

12th August 2003

Mrs Sue McLeod
Clerk of Committees
Legislative Council
Parliament House
HOBART TAS 7000

Dear Mrs McLeod,

**RE: JOINT STANDING COMMITTEE – ENVIRONMENT, RESOURCES AND
DEVELOPMENT - CONSERVATION ON PRIVATE LAND**

The Forest Industries Association of Tasmania (FIAT) wishes to place its views before the Joint Standing Committee inquiry into the preservation of natural and cultural values on private land in Tasmania.

We are conscious that the official closing date for submissions to this inquiry have already passed however we believe the views of members of FIAT will be of interest to Members of the Committee and may assist the Committee in its deliberations. We apologise for our failure to meet the original date.

In anticipation that the committee may accept a submission from FIAT we have prepared the following information. Should the Committee require either elaboration or clarification we would be pleased to assist either in writing or by appearance before the Committee.

THE FOREST INDUSTRIES ASSOCIATION OF TASMANIA

The Forest Industries Association of Tasmania is an industry association formed in 1983 to represent the interests of processors of Tasmanian forest products.

Our members activities are diverse and include:

- * Production of veneers;
- * Production of hardwood and softwood timber
- * Production of special timbers;
- * Pulp and paper production;
- * Woodchip production;
- * Plantation forestry

Our objectives, as enunciated in our Memorandum of Association, include the following key relevant issues;

- * "...promoting and advancing the interests of the forest industries of the State of Tasmania...."
- * "To promote and advance the public image of the forestry and forest products industries of the State of Tasmania"
- * "To promote and develop production forestry and to protect, maintain and develop the forest resource of the State of Tasmania."

FIAT's membership includes all of the State's larger processors of forest products. A significant proportion of the crown sawlog output and all of the veneer product is processed by the members of FIAT. In excess of 300,000m³ per annum of high quality saw and veneer log is processed by members of FIAT.

FIAT members account for in excess of 75% of the gross value of production in the forest and wood products industry in Tasmania.

Our members represent the largest employment base in the forest and forest products industry in Tasmania and are responsible for the employment of approximately 5000 employees.

FIAT members are a significant and important component of Tasmania's industry and the association can justly claim to be the pre-eminent representative organization in the industry.

INTEREST IN INQUIRY

The interest of FIAT's membership in this inquiry is derived from the following factors:

- supply of resource from private land;
- Member investment in private lands for commercial forestry
- Use of private land for plantation development
- RFA outcomes including the Private CAR Reserve Programme

We wish to deal briefly with these issues as we understand the Terms of Reference for the Inquiry so as to ensure the industry position is clearly put into perspective.

We have not separated out our submission into the two specific Terms of Reference as we believe there is considerable overlap in the manner we would use to best put our position. We have therefore dealt with these issues concurrently.

RESERVES

There are a number of existing regulatory regimes that serve to preserve the natural and cultural values of private land in Tasmania.

In our view it is inappropriate to proceed without some discussion and understanding of the balancing factors that require consideration of Tasmania's best interests. In this context we put the proposition that contemporary thinking embraces the notions of a Triple Bottom Line whereby a pragmatic balance of social and economic factors is required along with the consideration of environmental values.

There are two primary mechanisms for the reservation of natural and cultural values on private land in Tasmania:

- * Private CAR Reserve Program
- * Forest Practices Code

These are both discussed below:

PRIVATE CAR RESERVE PROGRAM

The primary means by which natural and cultural values (and others) are currently addressed is through the Private CAR Reserve Programme, which was established under the Tasmanian Regional Forests Agreement (RFA).

At Attachment 8 of the RFA a comprehensive analysis of the Program to Protect CAR Values on Private Land is set out. Relevant comment is also included within Attachment 9 Maintaining a Permanent Forest Estate of the RFA. (Both attachments are annexed hereto for the benefit of the Committee).

In short form the provided attachments from the RFA are as follows:-

Attachment 8 establishes a program to protect CAR values on Private Land by the voluntary participation of private landowners in the CAR Reserve System.

Attachment 9 obligates the State to maintain a permanent Native Forest Estate with the objective of increasing the sustainability of the total Forest Estate.

It should be noted that the “CAR Reserve System” derived from Attachment 8 is an integral component of the RFA designed to ensure the long term conservation and protection of the values defined by the JANIS Reserve Criteria (RFA Clause 48).

Clauses 49 and 50 of the RFA provides as follows:-

- “48. The Parties agree that the CAR Reserve System is to be established for the purpose of ensuring the long-term conservation and protection of the values defined by the JANIS Reserve Criteria and the land required to achieve this specified in Attachments 6 and 8.
49. The Parties agree that the CAR Reserve System established in accordance with this Agreement, will comprise:

On Public Land as described in Attachment 6:

- Dedicated Reserves and other Formal Reserves; and
- Informal Reserves; and
- Areas with CAR values protected by prescription; and

On Private Land as described in Attachment 8:

- Lands with CAR values protected under secure management arrangement by agreement with private landholders.”

Relevantly the “JANIS Report” and “JANIS Reserve Criteria” as set out in Clause 2 – Definitions and General Provision of the RFA as follows:

“JANIS Report” means the report published by the Joint ANZECC/MCFFA National Forests Policy Statement Implementation Sub-committee in June 1997 titled “Nationally Agreed Criteria for the Establishment of a Comprehensive, Adequate and Representative Reserve System for Forests in Australia.”

“JANIS Reserve Criteria” means the criteria as described in the JANIS report which provide guidelines for the reservation of biodiversity, old growth forest and wilderness, taking account of reserve design and management and social and economic considerations.”

The JANIS Report provides as follows at page 7 in respect to CAR reserves on private land:

“PRIVATE LAND

The NFPS establishes that the CAR reserve system should in the first instance be selected from public land. However, in many regions it will need to include private land. The two key priorities for biodiversity protection in private forests are to ensure comprehensiveness so that replicated samples of all forest ecosystems are included in viable reserves across their geographic range and to meet the special needs for rare, vulnerable or endangered species or ecosystems on private land.

Many of the most threatened forest species and ecosystems throughout Australia occur on private lands, especially in coastal areas and across agricultural lands. There is an urgent need for specific measures to address their conservation in the development of the CAR reserve system as opportunities for their conservation are rapidly foreclosing. For example, in Queensland more than 100 forest and woodland ecosystems are considered to be endangered or significantly restricted in distribution, and most of these occur on private lands (Sattler and Williams, in press).

A number of strategies are appropriate for protecting biodiversity on private land, ranging from purchase of priority areas to the development of incentives for the establishment of mechanisms to ensure protection, such as covenants on leasehold and freehold lands. For example, a covenant should be binding on successors in title and that appropriate management intent should be demonstrated before the area concerned could be considered to be part of the CAR reserve system. The rights of landholders will be respected whatever mechanisms are adopted.

The level of protection possible on private land will be limited by the resources available. Conservation effort therefore needs to be highly focused on the priority forest species and ecosystems.”

The Private CAR Reserve Scheme provides a comprehensive process for the identification and protection of natural values on private land and in a manner that is integrated with and compliments the CAR reserve system on public land.

In the Resource Planning and Development Commission’s Final Recommendations Report on the Inquiry on the Progress with the Implementation of the Tasmanian Regional Forest Agreement (1997), which is dated December 2002, an analysis is made of progress during the first 5 years of the RFA and implementation of the Private CAR Reserve Programme.

At Section 3.1.4 Issues – Private Forest Reserve System and 3.1.5 Analysis – Private Forest Reserve System the RPDC provide a comprehensive overview of the first 5 years of the programme.

In brief point form the major issues found by the RPDC are:

- * The Private Forest Reserve (PFR) Program has generally been implemented in accord with Clause 59 (RFA) and Attachment 8;
- * The PFR will not achieve its objective of having the relevant private land reservation in place by 2004;
- * An extension to 30 June 2004 has been agreed for \$200 million National Heritage Trust component of RFA funding;
- * Less than one quarter of the 100,000 hectare target has been secured as at June 2002;
- * Administrative and negative taxation regimes have been identified as the major negative drivers in the implementation process;
- * The PFR program has commenced an acceleration;
- * The RPDC recommended a refinement to the Permanent Forest Estate policy would improve the delay in securing outcomes for vulnerable and endangered community priorities;
- * By the time RFA funds are expended the PFR program will have provided significant conservation benefits;
- * There will remain an ongoing need for further conservation programs on private land;
- * DPIWE are in the process of developing a charter for monitoring compliance with the terms of the covenants and management agreements;
- * The RPDC made the following recommendation:-

“Recommendation 3.3

That the parties commit to designing a program that provides for the long term future of the Private Forests Reserve Program and in particular provides for the future financial resources for management, monitoring and reporting of properties conserved under the RFA Private Forest Reserve Program.”

- * The RPDC were satisfied that referrals from Forest Practices Plan’s to the PTR processes is functioning consistently well; and
- * The RPDC made the following recommendation:-

“Recommendation 3.4

That the State reinforces and makes more effective the mechanism for providing the RFA Private Forest Reserve Program with basic forest type and coverage information for areas being assessed under the Private Timber Reserve approval process.”

It is clear that significant arrangements exist under the Regional Forest Agreement to provide for conservation of natural values on private land in Tasmania. It is fair to say that the take up of this program in its early stages was quite slow however there is substantial evidence available of recent acceleration in the extension of this programme.

FOREST PRACTICES CODE

A further significant existing measure that provides for the preservation of natural and cultural values on private land is the Forest Practices Code (“The Code”).

The Code is a gazetted regulatory instrument under the Forest Practices Act 1985. Section A2 of the Code provides as follows:-

“The *Forest Practices Act 1985* provides that the Forest Practices Code shall prescribe the manner in which forest practices are to be conducted so as to provide reasonable protection to the environment. The Code is issued by the Forest Practices Board, after extensive consultation and public comment.

The Code provides a practical set of guidelines and standards for the protection of environmental values during forest operations, in particular:

- * Soils
- * Geomorphology
- * Visual landscape
- * Water quality and flow
- * Flora, fauna, genetic resources
- * Cultural heritage

The Code contains policies and practices, which have been developed as a result of ongoing research and practical experience. Research and innovation by landowners, contractors and the forest industry is encouraged. The Code is kept under regular review and the results of research, field experience and public input are used to make progressive improvements so that environmentally sound, socially responsible and economically acceptable production forestry can be maintained.”

Section D of the Code provides a comprehensive and codified set of principles dealing with the issue of Conservation of Natural and Cultural Values. The entire code is available on the Forest Practices Board website so we do not reproduce it here (www.fpb.tas.gov.au).

The Forest Practices Code applies to both public and private land since 1 January 2003, all forest operations including all land clearing exceeding 1 hectare or 100 tonnes of timber, which now require a Forest Practices Plan and hence must comply with the Code.

All forest operations in Tasmania may only proceed after a Forest Practices Plan has been prepared, approved and authorised. These plans must be prepared and authorised by qualified Forest Practices Officers (FPO's) who are responsible for planning, monitoring and certifying that Forest Practices Plans are prepared and implemented in accordance with the Forest Practices Code.

Planning of operations takes in account regional requirements as well as coupe-specific issues. Regional issues include:

- * Water quality and flow;
- * Flora and fauna and protection of endangered species;
- * Geomorphology;
- * Cultural heritage;
- * Soils; and
- * Visual landscape

The coupe's design and location also consider a regional distribution of forest ages and the overall provision of habitat retention.

Detailed coupe planning takes these issues into account in greater detail and includes a focus on the conduct of the operation. Key operational details such as landing locations, areas requiring special treatment or buffers, the harvesting method and snigging pattern are specified.

The landowner, the harvesting contractor and the holder of the timber license must formally endorse the Forest Practices Plan. This ensures that these parties have an opportunity for input into the Plan and agree to comply with its content.

The General Principles established by Section D of the code are as follows:

“General Principles

- * The forest practices system contributes to the conservation of natural and cultural values at State and regional levels. Such values can occur in forest and non-forest environments.
- * Conservation of environmental diversity (biodiversity, including flora, fauna, threatened species and genetic resources; landscape; cultural heritage; and geodiversity, including soils and landforms;) will be principally catered for in a systematic reserve system on public land, by a voluntary private land reserve system, and by management prescriptions in production forests.

- * Natural and cultural values in adjacent reserves should be considered during the planning and conducting of forest operations.
- * Management of natural and cultural values should be integrated where possible.
- * Resource manuals (3, 8-17) and other available information on flora, fauna, threatened species, cultural heritage, geomorphology, landscape and soils will be consulted where appropriate.
- * The main provisions dealing with the conservation of natural and cultural values are detailed below. Numerous other provisions in this Code affect these values, but have not been repeated in this section.
- * Measures taken to conserve natural and cultural values will be consistent with effective fire management, silvicultural practices and safety requirements.”

(Forest Practices Code – Page 51)

Relevantly in the context of the current inquiry the code requires (as a matter of law) the consideration of a very broad range of natural and cultural heritage issues at every stage of a forestry operation.

The Code provides at page 51 that natural and cultural values are to be assessed at the strategic or property level and areas of high conservation significance may be designated as special management zones by agreement with the landowner. Any forestry operation in a special management zone must comply with an agreed management prescription to ensure maintenance of natural and cultural values. Specialist Forest Practices Board scientists must be consulted before any forestry activities are to be undertaken within a special management zone.

The Code further requires that the sustainable management of natural and cultural values within production forests will be determined in accordance with:

- * National Parks and Wildlife Act 1970
- * Threatened Species Protection Act 1995
- * Aboriginal Relics Act 1975
- * Forestry Act 1920
- * Environmental Protection and Biodiversity Conservation Act 1999 (Commonwealth)
- * Regional Forestry Agreement
- * Permanent Forest Estate Policy
- * The landowner duty of care (see note following)

Note: Landowners duty of care is expressed in the Forest Practices Code as follows:

“The duty of care of landowners under the provisions of this Code, which is defined as the fundamental contribution of the landowner to the conservation of natural and cultural values that are deemed to be significant under the forest practices system. The landowners duty of care includes:

- * All measures that are necessary to protect soil and water values as detailed in this Code;
- * The reservation of other significant natural and cultural values. This will be at a level of up to 5% of the existing and proposed forest on the property for areas totally excluded from operations. In circumstances where partial harvesting of the reserve area is compatible with the protection of the values, the level will be up to 10%. The conservation of values beyond the duty of care is deemed to be for the community benefit and should be achieved on a voluntary basis or through compensation mechanisms where available.”

Clearly the Forest Practices Code makes considerable provisions for the adequate protection of natural and cultural values on private land and if such protections are within the duty of care range, compensation is not payable.

The Code deals in considerably greater detail in respect to specific values that are to be considered in the preparation of Forest Practices Plan including for:-

- * Soils
- * Flora & Fauna
- * Cultural Heritage
- * Water Quality & Flow
- * Landscape
- * Geomorphology

Of note is that any Forest Practices Officer identifying a specific value in the preparation of a plan is required to advise the relevant scientific specialist at the Forest Practices Board who will provide a management prescription relevant to that value. Such a prescription may provide for a notification to the Private Land Reserve Program. This is another method to ensure relevant values are considered for inclusion within reserves.

COMPENSATION

In our submission there are adequate programs and initiatives in place to ensure the preservation of natural and cultural values on private land within Tasmania. There are however insufficient counter veiling provisions that ensure such protection encompasses the “triple bottom line” approach.

Substantial attention is paid to conservation outcomes and in FIAT's view that is appropriate, however as previously mentioned good contemporary public policy demands consideration of all of the 3 major issues of Environmental, Economic and Social.

There is an obvious economic impact on the designation of private land into reserve status, however, a reasonable person would concede the equity of such a proposition given reasonable environmental and social considerations.

It is not however, reasonable or appropriate to require reservation without adequate consideration of compensation to private landowners for loss of income and amenity of their property. Considerations should extend beyond the immediate loss of utilisation rights and must consider longer term foregone income potential, reduced asset value on eventual sale and increased management costs.

It is recognised within the Forest Practices Code that some level of duty of care exists, however, beyond defined reasonable limits the concept of "community benefit" or "common good" requires that a publicly funded compensation program should ensure landowners are not disadvantaged without consideration of loss of amenity of their property.

This debate must of necessity proceed from a basis that a landowner, provided they act within the law, has a general right to utilise property in the most productive means possible and any imposed restrictions must lead to reasonable compensation. If private landowners are required to contribute to the "common good" the cost of that contribution must be borne by those who impose such a requirement whether it be Commonwealth, State or Local Government.

EXISTING RESERVATIONS

It must be kept as a front of mind issue that Tasmania's extensive reserve system is world leading and considerably in advance of any credible international benchmark by way of example:-

- * 2,713,000 ha or 40% of Tasmania's land mass is in reserve;
- * 1,271,000 ha of our 3,169,000 ha of native forests of 40% are in reserve;
- * 1,836,300 ha high quality wilderness or 95% is in reserve;
- * Over 1 million hectares of 'old growth' forest are in reserve;
- * 23,396 ha of forests are protected on private land as at June 2003 on 122 properties with a further 20,000 hectares still subject to negotiation.

The International Union for the Conservation of Nature recommend a reservation level of 10% and clearly Tasmania's 40% significantly exceeds this threshold.

In many instances the remaining capacity to extend reservation is limited as target communities or values are found on private land and the issue of compensation must be resolved before further progress can be achieved.

It is important that this existing very high level of reservation is kept in focus when considering whether further options might be contemplated for extension of this already comprehensive reservation level.

Land clearing activities in Tasmania are constantly brought into the spotlight by forest industry opponents and no doubt this will again surface in the context of this inquiry. We refer again to the current reservation status in Tasmania, which is the highest level of any Australian State.

Given that all land clearing must be regulated by a Forest Practice Plan and must be undertaken in conformity with the Forest Practices Code it is reasonable to review Forest Practices Board statistics for an evaluation of clearing which were used as the basis of the review of the RFA.

The Final Recommendations Report of the independent Resource Planning & Development Commission dealt with this issue at pages 60-65 and concludes that Tasmania's performance is "well in excess of the 80 per cent Statewide threshold, at approximately 98-99 per cent of the 1996 baseline area (page 62).

The 80% referred to is the existing permanent forest estate policy target for conversation of the native forest estate.

This policy has recently been reviewed in an agreement between the Commonwealth and Tasmania, which has lifted the reservation level on public land to 95% with the issue of private land reservation being the subject of ongoing review by the CAR Scientific Advisory Group.

The RPDC also noted that:-

"The data also indicate that all forest communities are well within the 50 per cent threshold (page 62)."

In our submission land clearing levels within Tasmania since the implementation of the RFA are well within acceptable levels and do not pose a risk to any vegetation community or other natural or cultural value. Claims of excessive land clearing are exaggerated and misleading.

In the context of an inquiry such as this it is also opportune to reflect on the fate of reserved areas.

Any area placed into a reserve must be subject to an ongoing appropriate management regime. This is particularly true in the case of forests that are placed into reserves.

FIAT Members are concerned that, as a result of 40% of Tasmania's forests being reserved, there is an increasing build up of large fuel loadings in these areas. These fuel loadings have built up due to a reduction in land management practices in these areas – namely prescribed burning, and pose a massive threat to the biodiversity in Tasmania's forest resource and adjoining multiple use forest should large scale wildfire occur.

The CSIRO's principal research scientist, Phil Cheney, Australia's foremost bushfire researcher, blames the intensity of the recent fires in NSW, ACT and Victoria on the fact that "for the last 30 years there has been a continuing decline in operational prescribed burning". He says; "The January fires were a truly historic event (producing) probably the most extreme, widespread and continuously burnt area in living history."

The advantages of prescribed burning lie in reducing the intensity of bushfires and consequential damage to vegetation, life and property. Rates of spread of fire and fire intensity are both impacted upon by fuel loadings, which are reduced through prescribed burning operations. Other conditions being equal, if the fine fuel on an area has been reduced by 50%, rates of spread should be 50% lower, while the fire intensity and the area burnt should be reduced by 75%. As heat intensity is 75% less, vegetation suffers far less damage (*Bushfires In Australia – RH Luke and AG McArthur*). It is important to note that hazard reduction does not prevent fires but it does keep them manageable and assists in lessening the prospect of landscape-wide wild fire such as were experienced last summer in Victoria, NSW and ACT.

Fire in the Australian context poses a significant risk to both property and life unless appropriate strategies are engaged to reduce or remove this threat. This continent has lived for centuries with the constant interaction of fire and forest but since European settlement the competing forces between modern high density living and the retention of the natural environment has increased dramatically. In this context, we refer to community decisions to live in densely forested areas surrounded by bush and reserve vast tracts of forested land without any or adequate fuel reduction strategies.

In our submission this review should address these issues to the extent that any additional reserves must be an adequate management regime and must ensure sufficient funding to manage such a reserve for all of its values. Any outcome short of this will ensure an exacerbation of the current unsatisfactory situation where reserves have been made and insufficient funding exists to manage reserved forests.

This is a significant factor in the context of this Committees' work as failure to address the management issues will mean potentially any reservation strategy will be wasted.

The cost of on-going management of reserves on private land must be a specific factor to be incorporated into any calculation of compensation for landowners.

SUMMARY

FIAT considers that there exist sufficient mechanisms for the preservation of natural and cultural heritage and the advent of additional mechanisms would be unlikely to increase the actual reservation of these values on private land.

We perceive that following a sluggish start, the Private CAR reserve program has now commenced to address these issues more quickly and increased progress can reasonably be expected.

A significant constraint is likely to be the issue of adequate and reasonable compensation for private landowners who either elect to participate or who may be compulsorily required to participate in future private land conservation strategies. This will be an on-going dilemma and will require a longer term strategy to identify a solution that will have longevity.

We remain concerned that all reserves created be they on public or private land must have a management plan that is funded. The alternative might be an exacerbation of the current unsatisfactory management situation which may seriously undermine the entire conservation strategy.

I repeat our earlier apology for our tardiness and our preparedness to elaborate or clarify any issue for the Committee.

Yours sincerely

**TERRY EDWARDS
CHIEF EXECUTIVE**

Encl.