

FOREST PRACTICES TRIBUNAL

PRIVATE TIMBER RESERVE - 1530

BETWEEN

C Flowers

Appellant

AND

The Forest Practices Board

Respondent

This was the hearing of an appeal against the decision of the Forest Practices Board to refuse an application for a Private Timber Reserve No 1530. The appeal was heard at Devonport on the 3rd December 2004.

The appellant appeared in person.

R Waining appeared on behalf of the Forest Practices Board.

DECISION

1. Application No. 1530 was made to the Forest Practices Board for approval of a private timber reserve at Liena in Tasmania. The application applied to most of the forested portions of UPI's 2194 and 2201, Liena. The Board considered the application and under section 8(2)(e) of the Forest Practices Act 1985 refused to approve the application upon the grounds that the public interest would not be served by allowing forestry operations which had a high likelihood of causing damage to the karst values associated with the land. The appeal was lodged on grounds essentially controverting the grounds for the refusal.
2. The evidence of Mr N Duhig, geoscientist with the Forest Practices Board, was that the majority of the area proposed for the private timber reserve was fundamentally constrained by soil and water issues, such as residual limestone soils and the high degree of karstification resulting in a suite of karst landforms including caves, sinkholes and other karst depressions. There were a few small areas that may be suitable for limited selected harvesting which would require careful planning and management, and a larger area suitable for more intensive silviculture, from a karst perspective. It was possible small areas in the vicinity of the southern property boundary may be able to be harvested if they were within the property. Some of the rocky ridges would be suitable for harvesting less intensively, for example for firewood, but even that would need a degree of extreme care. An area south of Howes Creek Cave was suitable for forestry, provided any vulnerable aspects could be suitably managed. A small area shown as suitable on the southern boundary appeared appropriate for a selective operation.
3. The appellant gave evidence that the properties had been extensively logged approximately 25 years ago, in the absence of any controls such as those arising from the Forest Practices Code. He contended this previous harvesting had no detrimental effects on the surrounding karst, and no scientific evidence to the contrary had been produced. The Tribunal considers that it cannot rely simply on the absence of evidence of the effects of that previous harvesting; it would be necessary for there to be a study of that event and the consequences, before any conclusions as to its effects, could be drawn.
4. The evidence of the geoscientist was not effectively challenged, nor was there any evidence contrary to it. The Tribunal accordingly finds consistently with that evidence. The Tribunal accordingly finds that the public interest, being the preservation of the geological values of the area, requires that the proposed development be refused.
5. The Tribunal is required pursuant to section 37 (12) of the above Act, to have regard to the financial effects of its determination on the parties to the appeal. In the present case there was little evidence that allowing or refusing the proposed private timber reserve would have any result beyond the restrictions on forestry development imposed by the application of the Forest Practices Code.
6. The appellant gave evidence that he would claim for compensation in the event of refusal of the application. He expressed considerable concern that based on similar cases, he would not receive any satisfactory outcome to that claim, either in terms of the time at which it would be resolved, or the adequacy of the result. The Tribunal notes that the matter was obviously of very considerable concern to him. The Tribunal accordingly takes the unusual step of recommending that any compensation proceedings be resolved as soon as possible.

7. The order of the Tribunal is that the appeal is dismissed and the refusal of a private timber reserve, sustained.

Dated the twentieth day of December 2004.

B Witte
Member

K A M Pitt QC
Chairman

J. Pretty
Member