

FOREST PRACTICES TRIBUNAL

PRIVATE TIMBER RESERVE - APPLICATION No. TUS/624

BETWEEN

Meander Valley Council

Appellant

AND

Forest Practices Board

Respondent

This was an appeal against the grant by the Forest Practices Board of approval for a private timber reserve No. 624, for R Tuson Pty Ltd.

The appeal was heard at Launceston on the 7th of April 1997.

Mr R Hart appeared for Private Forests Tasmania and the land owner.

Mr D Derrick appeared on behalf of Council.

Mr G Wilkinson appeared on behalf of the Forest Practices Board.

DECISION

Application was made for a private timber reserve in the vicinity of the cave systems at Mole Creek. Representations were made by the Council that the area was inappropriate for harvesting timber, because of potential adverse effects upon the cave systems.

The Forest Practices Board approved the declaration of a private timber reserve, and Council appealed against that approval on the grounds that harvesting timber would be harmful to the cave system.

The evidence was that the proposed reserve lay in the vicinity of the extensive karst landforms, along the direction of drainage into various of the cave systems at Mole Creek. Evidence was given, and was not challenged at the hearing, that part of the proposed reserve lay upon areas of high sensitivity to sedimentation and ground disturbance; that part of the reserve area was upon areas of low sensitivity in those respects; and that part lay upon areas of which the sensitivity was not presently known. The opinion of the expert witnesses called for the Board was the harvesting of timber in the area of high sensitivity could be expected to contribute to sediment movement through the cave systems, including those in the cave reserve, and that harvesting activities should not be permitted on the areas of high sensitivity.

There was evidence that adjacent to the proposed private timber reserve, there were considerable areas under pasture, and conjecture that activities on that area have led or may lead to sediment infiltration of the subject cave systems. Further, Mr Tuson gave evidence of having filled large sink holes in the area with soil. There was no firm evidence before the Tribunal of any adverse effect from his so doing.

While the declaration of a private timber reserve and the approval of a timber harvesting plan, are two separate concepts, the evidence was and the Tribunal accepts that in most cases where a private timber reserve has been granted, it could be expected that the majority of timber on that reserve would be harvested at some stage in the future. While in many cases a decision as to whether harvesting may reasonably be allowed, can be left until application for a timber harvesting plan is made, in the present case the evidence which made it unlikely that harvesting could be satisfactorily carried out, was already before the Tribunal. It was specifically conceded for the Forest Practices Board that if an application for timber harvesting in the proposed reserve were made at present, the likely result would be that the Board would refuse to allow harvesting in the area of high sensitivity.

The Forest Practices Act 1985 does not provide any power for the Board or the Tribunal to approve only part of a proposed private timber reserve, or to approve it upon conditions. The Tribunal is therefore in the position of either approving the whole of the proposed reserve, or alternatively refusing it in total.

In view of the evidence that timber harvesting in the area of high sensitivity would probably lead to damage to the cave systems, and because of the inability to approve only part of the proposed reserve or to impose conditions preventing harvesting on the area of high sensitivity, the Tribunal finds that it is inappropriate to allow the proposed reserve at all.

The Tribunal finds, pursuant to Section 8(2)(e) of the Forest Practices Act 1985, that it would not be in the public interest to grant the application, for the above reasons.

The decision of the Tribunal is that grant of Private Timber Reserve Application No. 624 by the Forest Practices Board is set aside, and replaced by a refusal.

Dated this.....day of 1997

BB Walker
(Member)

KAM Pitt QC
Chairman

GR McCutcheon
(Member)