



## tasmanian conservation trust inc

Hon Julia Gillard MHR  
Prime Minister  
Parliament House  
Canberra  
ACT 2600

Hon Lara Giddings, MP  
Premier  
Parliament House  
Hobart  
Tasmania 7000

21 November 2012

### **OPEN LETTER**

Dear Prime Minister and Tasmanian Premier,

### **TOWARDS A TASMANIAN FOREST POLICY THAT SENSIBLY REFLECTS MARKET REALITIES AND COMMUNITY VALUES**

I write to you both as the co-signatories of the Tasmanian Forests Intergovernmental Agreement between the Commonwealth and Tasmania of 7 August 2011 (IGA). As the Tasmanian Conservation Trust (TCT) has made known to you and various of your Ministers over the two years, we grow ever more deeply concerned at the way negotiations between the 'Signatories' referred to in paragraph 4 of your IGA have degenerated into a trite, one-dimensional trade-off between an inappropriately anachronistic legislative commitment to deliver high quality sawlogs from public land to existing mills and additional public land reservation inappropriately represented as a surrogate for effectively meeting your national biodiversity conservation commitments and obligations in Tasmania.

Today we have had unconfirmed reports that a final forests deal has been agreed and signed and unfortunately it reflects all our worst fears.

This rather degenerate approach to formulating forest policy advice by the 'Signatories' means that a suite of necessary elements of a credible and coherent forest policy have been inappropriately set aside. As these negotiations between 'Signatories' have stumbled ever further down this misguided and unhelpful path,

Floor 2, 191 Liverpool Street, Hobart TAS 7000 Australia

p (03) 6234 3552 f (03) 6231 2491 e [tct6@bigpond.com](mailto:tct6@bigpond.com) ABN 63091237520

they have now reached a point where we feel that it is time for the two IGA signatory governments to take it upon themselves to call an end to this charade. At the time of signing the IGA some 15 months ago, there was some justification in your optimism where, in paragraph 4, you “recognise the opportunities afforded through the ... Statement of Principles [of 14 October 2010 – now, more than two years ago] developed by the Signatories ... to:

- “minimise state-wide economic and regional community impacts of a rapid decline in the native forest industry;
- “enable structured transition to a long term sustainable forest industry and diversification of the economic base;
- “ensure consequential conservation benefits; and
- “reduce the long term divisive community debate over native forests ...”

Frustratingly, the subsequent direction and laconic pace of discussions among the Signatories has progressively destroyed the chances of realising these opportunities. Indeed, we have good reason to fear that the likely outcome of any deal between Signatories would be iatrogenic – that is to say, it would create more problems than we had to start with, including, in particular, causing greater environmental impact from logging on conservation values outside of current and proposed reserves. It would be most unfortunate were you to use it as the principal basis for implementing your IGA. While it is not really the core business of the TCT, we are particularly concerned at the failure of both Signatories and Governments to lead informed discussion in the wider community around how rural communities can best move on from their various degrees of dependence on no longer viable components of the forest industry. By default, discussion is lapsing into unrealistic nostalgia for past certainties.

Nevertheless, we remain of the view that there is still a timely opportunity for you and your Governments to help the Tasmanian community to ‘move on’ in its complex relationship with the magnificent natural assets with which Tasmania has been endowed. Indeed, we think it is fair to say that the tardiness of the Signatories in concluding their negotiations, and the imprudence of their approach, makes it all the more urgent and important for you and your Governments to take a fresh approach to implementing the IGA if your stated hopes and ambitions for the Agreement are to be realised.

While the TCT may not have been involved in discussions among Signatories, we have been intimately involved over many years in the design, development and implementation of policies, initiatives, strategies, regulations and laws, at both levels of government, across the full range of environmental and conservation issues and, thus, would like to take this opportunity to offer some suggestions as to how IGA implementation might be taken forward by ministers and officials given the current situation.

As you will be acutely aware, both the Signatories’ Statement of Principles of 14 October 2010 and your own IGA of 7 August 2011 are riven with ambiguity in forlorn anticipation of coherent, comprehensive and congenial advice from the Signatories. Our advice suggests how such ambiguities might be resolved in helping the Tasmanian community to ‘move on’.

We have set out ten key points below, grouped around three themes:

- (i) Policy, legislative and institutional reform to give effect to a commitment to moving on [1, 5];
- (ii) Achieving best practice for an industry which markets can be proud to know [2,3, 9]; and
- (iii) Driving a genuine transition to a different future [4, 6, 7, 8, 10].

## **1. Forestry Tasmania (FT) needs to be promptly and profoundly reformed.**

A copy of an article from the November 2012 issue of the TCT Newsletter is attached which summarises our advice on institutional reform. A mix of internal and external commercial factors has created an historic opportunity for radical change – indeed, compels such change. That the Tasmanian Government has decided to implement Option 2 from the recent URS report on the subject, and to do so in a way that removes control of public land and forests from FT, provides an excellent platform for further action. In essence, the TCT suggest:

- **That FT be reconstituted as a state owned corporation (SOC)** with a clear and conventional commercial mandate to buy rights to wood from public native forests and plantations, to harvest that wood and to sell it to existing mills, new entrants and/or overseas markets as it sees fit.
- **That the 'Parks' division of the Department of Primary Industry, Parks, Water and Environment be reconstituted as a statutorily independent Parks and Reserves Authority (PRA)** to manage not only the existing suite of formal reserves established under the Nature Conservation Act but also any additional reserves that might be created in implementing the IGA – in recognition of the extraordinary responsibility of having almost half the State under its control.
- **That a new Land Stewardship Commission (LSC) be established to manage and control access to those areas of public native forest (previously State forest) not transferred to the PRA** within a genuine multiple use framework that recognises the broad range of complementary and conflicting uses and values of native forests across the State. The LSC would sell access and resource rights to users, including commercial harvesters of industrial regrowth logs (at prices and from locations that reflect long term supply costs, opportunity costs, optimal use and contingent value) of which FT would be expected to be the principal customer.
- In recognition of the difficulties faced by existing mills dependent on wood resources supply from public native forests, in being required to move away from a subsidisation regime based on legislative and administrative pricing and supply arrangements to a more market-based approach, we are suggesting that **a five-year transitional period be used to develop and implement such a new approach.**

## **2. The Forest Practices Code needs to be upgraded to deliver best practice biodiversity conservation outcomes.**

In 2010, the Tasmanian Forest Practices Authority (FPA) completed an exhaustive three-year review of the Forest Practices Code with a view to the Code being upgraded to meet national biodiversity conservation commitments, especially those established by the Tasmanian RFA in 1996. The review report has been accepted by the Authority but further action to implement most of the recommendations has been delayed for some years by the Tasmanian Minister responsible who currently cites the need to await the outcome of IGA 'Signatories' deliberations.

Unfortunately, these 'Signatories' are making the profoundly inappropriate proposition that the existing Forest Practices Code, far from being upgraded, should actually be downgraded or that measures are put in place that restrict or prevent future upgrades of the Code. It is obviously in the interests of the 'Signatories' to suggest such a downgrading of the Code as it makes it easier to negotiate their trite 'logs for hectares' deal. What appears to have escaped the notice of these 'Signatories', however, is that, if the Tasmanian Government were to actually downgrade the Code or inhibit improvements, it would destroy market confidence in the sustainability of supply of logs from areas outside reserves – on both private and public land – while making it even harder for both Federal and State Governments to meet their biodiversity conservation commitments and obligations.

**This conundrum – whether to improve or downgrade the regulatory Code - is the single most important problem with the advice being formulated by 'Signatories'** expected to be provided to IGA signatory Governments within days. The implications for resource supply across the State are significant. Based on a submission to the Independent Verification Group by the Forest Practices Authority (see attached), it is fair to say that upgrading the Code to meet biodiversity conservation expectations and commitments could involve increasing 'headroom' (resource availability discounts attributable to environmental constraints of all kinds) to closer to 30-40% rather than current practice of 10-20%. That the FPA should see fit to go public with its concerns in this way is a remarkable indicator of the deep concern felt throughout responsible elements in the forest industry, in academia and within the conservation community – all of whom have been equally excluded from 'Signatory' discussions.

Obviously, wood resource availability estimates are substantially smaller if the arithmetic is based on 10-15% 'headroom' rather than 30-40%. Equally obvious is that governments cannot downgrade or fail to upgrade the Code and continue to claim produce is 'sustainable'. What may not be quite so obvious is that any ongoing failure to appropriately upgrade the Code will still result in loss of the 'sustainable' label.

It is important to note that the FPA's proposals to upgrade the Code are appropriately wide-ranging. The advice includes a clear articulation of the need to establish a landscape-scale approach to biodiversity conservation. In particular, we would like to draw your attention to the importance of making suitable amendments to relevant planning and environment laws so that an appropriate policy framework is established for the guidance of all landholders, large and small, urban and rural, private and public. This is needed to clearly establish the policy framework within

which an upgraded Code can effectively operate to implement that policy framework.

### **3. Forest certification needs to be conditional upon prior adoption and implementation of the upgraded Forest Practices Code.**

We understand that the 'Signatories' have been happily in agreement that, should IGA signatory Governments implement their advice, both Signatories and Governments should support both FSC and AFS/PEFC certification of forestry practices in, and wood and wood products derived from, areas still available for industrial wood supply. As discussed above with respect to upgrading the Forest Practices Code, we feel that, whatever Signatories might agree among themselves, it would be inappropriate for Governments to encourage or support any form of certification for forestry operations or forest produce that are not based on a suitably upgraded Code.

**In our view, this is the major fatal flaw in what 'Signatories' are likely to suggest – management and produce based on a downgraded Code simply should not be certified.** It is important to note, however, that there is nothing to stop producers seeking certification at any time but it is important to recognise that to do so is highly likely to incite negative and divisive community reaction. Were the Code to be upgraded as advised by the FPA, however, there is every reason to hope that subsequent certification of management and produce would enjoy a high level of congenial community support – regardless of whether any advice might be forthcoming from the 'Signatories'.

### **4. Additional areas of State Forest do warrant Immediate Reservation**

The TCT has expressed its concern that the reservation agenda advocated by the ENGO 'Signatories' makes little contribution to filling identified Tasmanian gaps in the National Reserve System (NRS). The TCT is proud to have played a significant role in facilitating the expenditure of some \$70-80M of Federal Government money on private land reservation pursuant to NRS targets as a significant component of implementing the 1996 RFA and its subsequent modifications. It still remains true that the vast majority of biodiversity conservation priorities, including additional reservation to meet NRS and RFA commitments, involve moderating activities on private land.

Nevertheless, we are supportive of substantial additional reservation of areas of State forest which is consistent with a number of scientific and community considerations, concerns and expectations. We are particularly keen to see both IGA signatory Governments cooperate to deliver on their shared national commitments, especially in enabling the Federal Government to discharge its commitment and obligation to properly identify, delineate and protect World Heritage values. We note that the IVG has confirmed community assertions articulated by ENGO 'Signatories' that some 563,000 hectares have high

conservation value warranting its protection by reservation. We are aware, however, that discussions among 'Signatories' involve considerable resiling from this ambition.

Whatever areas of State forest might eventually be proposed for reservation by IGA signatory Governments, all such proposed reserves must be established 'up-front'. Deferring some key areas for a promised second tranche assumes an improbable level of durability of conservation commitments by successive governments. We are aware that 'Signatories' are contemplating proposing that some reserved areas be set aside for salvage (log, restore and reserve) logging or for timber reserves (log of last resort zones). It is our view that any such areas should not be included in formal reserves dedicated under the Nature Conservation Act and simply left for the Land Stewardship Commission to deal with.

## **5. The State government needs to support the Commonwealth in immediately nominating the 'Hitchcock area' for World Heritage listing (as a boundary adjustment to the existing WHA).**

Regardless of which other areas might be proposed for reservation, the TCT is adamant that urgent priority should be given by IGA signatory Governments to ensuring that areas warranting inclusion in an expanded Tasmanian Wilderness World Heritage Area are so included. This should be delivered by the IGA signatory governments whether or not Signatories include such a commitment in any agreement they come to.

We are aware that the Federal Government is already in receipt of advice to this effect and we urge both Governments to cooperate to ensure that the appropriate WHA boundary adjustment proposal is ready in early 2013 to be put to the World Heritage Bureau.

## **6. A genuine transition that shifts industrial wood supply from native forests to plantations needs to be in place.**

We are aware that the ENGO contribution to 'Signatories' wood supply discussions has swung from wildly naive advocacy of immediate and total transfer of wood resources supply to existing mills from native forests to plantations, to wildly cynical support for entrenching ongoing native forest resource supply to these mills from highly controversial locations. Neither of these approaches survives cursory analysis and **we are extremely concerned that the Tasmanian Forest Agreement Bill 2012 designed to implement the IGA proposes to establish a 'Register of Permanent Timber Production Zone Land' at the very time when reality suggests that a prudent government should introduce more flexibility** to allocating public land to industrial wood supply.

**The TCT is supportive of establishing an appropriately scaled wood supply strategy** that seeks to service commercially viable and realistic demand with logs from a mix of seeded regeneration forests (from past clearfell and burn operations), native forest regrowth forests (in low-conflict locations) and plantations (appropriately developed, located and managed). We are conscious of the extent to which

private landholders with native forest and plantation wood resources have enjoyed opportunistic access to stable log markets maintained by a larger supply from State forest and we are keen to ensure that any future arrangements continue to so support private commercial forestry operations. Such support – for both public and private forestry operations – is, of course, conditional upon prior completion of the upgrade of the Forest Practices Code (see 2 above).

**We would also like to take this opportunity to express our concern and frustration at Forestry Tasmania's inappropriate approach in using fanciful arithmetic in constructing wood supply transition strategies.** For decades, FT (and the Commission before it) has justified unsustainable levels of native forest logging by constructing wholly imaginary 'paper' scenarios of imminent plantation establishment for harvesting in the distant future. This charade was neatly pointed out by the IVG. In our view, a genuine transition involves:

- (i) Setting current logging rates at a level consistent with sustainable long term supply from currently available native forest resources suitable for servicing identified demand (i.e., at prudently low levels – based on what you've got in the real world rather than what you might have if plans were realised); and
- (ii) Allowing logging rates to rise only as additional plantation resources can be progressively 'proved up' (that is to say: land and capital has to be acquired; trees established and grown at well-understood rates; to deliver wood of appropriate quality at realistic recovery rates on a secure timetable).

## **7. Industrial-scale investment in 'residue' processing must be confined to plantation sources** (at least until a genuine transition is irrevocably underway).

We remain deeply concerned at murmurings of ongoing ambitions by some recalcitrants within the native forestry sector to re-establish large-scale integrated logging operations based on substituting woodchip export demand with biomass burning or biofuel production. Experience from other states and countries indicates that such operations are only commercially viable if subsidised, especially by inappropriate carbon accounting rules in jurisdictions that are pricing carbon. Such public policy support for biomass or biofuel production from native forests is perverse in that not only do such production systems have larger carbon footprints than the fossil fuels they seek to substitute for, but also native forests of high biodiversity conservation value previously beyond the reach of commercial operations risk degradation and destruction.

**If such operations are encouraged in native forests in the absence of an upgraded Forest Practices Code, severe damage to biodiversity values is likely to result, especially on private land** – delivering a profoundly perverse results. For the time being, therefore, the TCT is of the view that any processing of such 'waste' or 'residue' should be confined to arisings from plantation harvesting – exactly as required by the Commonwealth in setting conditions for the operation of the proposed Bell Bay pulpmill. In the longer term, **the TCT is not opposed to the development of a biofuel industry based on the processing of agricultural crops**

(including plantations) – noting that burning standing forests for electricity will always be perverse in terms of net impacts on greenhouse gas pollution.

## **8. Ensure all opportunities to realise carbon credit revenue payments are explored and exploited, especially those based on 'avoided forest degradation' methodologies**

The decision by Gunns to exit the native forestry sector of the forest industry has resulted in an historic reduction in native forest logging rates in Tasmania. This has had an equivalent reduction in emissions of greenhouse gasses attributable to such 'forest degradation'. Assuming this reduced emissions level is sustained, there is an opportunity for the Tasmanian Government to benefit from selling carbon credits issued to it by the Commonwealth as a consequence of having achieved this enduring emissions reduction. This requires the Tasmanian Government to develop a suitable methodology for estimating 'avoided emissions' and to submit it for assessment by the Commonwealth's Domestic Offsets Integrity Committee (DOIC) with a view to having it accepted by the Federal Minister on the advice of DOIC.

Tasmania is particularly well placed to gain approval of such an 'avoided forest degradation' methodology because of the regulatory framework administered by the Forest Practices Authority (FPA) in implementing the Forest Practices Act. All commercial forestry operations (greater than 1 hectare logged or 100 tonnes of wood extracted in a year) are subject to FPA approval in certifying Forest Practices Plans. The information contained in these Plans, and associated assessments, is a sufficient basis for estimating greenhouse gas emissions attributable to approved harvesting operations. It is thus possible to construct an historical record of emissions from commercial forestry activities in Tasmania. This record can then be used to establish an historical emissions baseline against which any subsequent change in emissions levels can be compared and eligibility for carbon credits established.

We urge the IGA signatory Governments to ask the Forest Practices Authority to coordinate the process of developing such an 'avoided forest degradation' proposed methodology to be put to DOIC as soon as practicable. Furthermore, we would like to suggest that the Tasmanian Government establish an Ecosystem Services Stewardship Fund into which any monies received from sale of any carbon credits that might subsequently be issued by the Commonwealth would be paid.

This Fund would then be used to make payments to landholders towards the costs of management actions on their properties aimed at maintaining and improving ecosystem services to the wider community – including biodiversity conservation (including threatened species protection), soil and water conservation, amenity and recreational value enhancement, etc, as well as reducing 'carbon' emissions and enhancing 'carbon' stores.

While monies from the sale of carbon credits might be used to establish and seed such an Ecosystem Services Stewardship Fund, our hope would be that it would serve as an appropriate vehicle for receiving and dispensing financial flows relevant to provision of any and all ecosystem services. We envisage that this Fund would provide information to and financial support for landholders to facilitate adoption of

best practice management plans (including appropriate 'headroom' discounts on regrowth logging opportunities). Indeed, we would like to suggest that the Commonwealth give consideration to providing seed funding to allow immediate establishment of the Fund and its information and extension service.

## **9. No unfounded 'peace in our time' assurances should be made to markets.**

Because the discussions among 'Signatories' have been so trite, it is not realistic to contemplate that implementation of the IGA based on their advice will deliver 'peace in our time'. Insofar as these discussions are based on some untenable propositions such as downgrading or preventing improvements to the Forest Practices Code, failure to endorse World Heritage Area boundary extensions, subsidised 'residue' use and tokenistic reform of Forestry Tasmania, no noticeable improvement in community antagonism should be expected.

We are aware that ACF and TWS have already given unfounded written assurances to Ta Ann's customers in Japan that IGA implementation based on agreed advice from 'Signatories' would still criticism from environment and conservation groups. The TCT is not alone in considering that no deal is better than a really bad deal and we will be approaching our peers and colleagues with a view to encouraging them to make their views known to you. We hope that IGA signatory Governments will make no dispositions based on such unfounded assurances of 'peace in our time' based on the looming Signatories agreement.

## **10. The Tasmanian Forests Agreement Bill 2012 should be Abandoned.**

Finally, we would like to urge the Tasmanian Government to immediately announce that it will not be proceeding with the Tasmanian Forests Agreement Bill 2012 as it seeks to entrench arrangements antithetical to a policy framework genuinely aimed at driving a transition.

Of particular concern to the TCT is the commitment in the legislation to establish Permanent Timber Production Zone Land concept in substitute for Multiple Use Forest Land. Nothing could be more clearly calculated to entrench current problems with the management of public native forests – by reducing rather than improving flexibility of future use. It is exactly this propensity of governments to give 'resource security' to an outmoded and diminished sawmilling industry that inevitably engenders conflict in the community. We believe that our proposal to transfer responsibility for the management of public forest land outside reserves to a Land Stewardship Commission is a far more appropriate response to the commercial and community realities faced by both industry and government.

We also find it abhorrent that Clause 5. (Inconsistency with other Acts) seeks to provide blanket exemption from a suite of otherwise applicable legislation for activities undertaken on 'Permanent Timber Production Zone Land' and potentially on any private land available for forestry activities. This has to be one of the most

retrograde legislative propositions we have seen from a Tasmanian government in some years – at least since pulpmill fast track legislation. We are aware that the forestry industry is particularly keen to have such an exemption so that it can enjoy exemption from the provisions of the Forest Practices Code and from any arrangements to protect threatened species, regardless of whether it might be downgraded or upgraded.

The TCT is also concerned regarding the likely impact that Clause 31 of the Interim Forests Agreement (IFA) would have on forestry practices outside of current and proposed reserves. Clause 31 of the IFA states that the signatories: 'Support changes to the Forest Practices Act guiding principles and objectives to give effect to the agreed vision and objectives of the final agreement'. Clause 31 thus leaves the door open for subsequent changes to frustrate future improvements to the Code or to weaken it if deemed necessary to ensure ongoing implementation of the IGA. The purpose of such a change would be to allow forestry standards to be lowered to a level which permits more intensive logging to maintain unsustainably high wood supply levels – thus compensating industry (at least in part) for any loss of wood resource caused by the creation of new reserves.

We urge IGA signatory Governments to abjure from providing any such special treatment to the native forest logging industry. Obviously, if IGA signatory Governments proceed with their COAG commitments to devolve EPBC Act approvals responsibility to Tasmania, such an exemption would result in the Commonwealth being immediately in default of its international treaty obligations.

Yours sincerely,



Peter McGlone  
Director

#### **Attachments**

- TCT November 2012 Newsletter article on reform of Forestry Tasmania.  
<http://www.tct.org.au/support/newsletter.htm>
- Forest Practices Authority letter to Independent Verification Panel, 6 December 2011.  
[http://www.fpa.tas.gov.au/news/fpa\\_submission\\_to\\_the\\_tasmanian\\_forests\\_in\\_tergovernmental\\_agreement\\_on\\_the\\_independent\\_verification\\_process](http://www.fpa.tas.gov.au/news/fpa_submission_to_the_tasmanian_forests_in_tergovernmental_agreement_on_the_independent_verification_process)