates (based on proportional reduction) only about 270,000 hectares of public native forests being available for wood production. Therefore implementation of the Tasmanian Forest Agreement 2012 results in 88% of Tasmanian public native forests unavailable for wood production¹. This will result in a significant impact to the Tasmanian economy, reduced opportunities for a sustainable native forest industry in Tasmania, and will likely lead to perverse outcomes for private native forest management, ecological sustainable development, and the sustainable livelihood and well-being of rural communities in Tasmania.

Unlike the Regional Forest Agreement processes there is little documented evidence to demonstrate implementation and achievability of what has been agreed to by the signatories in the Agreement. In particular, detail is lacking around the impacts and outcomes of forest management, environmental, social and economic changes that will result from the agreement. The Institute is particularly concerned that the full economic and social impact to the Tasmanian economy and community of implementing the Tasmanian

¹Figures from *State of the Forests Tasmania*, tables 1.1.a and 2.1.a.



The Institute of Foresters of Australia

ABN 48 083 197 586

Forest Agreement 2012 will be high and that these impacts have not been rigorously evaluated and publicly reported before commencing agreement implementation and legislative instruments. The Institute is concerned about government implementation of an agreement from a small select group of stakeholders covering a public asset where the short term and long term impacts are unknown or are left to be worked out afterwards.

Ecological sustainable development and ecological sustainable forest management are the responsibility of government leaders not a select group of stakeholders. The IFA believes that the signatories have reached a compromise agreement without looking at the holistic issues of ecological sustainable development and ecological sustainable forest management for the benefit of society; in this case Tasmanian society.

Recommendations

Using the Regional Forest Agreement forest estate and arrangements as a basis of comparison, the IFA calls for the following recommendations to be reviewed and publicly reported by the Australian and Tasmanian Governments before legislative implementation of the Tasmanian Forest Agreement 2012:

- a comprehensive assessment of the economic, social and environmental impact and consequences of implementing the new agreement with a focus on the Tasmanian economy, rural community well-being, and impacts on local governments, private native forest owners and other rural industry sectors;
- identification of perverse outcomes (domestically and international) of implementing the new agreement on conservation and sustainable use of forest resources including application of a revised Codes of Forest Practices, sustainable yield of forest products and sustainable forest management on public and private lands;
- proof of capacity to manage, monitor and protect conservation values in perpetuity in an increased reserve system - in particular the capacity and capability of controlling wildfire during fire seasons;
- an explanation into how implementing the new agreement will lead to better ecological sustainable development and sustainable forest management outcomes compared to the current forest estate and management arrangements of the Regional Forest Agreement and what have been the trade-offs between conservation and sustainable use of forest goods and services; and
- an Australian Government investigation into how Section 99 of The Constitution issues are to be addressed given an apparent or likely discrimination in terms of trade, commerce and revenue to Tasmania, or parts thereof, in legislating and regulating the new agreement.

Finally, the Institute renews its commitment and enthusiasm to be a key stakeholder in the Tasmanian Forest Agreement process as Australia's only professional body representing sustainable forest management.

Yours faithfully

Rob de Fegely, IFA President

cc Lara Giddings, Premier of Tasmania and members of Australian and Tasmanian Parliaments



The Institute of Foresters of Australia

ABN 48 083 197 586

Ms Lara Giddings, Premier of Tasmania
Executive Building Level 11, 15 Murray Street
HOBART TAS 7000

Attachment C

6 December 2012

Dear Premier

Re: IFA concerns regarding the Tasmanian Forest Agreement 2012

Public policy associated with public natural resource assets such as forests should be evidence-based, open and publicly transparent.

The Institute of Foresters of Australia (the IFA or “The Institute”) acknowledges the hard work done by the signatories in reaching the agreement on 22 November 2012. However the IFA has serious concerns about the Tasmanian and Australian Government implementation and legislation of the Agreement.

About the Institute of Foresters of Australia

The IFA supports conservation and sustainable use of Australia’s forests. The Institute is a professional body whose members are engaged in all branches of forest management, including conservation, forest industry, academia, research and sustainable natural resource management in Australia and overseas. Our members have professional expertise in ecosystem management, environmental protection, conservation, sustainable use of forest goods and services, ecosystem services, forest land development and valuation, forest science, and the planning and management of production and reserved forest lands.

IFA concerns about the Agreement

Significant concerns have been raised within the IFA around the future of forest management, forest conservation, forest industries and ecological sustainable development in Tasmania following the recent signing of the Tasmanian Forest Agreement 2012. Further, there is uncertainty as to the ongoing well-being of rural communities in Tasmania that are supported through the sustainable use of forest resources and associated industries based on wood and non-wood products.

The Tasmanian Forest Agreement 2012 places 504,012 hectares of public native forests, primarily from State Forests, into the reserve system. This translates to 1,676,000 hectares of nature conservation reserves with multiple-use State forests reduced to 469,000 hectares, of which the Institute estimates (based on proportional reduction) only about 270,000 hectares of public native forests being available for wood production. Therefore implementation of the Tasmanian Forest Agreement 2012 results in 88% of Tasmanian public native forests unavailable for wood production¹. This will result in a significant impact to the Tasmanian economy, reduced opportunities for a sustainable native forest industry in Tasmania, and will likely lead to perverse outcomes for private native forest management, ecological sustainable development, and the sustainable livelihood and well-being of rural communities in Tasmania.

Unlike the Regional Forest Agreement processes there is little documented evidence to demonstrate implementation and achievability of what has been agreed to by the signatories in the Agreement. In particular, detail is lacking around the impacts and outcomes of forest management, environmental, social and economic changes that will result from the agreement. The Institute is particularly concerned that the full economic and social impact to the Tasmanian economy and community of implementing the Tasmanian

¹Figures from *State of the Forests Tasmania*, tables 1.1.a and 2.1.a.



The Institute of Foresters of Australia

ABN 48 083 197 586

Forest Agreement 2012 will be high and that these impacts have not been rigorously evaluated and publicly reported before commencing agreement implementation and legislative instruments. The Institute is concerned about government implementation of an agreement from a small select group of stakeholders covering a public asset where the short term and long term impacts are unknown or are left to be worked out afterwards.

Ecological sustainable development and ecological sustainable forest management are the responsibility of government leaders not a select group of stakeholders. The IFA believes that the signatories have reached a compromise agreement without looking at the holistic issues of ecological sustainable development and ecological sustainable forest management for the benefit of society; in this case Tasmanian society.

Recommendations

Using the Regional Forest Agreement forest estate and arrangements as a basis of comparison, the IFA calls for the following recommendations to be reviewed and publicly reported by the Australian and Tasmanian Governments before legislative implementation of the Tasmanian Forest Agreement 2012:

- a comprehensive assessment of the economic, social and environmental impact and consequences of implementing the new agreement with a focus on the Tasmanian economy, rural community well-being, and impacts on local governments, private native forest owners and other rural industry sectors;
- identification of perverse outcomes (domestically and international) of implementing the new agreement on conservation and sustainable use of forest resources including application of a revised Codes of Forest Practices, sustainable yield of forest products and sustainable forest management on public and private lands;
- proof of capacity to manage, monitor and protect conservation values in perpetuity in an increased reserve system - in particular the capacity and capability of controlling wildfire during fire seasons;
- an explanation into how implementing the new agreement will lead to better ecological sustainable development and sustainable forest management outcomes compared to the current forest estate and management arrangements of the Regional Forest Agreement and what have been the trade-offs between conservation and sustainable use of forest goods and services; and
- an Australian Government investigation into how Section 99 of The Constitution issues are to be addressed given an apparent or likely discrimination in terms of trade, commerce and revenue to Tasmania, or parts thereof, in legislating and regulating the new agreement.

Finally, the Institute renews its commitment and enthusiasm to be a key stakeholder in the Tasmanian Forest Agreement process as Australia's only professional body representing sustainable forest management.

Yours faithfully

Rob de Fegely, IFA President

cc Hon Julie Gillard, Prime Minister of Australia, and members of Australian and Tasmanian Parliaments



The Institute of Foresters of Australia

ABN 48 083 197 586

Attachment D

The Secretary
Legislative Council Select Committee on the Tasmanian Forests Agreement Bill 2012
Parliament of Tasmania
Parliament House
HOBART TAS 7000

Legislative Council Select Committee on the Tasmanian Forests Agreement Bill 2012

Dear Members

Thank you for the opportunity to submit to the Legislative Council Select Committee on the Tasmanian Forests Agreement Bill 2012 (the Agreement Bill).

The Institute of Foresters of Australia (IFA) is a professional organisation whose members are engaged in all branches of forest management, including conservation, forest growing and wood processing, academia, research and sustainable natural resource management in Australia and overseas. Our members have professional expertise in forest ecosystem management and services, environmental protection, conservation, sustainable harvesting and utilisation of forest goods and services, including the planning, management and protection of production and reserved forest lands.

In summary the IFA is deeply concerned about the Tasmanian Forests Agreement Bill 2012 because of limited and non-transparent consultation which ignored a proven and agreed national process to determine the use of public native forests. The Institute also believes that while the conservation gains are questionable or marginal at best the negative social and economic impact could be extremely significant. Compounding this is the potential decline in bushfire management and control capacity and perverse outcomes such as de-valuing private native forest and an increase in the importation of forest products potentially from unsustainably managed forests in south east Asia. In our opinion the Agreement Bill has very few economic, social and environmentally redeeming features.

The following submission expands on these points and the IFA would be happy to discuss in person with the Committee outlines our concerns.

Poor process and lack of consultation.

The IFA supports conservation and sustainable use of Australia's forests and welcomes transparent public debate about their future use. However, this Agreement Bill is the accumulation of an exclusive, secretive and narrowly focused process which we believe has alienated the wider Tasmanian community, has failed to incorporate science and best practices, and, if fully implemented, may undermine the economic and social fabric of many Tasmanian communities and concerning without delivering substantial environmental gains.

The process is flawed in that:

- it fails to consider that a change to public land tenure will not by itself maintain, expand or enhance forest conservation values and to promote such an approach is simplistic and at odds with contemporary forest science;

- it was undertaken without sufficient consultation or engagement with key stakeholders in contravention of Clause 4 of the Terms of Reference (ToR) of the Independent Verification group to *“Put in place appropriate arrangements for ongoing consultation”* with groups that included the IFA as noted in Attachment A of the ToR.; and
- assessments which underpinned the Agreement were constrained by narrow ToR and it is apparent that additional work is required to provide credibility and integrity of the process.

Unlike the RFA process, little credibility and undue haste has been given to the new law as illustrated by the Tasmanian Government whole-of-Government submission and the substantial attached amendments to the Bill (Attachment 3). The paucity of information, in the public domain about the basis of the agreement does not allow stakeholders to make considered evaluations of the outcomes of the agreement and its impacts.

During this entire process, no land or forest manager has been directly involved or represented. Yet, the success of the Agreement is based on specific forest management objectives being implemented on both public and private land. While the government is fully endorsing the agreement, private forest managers (both plantation and native) are under no such obligation. There is no guarantee that plantation managers will change management strategies because this Agreement Bill requires them to do so. There are also no guarantees that private native forests will be managed to provide conservation or timber outcomes, especially where such forests are viewed as a liability and no longer an asset to protect.

The community has never been actively engaged or consulted in this process. Despite political guarantees, no comprehensive or credible socio-economic impact study has been undertaken and the assessment into conservation claims was flawed at best. In addition, the tabling of new laws requires regulatory impact assessments; which has not been undertaken in the haste to adopt the Agreement.

A more transparent and engaging process could have achieved a broad, rational and balanced outcome that reflects contemporary forest management science which could have delivered enhanced biodiversity and conservation outcomes that incorporated wealth creation and community engagement strategies.

However, the Agreement and subsequent actions by the Tasmanian Government has delivered what senior IFA members believe to be the worst piece of public forest policy they have seen in the last 35 years. In essence, the Agreement Bill and response fail to meet Tasmanian and Australian governments' Intergovernmental Agreement (IGA) objectives and fails to achieve a balanced, science based and consultative outcome.

The increase in conservation area is marginal yet the impact on industry and communities could be significant.

If implemented, 504,012 hectares of public native forests, primarily from State forests, will be transferred into the Tasmanian reserve system. This translates to 1,676,000 hectares of nature conservation reserves. Multiple-use State forest areas will be reduced to 469,000 hectares, of which the Institute estimates (based on proportional reduction) only about 270,000 hectares will be available for wood production (about 12%).

Therefore implementation of the Agreement is estimated to result in around 88% of Tasmanian public native forests being unavailable for wood production. This will result in a significant impact to the Tasmanian economy, reduced opportunities for a sustainable native forest industry in Tasmania,

and will likely lead to perverse outcomes for private native forest management, ecological sustainable development, and the sustainable livelihood and well-being of rural communities in Tasmania.

Based on this outcome, significant concerns have been raised within the IFA around the future of forest management, forest conservation, forest industries and ecological sustainable development in Tasmania. Further, there is uncertainty as to the ongoing resilience of rural communities in Tasmania that are currently supported through the sustainable use of forest resources and associated industries. These communities contain many families who have lived there for generations who will lose their sense of place and community belonging if they are forced to leave and find other sources of employment.

The IFA is particularly concerned that the full economic and social impact to the Tasmanian economy and community of implementing the Agreement has not been undertaken. Unlike the Regional Forest Agreement processes there is little documented evidence to demonstrate implementation and achievability of what has been agreed to under the Agreement. In particular, detail is lacking around the impacts and outcomes of forest management, environmental, social and economic changes that will result from the agreement.

The economic and social impacts of implementing the Agreement will be high and these impacts have not been rigorously evaluated and publicly reported before the commencement of implementation and approving legislative instruments. The Institute is concerned about government haste in implementing an agreement that has been developed by a small select group of stakeholders whose Agreement covers a public asset where the short and long term impacts are unknown or are left to be worked out afterwards.

Ecological sustainable development and ecological sustainable forest management are the responsibility of government leaders not a select group of stakeholders or vested interests. The IFA believes that the signatories have reached a compromise agreement without looking at the holistic issues of ecological sustainable development and ecological sustainable forest management for the benefit of society; in this case Tasmanian society.

As professional forest managers, members of the IFA work in some of the poorest countries on earth. However, despite the daily challenges faced by their people and governments, their forest policies are more progressive than this Agreement. Contemporary global forest policy recognizes and integrates development and livelihood aspirations alongside conservation goals. The 21st approach to forest management is about balance. The Agreement reflects a 20th century preservation approach and not a contemporary or holistic one.

Consequently, it is questionable whether the Agreement will deliver any real long term conservation outcomes. Benefits will also be difficult to measure as the majority of forest science, conservation and biodiversity research has been traditionally carried out by professional foresters and funded by the forest industry. This knowledge and expertise is being lost as funding declines and many scientists and researchers leave the State, or have found employment outside the sector.

To arrest this loss, the IFA support initiatives 22- 27 under the Agreement Bill. However, it is noted that neither the proposed legislation, nor statements by Ministers address this need yet such initiatives underpin the Agreement Bill. Without any commitment to invest the potential to achieve the Agreement Bill's goal is questionable.

Increased Fire risk

The IFA is also concerned about the impacts associated with a change in land management objectives and their impacts on fire management.

Fires occur when four factors exist: sufficient fuel, appropriate weather conditions (heat and wind), oxygen and an ignition source (lightning, arson or carelessness). Fuel is the only variable that human activity can reliably influence - reducing the available fuel load and modifying its distribution in the landscape and you reduce the severity of a bushfire event.

Fires occur through natural events or human activity. All begin small, and increase in intensity and area where adequate fuel, oxygen and weather conditions exist. Many fires do not threaten life or property as they naturally extinguish, or are quickly contained and extinguished by professional fire fighting personnel. However, the reality is that all fires have the capacity to become uncontrolled events. The risk of such is reduced where suitable detection, trained personnel, particularly forest managers and suppression capacity exists.

History demonstrates that active forest management is more likely to result in reduced adverse impacts on life, community assets and forest values than fires which occur under a regime of passive land management. Successful fire management incorporates strategies for prevention of, preparedness for, suppression of, and recovery from wildfires. The 2009 Victorian bushfires highlighted how the accumulation of fuel, resulting from passive management, reduced prescribed burning (often related to smoke management concerns), and conservation philosophies combined with increased urbanisation to result in an intensification of fire extent and severity¹.

Based on past history, Tasmania can expect, on average, a devastating regional scale fire every 40 years or so. Megafires¹ occurred in 1898, 1934 and 1967. Tasmania has had devastating fires this year and the lessened impact of this year's fires is testimony to the ability of fire and land management agencies including Forestry Tasmania, which have generally had the resources and capacity to judiciously manage fire within forested landscapes.

The capacity of agencies to respond to fires in the Tasmanian landscape must be considered when assessing impacts. However, it is important to note that irrespective of the outcomes of this process, and even with the best management systems in place, major and potentially catastrophic wildfires will occur in Tasmania, as will proportionally smaller, but still damaging, unmanaged fires. The extent to which the present and foreseeable loss of experienced forestry management and contracting staff and equipment will undermine the State's ability to respond to a major fire cannot be accurately predicted. The effect of these losses will only become evident after the event, and will reflect the intensity, extent and duration of the fire.

The Agreement Bill is likely to affect the future management of public forest land. The Agreement and legislative response fails to consider the effects of fire and fire frequency on threats associated with:

- life and property;
- the integrity of conservation, biodiversity, soil, and water values; and
- implications (including budgetary) for the long term maintenance of forest values, especially where public land tenure and management philosophy changes.

¹ Mega-fires are fires that exceed all efforts at control, regardless of the type, kind, or number of firefighting resources deployed. These fires represent only 0.1% of all forest fires, yet account for 95% of the area burnt and 85% of the total fire suppression costs. They often burn into the urban interface zone s. Bartlett et al, 2007, The Mega-Fire Phenomenon: Some Australian Perspectives. IFA Conference.

To mitigate or manage these impacts, agencies must be adequately resourced and personnel thoroughly trained to become competent

The capacity of the state to respond to large scale forest fire threats is also being lost. Volunteers will never replace the professional skills, knowledge and experience of foresters. Consequently, the risk to communities from forest fire events will escalate unless additional resources are committed to fill the gap created by the loss of capacity across and within the forest industry. Unfortunately, it is only when Tasmania's urban areas suffer a similar fate to that of the ACT and Victorian communities will the loss in capacity be realized.

It should also be noted that while technological advances have been made in fire suppression techniques (such as the use of foam or aircraft) and in the monitoring and prediction of weather and fire behaviour, fires can only be effectively contained by the efforts of trained people "on the ground" or following significant moderation in the severity of weather conditions.

Potential to exacerbate Australia's negative trade balance in forest products and contribute to forest destruction in other countries.

In regards to the demand for forest products, it is a reality that globally and domestically, demand for timber and forest products continues to grow. Australia is a net importer of forest products and is heading for a significant timber supply shortage. Most house building and internal fitting depends on a ready supply of timber at reasonable cost. Australia's population is expected to increase from 21 million in 2011 to at least 30 million by 2035.

Unless urgent action is taken to develop domestic supplies of timber for this increasing population Australia will import an increasing proportion of its timber consumption. Imported timber will be at higher prices due to transport costs and competition from emerging economies, particularly in China and South East Asia.

Internationally, native timbers are seen as part of a natural system that meet people's needs and by providing value, people recognize the need to maintain forest health and biodiversity values. Where people receive no value, forests become liabilities and any conservation or biodiversity value is lost.

Overly restrictive native forest policies have contributed to perverse regional social, land use and economic outcomes associated with trade 'leakage'. This is where a reduction or cessation of native forest harvesting in one country simply place pressure on other regional forest resources.

Not long ago Tasmania was the only State which was a net exporter of forest products. The State was effectively self-sufficient and could meet timber needs locally. The future will now be different.

Under this Agreement Bill, Tasmania will increasingly rely on imported timber products – many from regions where conservation and biodiversity values are under threat. History demonstrates that local preservation policies can undermine sustainability objectives and leads to greater loss of biodiversity values at the global scale. Given the size of Australia's forest resources and the level of its economic and social development it should provide leadership in the sustainable supply of forest products by being self-sufficient rather than relying on supplies from countries that are not as well off or advanced in their forest management and protection.

Professional foresters are concerned that Australia is increasingly reliant on imported timbers to meet our domestic market requirements. Due to strong demand, Australian suppliers are increasingly sourcing forest products from overseas. Analysis of ABS trade import statistics indicate

that Australia's total imports of forest products is valued at over \$6.7 billion, and since 1994 imports from Asian and Pacific nations has increased by 32% to \$3.6 billion

Analysis of 16 years of ABS trade data estimates, and combining this information with forest productivity knowledge, it was estimated that an equivalent area of up to 2.7 million hectares of Asian and Pacific forests were cleared to produce the range of forest products imported into Australia – an area half the size of Tasmania and equal to clearing 10 football fields every hour. This area may have included at least 100,000 hectares of high conservation tropical forests that were once prime habitat for orang-utans, Asian elephants and other critically endangered species².

The correct balance of conservation and sustainable management of Australian and Tasmanian forests is important. Preserving our forests and being reliant on imported product results in a perverse outcome, resulting in the destruction of regional forests overseas. We continue to import wood from countries whose management practices are contributing to a loss of forest and biodiversity values at a global level. We are contributing to global deforestation, mainly the conversion of tropical forests to agricultural land, which averaged 14.5 million hectares a year between 1990 and 2005.

Plantations will not meet shortfalls in the near future.

Under the Agreement Bill Tasmania's domestic hardwood timber supply is decreasing and expected to continue to decline as State forests are transferred to National Parks or reserves. There is no national resource substitute for the loss of production capacity. Australian domestic softwood timber supply is expected to remain relatively static for the next decade and beyond, based on current policies, due to the areas of plantation which produce timber for housing having increased by only around 10% over the past 15 years. Established hardwood plantations are mainly focused on paper fibre production and management regimes make these timbers unsuitable for structural purposes.

Sawn timber from plantations (both hardwood and softwood) takes at least 25 years to grow. New plantations need funding and suitable land, neither are easy to find

Australian and Tasmanian native forest types are now well represented in reserves and National Parks thanks to the extensive research that was applied to the Regional Forest Agreements of the 1990s and State decisions since then.

Poor economic outcome

While the IFA is not an industry organization, its members believe that this Agreement Bill will result in the loss of competitiveness within the Tasmanian processing industry. It is not a growth strategy, and will prevent future expansion as resource availability is constricted – both under the Agreement Bill and through future Code of Practice and certification standards, as well as possible anti industry campaigning. Under this Agreement, local forest product processors will not be able to remain competitive when resources become more expensive to harvest and deliver (geographically dispersed and difficult to access), will be a lower quality (smaller diameter and less stable) and available in lower volumes. This situation will increase costs, and undermine efficiencies and competitiveness.

The IFA believe the Agreement Bill has lost an opportunity to deliver value to the Tasmanian community, and in doing so create a long term commitment to actively managing a resource to meet

² Based on ANU Masters research undertaken by Aidan Flanagan in 2011.

the current and future needs of people while enhancing sustainable forest management, forest conservation and biodiversity values.

The process did not follow the Regional Forest Agreement process which provides a sound and accepted basis for forest use planning that includes environmental, social and economic outcomes .

Recommendations.

Using the Regional Forest Agreement forest estate and arrangements as a basis of comparison, the IFA calls for the following recommendations to be reviewed and publicly reported by the Australian and Tasmanian Governments before legislative implementation of the Tasmanian Forest Agreement 2012:

- all Tasmania's public forests are assessed for significant conservation value against a nationally agreed set of criteria that incorporates social and economic principles. Included in this should be a retrospective examination of up to 200-years of forest management in current multi-use forests and the implications for existing conservation values
- a comprehensive assessment of the economic, social and environmental impact and consequences of implementing the new agreement with a focus on the Tasmanian economy, rural community well-being, and impacts on local governments, private native forest owners and other rural industry sectors. This should incorporate 'tipping point' analysis to determine the resilience of businesses which rely on forest-industry trade;
- identification of potential perverse outcomes (domestically and international) of implementing the new agreement on conservation and sustainable use of forest resources including application of a revised Codes of Forest Practices, sustainable yield of forest products and sustainable forest management on public and private lands;
- proof of capacity to manage, monitor and protect conservation values in perpetuity in an increased reserve system - in particular the capacity and capability of controlling wildfire;
- an explanation into how implementing the new agreement will lead to better ecological sustainable development and sustainable forest management outcomes compared to the current forest estate and management arrangements of the Regional Forest Agreements.
- an Australian Government investigation into how Section 99 of The Constitution issues are to be addressed given an apparent or likely discrimination in terms of trade, commerce and revenue to Tasmania, or parts thereof, in legislating and regulating the new agreement.
- a comprehensive evaluation be undertaken of any proposed change in public land tenure including the ongoing funding of National Parks, fire-fighting capability, maintenance of access roads and associated infrastructure, and permitted uses (eg. beekeeping, horse riding, deer hunting, off road vehicles etc.).
- where multi-use forests are found to contain significant conservation values then management plans should consider retaining commercial activities where they do not conflict or could enhance those values.

The IFA also notes that in 2010 the Forests and Forest Industry Council of Tasmania released a growth strategy for the forest industry which was developed under a broad consultative process and endorsed by all major Australian and Tasmanian political parties. This document provides an alternative strategy for growth which incorporates broader community and environmental benefits.

Further information on issues raised is contained within previous submissions and letters. These are available online and details are provided. Committee members are encouraged to access and read these documents as they are directly relevant to the inquiry and provide a professional, objective and science based approach to issues arising from the Agreement process.

Members of the IFA are available and they request an opportunity to provide further comment on this submission or other evidence to the committee to assist their understanding of the potential impact of this Agreement Bill.

Yours sincerely

Aidan Flanagan
Chair, Tasmanian Division

Background

May 2009 *The Institute of Foresters of Australia – Submission to the 2009 Victorian Bushfires Royal Commission.* <http://www.forestry.org.au/pdf/pdf-public/Submissions/Vic%20Bushfires%20RC%20submission%2018%20May%202009%20V2%20-%20page%20numbered.pdf>

Inquiry into the Australian forest industry. Submission to House of Representatives Standing Committee on Agriculture, Resources, Fisheries and Forestry. <http://www.forestry.org.au/pdf/pdf-public/Submissions/IFA-Submission-to-Inquiry-into-Australian-forest-industry-Final.pdf>

December 2012 letter to Premier. [http://www.forestry.org.au/news/articlefiles/2051-Tas%20Premier%20letter%20Forest%20Agreement%20Dec%202012%20\(3\).pdf](http://www.forestry.org.au/news/articlefiles/2051-Tas%20Premier%20letter%20Forest%20Agreement%20Dec%202012%20(3).pdf)

29 May 2012. Letter to the Prime Minister noting failure to meet TOR 2 of IVG's Terms of Reference and disappointment that the reports: <http://www.forestry.org.au/pdf/pdf-public/Submissions/Tasmanian-forests-IVG-critique.pdf>

28 March 2012. Letter to Professor Jonathan West noting lack of consultation and appropriate peer review of IVG work. <http://www.forestry.org.au/pdf/pdf-public/Submissions/Letter-to-Prof-West-re-IVG-report.pdf>

2 March 2011, identifying high conservation forests. <http://www.forestry.org.au/pdf/pdf-members/media/71%20-%20Identifying%20High%20Conservation%20Value%20Forests%20in%20Tasmania.pdf>

25 November 2010. Letter to PM on forest management. <http://www.forestry.org.au/pdf/pdf-members/media/Native%20Forests%20letter%20to%20Prime%20Minister%20-%20National.pdf>

4 November 2010, Letter to Tasmanian Premier. <http://www.forestry.org.au/pdf/pdf-members/media/Letter%20to%20Premier%20re%20Industry%20Negotiations%20Nov%202010.pdf>

21 September 2010, Open letter. <http://www.forestry.org.au/pdf/pdf-members/media/Statement%20by%20the%20Tasmanian%20Division%20of%20IFA%20-%20Sept%202010.pdf>

ⁱ IFA, 2009, Submission to the 2009 Victorian Bushfire Royal Commission, Institute of Foresters of Australia.



Australian Government

Department of Sustainability, Environment, Water, Population and Communities

FOI APPLICATION FORM

Freedom of Information Act 1982 – Request for access to documents

Surname: Carmichael

Given Name: Alison

Address: The Institute of Foresters of Australia, Building 9, Wilf Crane Crescent,
Yarralumla

Post Code: 2600

Postal Address (if different): PO Box 7002, Yarralumla Post Code: 2600

DOCUMENT DETAILS

My requests are in relation to the following document signed by Mark Butler on 25 July 2013 that can be found at <http://www.forestsagreement.tas.gov.au/wp-content/uploads/Conservation-Agreement-5-August-2013.pdf>:

CONSERVATION AGREEMENT

Conservation Agreement under the
*Environment Protection and Biodiversity
Conservation Act 1999* (Cth) in relation to
the protection and management of public
native forest in the State of Tasmania in
accordance with the *Tasmanian Forests
Agreement Act 2013* (Tas)

I note that in Section D of the Recital (p 3) the then Minister was “satisfied that the implementation of this Agreement” met section 305(2) of the EPBC Act which is as follows:

- (2) However, the Minister must not enter into a conservation agreement unless satisfied that:
 - (a) in the case of a proposed agreement wholly or partly for the protection and conservation of biodiversity—the agreement:
 - (i) will result in a net benefit to the conservation of biodiversity; and



Australian Government

Department of Sustainability, Environment, Water, Population and Communities

(ii) is not inconsistent with a recovery plan, threat abatement plan or wildlife conservation plan; and

Firstly I seek to view the evidence that underpinned the Minister's decision that he was satisfied. This evidence might be in the form of scientific analyses and reports, briefing notes and other written or email advice.

Further to this I also seek the proof that the agreement does not give preference as referred to in section 312 of the EPBC Act as follows:

312 Minister must not give preference

The Minister must not, in exercising powers on behalf of the Commonwealth under this Part, give preference to one State or any part thereof within the meaning of section 99 of the Constitution.

This proof may be in the form of briefing notes, or advice.

Do you consent to receiving communications regarding your FOI request by email? Yes

Signed :

Date: 14 November 2013

From: [FOI Contact Officer](#)
To: [Alison Carmichael](#)
Cc: [FOI Contact Officer](#)
Subject: FOI - 061113 documents [SEC=UNCLASSIFIED]
Date: Thursday, 27 February 2014 11:53:23 AM
Attachments: [B13-1286 Conservation Agreement Brief - redacted.docx](#)
[Attachment A - Green Letter.docx](#)
[Attachment C - Calvert Letter.pdf](#)
[Attachment B - Conservation Agreement - Final.pdf](#)

Dear Ms Carmichael

Attached are the documents for your FOI request 061113.

The decision letter was emailed to you 13/1/14. It advised that the documents would be held back for third party consultation. This consultation period has ended and the documents are now being released to you.

Kind regards

Nicole Hedley

FOI and Legislation Contact Officer | Legal Section | Governance and Legal Branch

Department of the Environment

a: GPO Box 787 CANBERRA ACT 2600

DEPARTMENT OF SUSTAINABILITY, ENVIRONMENT, WATER, POPULATION
AND COMMUNITIES

Ref: B13/1286

To: Minister (for decision)

TASMANIAN FORESTS AGREEMENT CONSERVATION AGREEMENT

Timing: 26 July 2013 - Agreement is required from all parties to the Conservation Agreement to provide protection to future reserves envisaged under the Tasmanian Forests Agreement until they have been proclaimed as formal reserves. The previous Conservation Agreement expired on 30 June 2013.

Recommendations:

1. Agree to enter into a Conservation Agreement under Section 305 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) to protect future reserve land identified under the *Tasmanian Forest Agreement Act 2013* (Tasmania).

Agreed / Not Agreed

2. Sign the cover letter at **Attachment A** and three copies of the Conservation Agreement at **Attachment B**, forwarding all three copies of the Conservation Agreement to the Hon Mr Bryan Green MP, Tasmanian Deputy Premier and Minister for Energy and Resources, for signing and requesting that they be forwarded to Forestry Tasmania for co-signature, with one copy then returned to you.

Signed / Not Signed

3. Note that there is an opportunity for a media statement after all three parties have signed the Conservation Agreement.

Noted / Please discuss

Minister:

Date:

Comments:

Key Points:

1. In April 2013, the Tasmanian Parliament passed the *Tasmanian Forests Agreement Act 2013 (Tas.)* (TFA Act) giving effect to the Tasmanian Forest Agreement (TFA).
2. The TFA Act was substantially amended in the Tasmanian Upper House and did not fully reflect the negotiated outcomes of the TFA. In particular the TFA Act introduced delays to the formal protection of a significant proportion of the future reserve land until October 2014 and until Forest Stewardship Council certification is achieved by Forestry Tasmania. Ongoing and rigorous durability tests were also added.
3. To secure the Signatories' continued support for the TFA legislation, the former Minister for Sustainability, Environment, Water, Population and Communities, the Hon Tony Burke MP agreed supplementary measures to support the TFA (**Attachment C**). These supplementary measures included the development of a new EPBC Act Conservation Agreement in order to strengthen the interim protection of the future reserve land until it receives formal protection under the TFA Act.

Conservation Agreements

4. Conservation Agreements are legally binding agreements between the Commonwealth and another party (or parties) whose primary object is to enhance the conservation of particular environment and heritage matters. They may relate to private or public land, or to marine areas. Conservation Agreements are administered through part 14 of the EPBC Act.
5. Section 305 provides for you, on behalf of the Commonwealth, to enter into a Conservation Agreement with a person for the protection and conservation of all or any matters prescribed in subsection 1 of section 305.
6. When considering entering into a Conservation Agreement, you must take into account any responsibilities of other Commonwealth Ministers that may be affected by the agreement.
7. Under subsection 2 of section 305 you must not enter into a Conservation Agreement unless you are satisfied about a number of matters. For this particular agreement, you must be satisfied that the agreement will result in a net benefit to the conservation of biodiversity; and that it is not inconsistent with a recovery plan, threat abatement plan or wildlife conservation plan.
8. If the Conservation Agreement is signed by all parties the department will ensure that it is published in accordance with section 309 and include in a list of Conservation Agreements in accordance with section 310.

The new Conservation Agreement

9. The Tasmanian Forest Special Council which is largely comprised of the Signatories, in its 30 June 2013 durability report, recommended that the Australian and Tasmanian Governments give early attention to finalisation of the Conservation Agreements (a second Conservation Agreement related to the boundary of the extension to the Tasmanian Wilderness World Heritage Area (TWWHA) is also being drafted) as part of a suite of recommendations to ensure continued durability of the TFA. Finalisation of this agreement will contribute to durability in advance of the formal legislative protection of future reserve land.
10. Officials from the Australian and Tasmanian governments and Forestry Tasmania have worked collaboratively to develop a new Conservation Agreement (**Attachment B**). This agreement will provide additional protection of the future reserve land until the formal gazettal of all new reserves.
11. The draft Conservation Agreement will protect biodiversity and is not inconsistent with a recovery plan, threat abatement plan or wildlife conservation plan. This Conservation Agreement will ensure that there is protection of the identified conservation areas in the Conservation Agreement, therefore satisfying the requirements in sections 305, 306 and 308 of the EPBC Act.
19. The department's Legal Section was consulted in developing this Conservation Agreement.

Sensitivities

20. In April of this year, the Signatories requested that the Conservation Agreement for protection of the future reserve land include the Tasmanian Parks and Wildlife Service, with consideration being given to having the Signatories also party to the agreement.
21. Due to legal constraints the Tasmanian Minister for Energy and Resources and the CEO of Forestry Tasmania are the most appropriate co-signatories for the Agreement and it is not possible for the Signatories be party to the Conservation Agreement.
22. The department is managing communications with the Special Council and has provided a draft of the agreement to the Council. The Special Council has been advised that it was a legal constraint that prevented the Tasmanian Parks and Wildlife Service and Signatories' participation in the agreement. No concerns were raised.
23. The Tasmanian Government, Forestry Tasmania and the Special Council are expected to support this agreement.

Background

24. On 22 November 2012, following more than two years of intensive negotiations, key union, industry and environmental organisations (together the Signatories) signed the *Tasmanian Forest Agreement 2012* (TFA) – an historic community-led agreement to end the decades-long conflict over Tasmania's native forests.
25. The key outcomes of the TFA include a guaranteed supply of at least 137,000 cubic metres of high quality sawlogs per year from native forests, and the protection of over 500,000 hectares of native forests with important conservation values.
26. On 4 February 2013, the Australian and Tasmanian governments and Forestry Tasmania entered into a Conservation Agreement under the EPBC Act to provide interim protection to native forests nominated for protection under the TFA (the future reserve land). This Conservation Agreement expired on 30 June 2013.
27. The *Tasmanian Forests Agreement Act 2013* (Tasmania) (TFA Act) received royal assent on 3 June 2013 and is now in force. The Special Council is the stakeholder group with the role of advising the Tasmanian Minister on the implementation of the TFA Act.

Claire Howlett
Assistant Secretary
Biodiversity Policy Branch
22 July 2013

Contact Officer:
Emma Campbell
Director
Forest Policy Section

ATTACHMENTS

- A: Letter to the Tasmanian Deputy Premier and Minister for Energy and Resources
- B: Three copies of the Conservation Agreement
- C: Letter from the former Minister for Sustainability, Environment, Water, Population and Communities to the Chair of the Special Council dated 30 April 2013



**THE HON MARK BUTLER MP
MINISTER FOR CLIMATE CHANGE
MINISTER FOR THE ENVIRONMENT, HERITAGE AND WATER**

B13/1286

The Hon Bryan Green MP
Minister for Energy and Resources
Level 10 Executive Building
15 Murray Street
HOBART TAS 7000

Dear Minister

In accordance with Clause 34b of the Tasmanian Forest Agreement 2012, and the Tasmanian Forest Agreement durability report of 30 June 2013, officials from the Australian and Tasmanian Governments have been working with Forestry Tasmania to develop a Conservation Agreement under the *Environment Protection and Biodiversity Conservation Act 1999*. This Conservation Agreement intends to provide an additional layer of protection over the future reserve land under the Tasmanian Forests Agreement Act 2013 (Tasmania) (TFA Act). The Conservation Agreement will provide this protection until the formal gazettal of all new reserves.

Following negotiations between our officials and Forestry Tasmania, I understand that all parties are now agreed to the attached wording of the Conservation Agreement for signature. I have therefore signed the three enclosed copies of the Conservation Agreement and request that you now sign and provide them to the Acting Managing Director of Forestry Tasmania for co-signature. Would you please also ensure that one copy of the Agreement is returned to me once all parties have signed.

I thank you for your cooperation in delivery this important milestone in the implementation of the Tasmanian Forests Intergovernmental Agreement.

I have copied this letter to Mr Steve Whiteley, Acting Managing Director, Forestry Tasmania.

Yours sincerely

Mark Butler

Enc



Australian Government

Department of Sustainability, Environment, Water, Population and Communities

CONSERVATION AGREEMENT

Conservation Agreement under the
*Environment Protection and Biodiversity
Conservation Act 1999* (Cth) in relation to
the protection and management of public
native forest in the State of Tasmania in
accordance with the *Tasmanian Forests
Agreement Act 2013* (Tas)

The Commonwealth of Australia as represented
by the Minister for Environment, Heritage and
Water (the **Minister**)

The State of Tasmania as represented by the
Minister for Energy and Resources (the
Tasmanian Minister)

Forestry Tasmania (**Forestry Tasmania**)

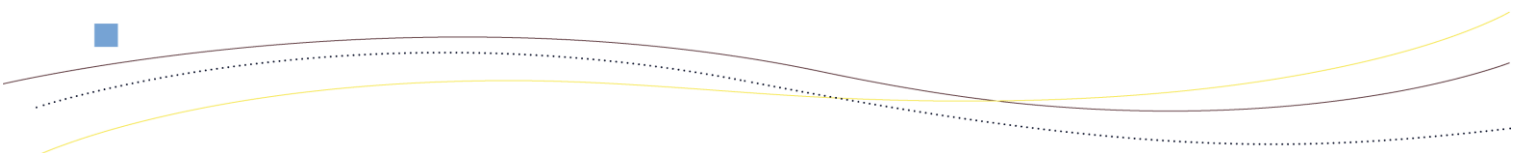


Table of contents

Table of contents	2
Details	3
Agreed terms	4
1. Definitions and interpretation	4
2. Agreement Period	6
3. Priority of documents	7
4. Protection and conservation of the Future Reserve Land	7
5. Representations and warranties	Error! Bookmark not defined.
6. Notification requirements	7
7. Obligations of successors	Error! Bookmark not defined.
8. Review of this Agreement	7
9. Access	8
10. Dispute resolution	8
11. Termination or variation	9
12. Notices	9
13. General clauses	9
Schedule 1	12
Schedule 2	14
Execution page	15

Details

Parties

1. The Minister for Environment, Heritage and Water (the **Minister**) on behalf of the Commonwealth of Australia and representing the Department of Sustainability, Environment, Water, Population and Communities (the **Department**).
2. The Minister for Energy and Resources (the **Tasmanian Minister**) on behalf of the State of Tasmania and representing the Department of Infrastructure Energy and Resources.
3. Forestry Tasmania (**Forestry Tasmania**).

Recitals

- A. Section 305(1)(a) of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (**EPBC Act**) provides that the Minister may, on behalf of the Commonwealth, enter into a Conservation Agreement for the protection and conservation of biodiversity in Australia.
- B. The purpose of this Agreement is to:
 - (i) support the implementation of the *Tasmanian Forests Agreement Act 2013* (Tas) (**TFA Act**); and
 - (ii) facilitate Forest Stewardship Council certification for forest management in Tasmania's public native forests,
by protecting the Land until it has been proclaimed as a reserve (or reserves) under the TFA Act.
- C. The Minister has agreed to enter into this Conservation Agreement with the Tasmanian Minister and Forestry Tasmania under section 305 of the EPBC Act in relation to the purposes described in Recital B.
- D. For the purposes of section 305(2) of the EPBC Act, the Minister is satisfied that the implementation of this Agreement will result in a net benefit to the conservation of biodiversity and is not inconsistent with any recovery plan, threat abatement plan or wildlife conservation plan.

Agreed terms

1. Definitions and interpretation

1.1 Definitions

In this Agreement, except where the contrary intention is expressed, terms have the meaning they are given in the EPBC Act and otherwise the following definitions are used:

Activity	the activity specified in Item 1.2 of Schedule 2.
Activity Objectives	the activity objectives described in Item 1.1 of Schedule 2.
Agreement	this agreement between the Minister, the Tasmanian Minister and Forestry Tasmania, as amended from time to time in accordance with section 308 of the EPBC Act or clause 9.1, and includes its Schedules and any Annexures.
Agreement Period	the period specified in clause 2.
Business Day	in relation to the doing of any action in a place, any day other than a Saturday, Sunday or public holiday in that place.
Commonwealth	the Commonwealth of Australia.
Department	the Commonwealth agency responsible for administering the EPBC Act, currently the Department of Sustainability, Environment, Water, Population and Communities.
Department Representative	the person identified in Item 2 of Schedule 1.
Electronic Communication	has the same meaning as in the <i>Electronic Transactions Act 1999</i> (Cth).
End Date	the date specified in Item 7 of Schedule 1.
EPBC Act	the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth).
Forest Stewardship Council	a non profit international organisation that promotes environmentally appropriate and economically viable management of forests.
Forestry Act	the <i>Forestry Act 1920</i> (Tas).
Forestry Tasmania	the statutory corporation established by the Forestry Act which has the exclusive management and control of all State Forest for the purposes of that Act.
Forestry Tasmania Representative	the person identified in Item 4 of Schedule 1.
Future Reserve Land	has the same meaning as in section 18 of the TFA Act.

Intergovernmental Agreement	the agreement dated 2 May 2013 between the Commonwealth and the State.
Land	the area described in Item 8 of Schedule 1.
Law	any applicable statute, regulation, by-law, ordinance or subordinate legislation in force from time to time in Australia, whether made by a State, Territory, the Commonwealth, or a local government.
Minister	the Minister administering the EPBC Act or a delegate of the Minister pursuant to section 515(1) of the EPBC Act.
Native Forest Harvesting	has the same meaning as in section 3 of the TFA Act.
Protected Matter	a matter protected by a provision of Part 3 of the EPBC Act.
Tasmanian Department Representative	the person identified in Item 6 of Schedule 1.
Special Council	the council of that name established by the TFA Act.
State	the State of Tasmania.
State Forest	has the same meaning as in the Forestry Act.
Tasmanian Forest Agreement	the agreement dated 22 November 2012 between the: <ul style="list-style-type: none"> (a) Australian Conservation Foundation; (b) Australian Forest Contractors Association; (c) Australian Forest Products Association; (d) Construction, Forestry, Mining and Energy Union; (e) Environment Tasmania Inc; (f) Forest Industries Association of Tasmania; (g) Tasmanian Forest Contractors Association; (h) Timber Communities Australia; (i) Tasmanian Sawmillers Association; (j) The Wilderness Society Inc; and (k) The Wilderness Society (Tasmania) Inc.
TFA Act	the <i>Tasmanian Forests Agreement Act 2013</i> (Tas).

1.2 Interpretation

In this Agreement, except where the contrary intention is expressed:

- (b) the singular includes the plural and vice versa, and a gender includes other genders;
- (c) another grammatical form of a defined word or expression has a corresponding meaning;

- (d) the meaning of general words is not limited by specific examples introduced by meaning of, for example or similar expressions;
- (e) a reference to a clause, paragraph, Schedule or Annexure is to a clause or paragraph of, or Schedule or Annexure to, this Agreement;
- (f) a reference to a document or instrument includes the document or instrument as notated, altered, supplemented or replaced from time to time;
- (g) a reference to AUD, A\$, \$A, dollar or \$ is to Australian currency;
- (h) a reference to time is to the time in the place where the obligation is to be performed;
- (i) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (j) a reference to a statute, ordinance, code or other Law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (k) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (l) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally; and
- (m) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this Agreement or any part of it.

1.3 Free exercise of duties of office

Nothing in this Agreement operates to interfere with, hinder or prevent, contrary to the law, the free exercise by any Minister of the Crown of any duty or authority of that office.

2. Agreement Period

- (a) This Agreement commences on the date of execution by the last party.
- (b) This Agreement ends on and ceases to be of any effect on the earlier of:
 - (i) the End Date;
 - (ii) the date the parties subsequently agree in writing that this Agreement should end; or
 - (iii) the date this Agreement is terminated under clause 9.
- (c) This Agreement has the effect of binding the parties for the duration of this Agreement but only to the extent that this Agreement is consistent with the obligations, rights and liabilities of each party under any applicable Law.

3. Priority of documents

If there is any inconsistency between any of the documents forming part of this Agreement those documents will be interpreted in the following order of priority to the extent of the inconsistency:

- (a) the 'Agreed terms' of this Agreement (being clauses 1 through to 11);
- (b) the Schedule(s) in their order of appearance;
- (c) any Annexure(s) in their order of appearance; and
- (d) documents incorporated by reference in this Agreement.

4. Protection and conservation of the Land

4.1 Obligation to undertake Activity

Forestry Tasmania must carry out the Activity:

- (a) to protect and conserve biodiversity on the Land;
- (b) in accordance with all applicable Laws;
- (c) so as to deliver the Activity Objectives and meet all reporting requirements, in accordance with the requirements of this Agreement; and
- (d) otherwise in accordance with the provisions of this Agreement.

5. Notification requirements

5.1 Notification of certain matters adversely affecting the conservation and protection of biodiversity on the Land

Forestry Tasmania must notify the Minister of such Native Forest Harvesting that it is aware of, or becomes aware of, on the Land, where this activity could significantly adversely impact upon Protected Matters on the Land.

6. Review of this Agreement

6.1 Review

- (a) A review of the operation of this Agreement (**Review**) may be undertaken by the parties as specified in Item 2.1 of Schedule 2.
- (b) If a Review is to be undertaken the parties will agree in writing on:
 - (i) the terms of the Review;
 - (ii) the scope of the Review; and
 - (iii) the date by which the Review will be completed.
- (c) Failure to undertake the Review contemplated by clause 6.1(b) does not invalidate this Agreement.
- (d) This clause does not limit the Minister's powers to terminate or vary this Agreement under section 308 of the EPBC Act.

7. Access

7.1 Access to the Land and Data

Forestry Tasmania acknowledges and agrees that the Department, or any authorised representative, may, at all reasonable times and on giving reasonable notice to Forestry Tasmania:

- (a) access and inspect the Land for the purposes of:
 - (i) monitoring compliance with this Agreement; and
 - (ii) taking any action that is required to remedy or monitor any breach of this Agreement; and
- (b) require Forestry Tasmania, including any subcontractors, to provide access to records, documents and information relevant to the performance of this Agreement in a data format and storage medium accessible by the Department.

7.2 General

- (a) Each party must bear its own costs of any inspections, reviews and enquiries conducted pursuant to this clause 7.
- (b) Each party must ensure that any subcontract entered into for the purpose of this Agreement contains an equivalent clause granting the rights specified in this clause 7.
- (c) This clause 7 applies for the duration of the Agreement Period and for a period of seven years from the termination or expiry of this Agreement.

8. Dispute resolution

8.1 Dispute resolution

The parties must endeavour to resolve any dispute under this Agreement by mediation or other dispute resolution method before they commence legal proceedings (except proceedings for urgent interlocutory relief).

8.2 Obligations continue

- (a) Despite the existence of a dispute, all parties must continue to perform their respective obligations under this Agreement, unless a direction is issued in accordance with clause 8.2 (b).
- (b) If directed and notified in writing by the Department to do so, the parties must cease performing the obligations of the parties under this Agreement which are specified in the Department's notice until the Department issues a further written notice to the parties directing it to resume performance of those obligations.

8.3 Costs

Each party to a dispute must pay its own costs of complying with this clause. The parties to the dispute must equally pay the costs of any mediator.

8.4 Breach of this clause

If a party to a dispute breaches clauses 8.1 to 8.3, the other party does not have to comply with those clauses in relation to the dispute.

9. Termination or variation

9.1 Termination or variation by order

- (a) This Agreement may be terminated or varied with the written agreement of the parties.
- (b) This Agreement may be terminated or varied by the Minister by order published in the *Gazette* in accordance with section 308(4) of the EPBC Act. The parties are not entitled to any compensation in respect of the termination or variation by such an order.
- (c) This Agreement may be terminated by the State or Forestry Tasmania in accordance with section 308(7) of the EPBC Act.

9.2 Consultation with Special Council

The Minister must not terminate this Agreement without first consulting with the Special Council.

9.3 Variation

Subject to the Minister's rights under section 308 of the EPBC Act, no agreement or understanding varying or extending this Agreement is legally binding upon either party unless the agreement or understanding is in writing and signed by all parties.

10. Notices

10.1 Service of notices

A party giving notice or notifying under this Agreement must do so in English and in writing or by Electronic Communication:

- (a) directed to the other party's contact person at the other party's address (as set out in Schedule 1 and as varied by any notice); and
- (b) hand delivered or sent by prepaid post or Electronic Communication to that address.

10.2 Effective on receipt

A notice given in accordance with clause 10.1 takes effect when it is taken to be received (or at a later time specified in it), and is taken to be received:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid post, on the second Business Day after the date of posting (or on the seventh Business Day after the date of posting if posted to or from a place outside Australia); or
- (c) if sent by Electronic Communication, at the time that would be the time of receipt under the *Electronic Transactions Act 1999* (Cth),

but if the delivery, receipt or transmission is not on a Business Day or is after 5.00pm on a Business Day, the notice is taken to be received at 9.00am on the next Business Day.

11. General clauses

11.1 Rights and powers of the Minister

The rights and powers of the Minister under this Agreement are cumulative with any rights the Minister has under the EPBC Act.

11.2 Ownership of Agreement

All copyright and other intellectual property rights contained in this Agreement remain the property of the Commonwealth.

11.3 Approvals and consents

Except where this Agreement expressly states otherwise, a party may, in its discretion, give conditionally or unconditionally or withhold any approval or consent under this Agreement.

11.4 Assignment and novation

A party may only assign its rights or novate its rights and obligations under this Agreement with the prior written consent of the other party.

11.5 Costs

Each party must pay its own costs of negotiating, preparing and executing this Agreement.

11.6 Counterparts

This Agreement may be executed in counterparts. All executed counterparts constitute one document.

11.7 No merger

The rights and obligations of the parties under this Agreement do not merge on completion of any transaction contemplated by this Agreement.

11.8 Entire agreement

This Agreement constitutes the entire agreement between the parties in connection with its subject matter and supersedes all previous agreements or understandings between the parties in connection with its subject matter.

11.9 Further action

Each party must do, at its own expense, everything reasonably necessary (including executing documents) to give full effect to this Agreement and any transaction contemplated by it.

11.10 Severability

A term or part of a term of this Agreement that is illegal or unenforceable may be severed from this Agreement and the remaining terms or parts of the terms of this Agreement continue in force.

11.11 Waiver

Waiver of any provision of or right under this Agreement:

- (a) must be in writing signed by the party entitled to the benefit of that provision or right; and
- (b) is effective only to the extent set out in any written waiver.

11.12 Relationship

- (a) The parties must not represent themselves, and must ensure that their officers, employees, agents and subcontractors do not represent themselves, as being an officer, employee, partner or agent of the other party, or as otherwise able to bind or represent the other party.

- (b) This Agreement does not create a relationship of employment, agency or partnership between the parties.

11.13 Governing law and jurisdiction

This Agreement is governed by the law of Tasmania and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Tasmania.

11.14 Effect of Agreement

Despite anything else in this Agreement, this Agreement ceases to have effect to any Land that:

- (a) ceases to be State Forest; or
- (b) ceases to be Future Reserve Land; or
- (c) becomes a reserve under the *Nature Conservation Act 2002* (Tas).

Schedule 1

Item No.	Description	Clause reference	Details
1.	Department details	1.1	Commonwealth of Australia as represented by the Department of Sustainability, Environment, Water, Population and Communities
2.	Department Representative	1.1	
3.	Forestry Tasmania details	1.1	Forestry Tasmania
4.	Forestry Tasmania Representative	1.1	
5.	Tasmanian Department details	1.1	State of Tasmania as represented by the Department of Infrastructure, Energy and Resources
6.	Tasmanian Department Representative	1.1	
7.	End Date	1.1	<p>This Agreement ends on the earlier of:</p> <ul style="list-style-type: none"> (a) the day there ceases to be any Land that it applies to; or (b) ten years from the commencement of this Agreement.

Item No.	Description	Clause reference	Details
8.	Land	1.1	<p>The part of the Future Reserve Land that:</p> <ul style="list-style-type: none"> (a) is State Forest; (b) has not been proclaimed as a reserve under section 25 of the TFA Act; and (c) has the words “<i>Native forest harvesting</i>” in column 5 of the table in Schedule 1 to the TFA Act.
9.	Address for notices	10.1	<p>Department: Position: Assistant Secretary, Biodiversity Policy Branch The Department of Sustainability, Environment, Water, Population and Communities Postal address: GPO Box 787, Canberra, ACT, 2601 Lovett Tower, 13 Keltie Street, Woden ACT 2606</p> <p>Tasmanian Department: Name: Andrew Blakesley Position: Director Forest Policy</p> <p>Forestry Tasmania: Name: Steve Whiteley Position: Acting Chief Executive Officer</p>

Schedule 2

1. Activity

1.1 Activity Objectives

The objective of this Agreement is to contribute to the protection and conservation of biodiversity in Australia by protecting and managing the Land until such time as the Land has been proclaimed as reserves in accordance with the TFA Act.

1.2 Activity description

- (a) Forestry Tasmania must not conduct or allow to be conducted any Native Forest Harvesting on the Land contrary to the provisions of the TFA Act.
- (b) All activities on the Land other than in Item 1.2(a) are not restricted by this Agreement.
- (c) The Minister acknowledges:
 - (i) this Agreement has the effect of protecting carbon stored in the native forest on the Land; and
 - (ii) this is a key objective of the State, Forestry Tasmania and the Special Council.

2. Review and reporting

2.1 Review

A review to be done collaboratively by all parties to this Agreement will take place if requested by of any of the parties, but in any case no earlier than 12 months after the last party has signed the Agreement.

Execution page

EXECUTED as a Conservation Agreement under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth)

SIGNED for and on behalf of the
Commonwealth of Australia as
represented by the Minister for
Environment, Heritage and Water

Name

Name of witness (print)

Signature

Signature of witness

Date

Date

SIGNED for and on behalf of the **State of Tasmania** as represented by the Minister
for Energy and Resources

Name

Name of witness (print)

Signature

Signature of witness

Date

Date

SIGNED for and on behalf of the **Forestry Tasmania** by Steve Whiteley who
warrants that they have the authority to
sign this Agreement on behalf of **Forestry Tasmania**

Name

Name of witness (print)

Signature

Signature of witness

Date

Date



The Hon Tony Burke MP

Minister for Sustainability, Environment, Water, Population and Communities

Minister for the Arts

30 APR 2013

Ms Jane Calvert
Interim Chair
Signatories to the Tasmanian Forest Agreement
jcalvert@cfmeuffpd.org

Dear Ms Calvert

I refer to the Signatories request, dated 29 April 2013, for further implementation assistance for the Tasmanian Forest Agreement.

The Australian Government supports the ongoing implementation of the Tasmanian Forest Agreement and I commend the Signatories on your collaborative and constructive engagement to address the significant challenges put forward by the Tasmanian Legislative Council.

I confirm that the Australian Government supports proposed actions to assist in re-establishing confidence in the Tasmanian Forest Agreement and that we will work with the Tasmanian Government to deliver the outcomes envisaged by the Signatories. In particular, I am committed to ensure that all funding arrangements are subject to appropriate milestones and accountability requirements. I am confident that we can have a new Conservation Agreement and an updated Tasmanian Regional Forest Agreement in place very quickly.

I am supportive of the High Quality Sawlog Buyback Program and the Regional Sawmillers Structural Adjustment Program being progressed as a priority. I can also confirm the Australian Government's commitment to supporting industry to achieve market security through mechanisms such as third party certification.

Consistent with the Tasmanian Forest Agreement, I will not approve any harvesting of wood, including specialty timbers, within the World Heritage nominated area or areas listed under the *Environment Protection and Biodiversity Act 1999*.

My officials continue to work closely with the Tasmanian Government and Forestry Tasmania to refine the management boundary for the nominated extensions to the Tasmanian Wilderness World Heritage Area. Agreed objectives of this process are to maintain the size and values of the nominated World Heritage Area and to define a boundary that will enable Forestry Tasmania to deliver the wood supply outcomes incorporated in the Tasmanian Forest Agreement (as modelled for the signatories by Andrew Robinson). I am confident that this is achievable.

I look forward to continue working with the Signatories and the Tasmanian Government as we finalise the details of this Agreement and, as appropriate, considering any other actions that would contribute to the delivery of the Tasmanian Forest Agreement.

I trust that these assurances, together with any assurances provided by the Tasmanian Government and Forestry Tasmania, allow the Signatories to continue your support for Tasmanian Forest Agreement and the long term vision for the forestry industry, the environment, and communities in Tasmania.

Yours sincerely

Tony Burke

cc: Bryan Green, Deputy Premier