

ATTACHMENT D



10 January 2007

The Hon John Howard MP
Prime Minister
Parliament House
CANBERRA ACT 2600

Dear Prime Minister

I am writing to you in relation to the forest industry's concerns over the recent Federal Court decision in *Brown v Forestry Tasmania*. As you are aware, these proceedings were initiated against Forestry Tasmania by Senator Bob Brown in relation to harvesting activities in Tasmania's Wielangta forest.

The decision, which relates to the protection of threatened species under the Tasmanian Regional Forest Agreement (RFA), has found that Forestry Tasmania does not have exemption from the relevant provisions of the Commonwealth's Environment Protection and Biodiversity Conservation (EPBC) Act and that the forestry operations in Wielangta are not in accordance with the RFA.

This has created a great deal of uncertainty for the forest industry, not only in Tasmania, but across mainland Australia where 10 RFAs are currently in operation, given the potential impact of the decision. These RFAs, as agreed to by the Commonwealth and the various States, were intended to provide Australia's forest industry and its reliant communities with much needed certainty with respect to access to valuable native forest timber resources.

Unfortunately, the ruling has the potential to jeopardise this certainty by undermining the validity of these Agreements, which were developed through extensive stakeholder and community consultative processes and the highest quality rigorous scientific assessments.

The effect of the decision is that threatened species should not only be protected, but that their status should be enhanced across their entire range. This has resulted from the Federal Court's application of an extremely narrow interpretation of the term "protect" as contained in Clause 68 of the Tasmanian RFA. It is also partly a result of the highly expansive approach taken towards including within that term an obligation for activities to enhance the recovery of threatened species.

Implementation of this ruling, and more importantly the changed intent of the various RFAs and the EPBC Act which underpin the ruling, has the potential for significant implications for the forest industry's access to timber resources. This is due to the extremely widespread nature of the ranges for many of Australia's threatened species. It also has the potential to adversely impact all other land use development activities which may potentially affect a threatened species.

NAFI understands that the Tasmanian Government is reviewing options to address the potential ramifications created by this ruling and we support our affiliated industry association in Tasmania, the Forest Industries Association of Tasmania (FIAT), which is seeking to work with the Tasmanian Government on this issue.

NAFI seeks urgent action from the Commonwealth Government to address this critical issue by reaffirming its commitments to the various RFAs and ensuring that the required certainty is restored to Australia's forest industry and its dependent communities.

NAFI, in conjunction with our industry colleagues from Tasmania, requests that government officials work with NAFI and FIAT to ensure an acceptable solution is developed which will restore certainty to RFA's and the future of the forest industry and timber communities.

Yours sincerely

Catherine Murphy

cc Senator The Hon. Ian Campbell, Minister for the Environment and Heritage
Senator The Hon. Eric Abetz, Minister for Fisheries, Forestry and Conservation
Mr Kevin Rudd MP, Leader of the Opposition
Senator Kerry O'Brien, Shadow Minister for Primary Industries, Fisheries and Forestry