Tasmanian Forest Products Association

Friday 19 March 2021

Committee Secretary
Senate Standing Committees on Environment and Communications
Parliament House
Canberra ACT 2600

Via email: ec.sen@aph.gov.au

**TFPA Submission: Environment Protection and Biodiversity Conservation Amendment (Regional Forest Agreements) Bill 2020**

We appreciate the opportunity to make comment to the *Environment Protection and Biodiversity Conservation Amendment (Regional Forest Agreements) Bill 2020*.

The Tasmanian Forest Products Association (TFPA) represents all elements of the value chain from the sustainable harvesting of plantations and multiple use natural forest resource including forest establishment and management, harvesting, processing of timber resources and manufacture of pulp, paper and bioproducts.

The TFPA supports the *Environment Protection and Biodiversity Conservation Amendment (Regional Forest Agreements) Bill 2020*.

Since the introduction of the EPBC Act forestry operations covered by an RFA have been exempt from Part 3, section 38(1) of the Act:

***38. Part 3 not to apply to certain RFA forestry operations***

*(1) Part 3 does not apply to an RFA forestry operation that is undertaken in accordance with an RFA.*

The Bill proposes a simple amendment, to remove the wording '*undertaken in accordance with an RFA*', to make it clear that the provision exempts forestry operations covered by Regional Forest Agreements (RFAs) from Part 3 of the EPBC Act and reaffirm the way the federal and state governments have always interpreted the legislation, in line with original intent.

This small change will affirm and clarify the Commonwealth's intent regarding RFAs, to make it explicitly clear that forestry operations in an RFA region are exempt from the Act, and that compliance matters are to be dealt with through the state regulatory framework and do not invalidate the RFA provisions.

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To be clear, RFA forestry operations are exempt from the approval requirements of Part 3 of the EPBC Act where the forestry operation meets the requirements of an accredited substitute system. The RFA itself – as the formal agreement between Australian and relevant State governments – provides the accreditation, and each State's system of legislation, policies, codes, plans, agreements and management practices forms the substitute system.

This concept was confirmed in the Federal Court by Justice Mortimer in Friends of Leadbeater's Possum v VicForests (2018):

> *…an RFA is the conclusion of a federal environmental assessment process, whereby a State's regulatory system, and reserve system, are "accredited" by the Commonwealth as providing sufficient environmental protection and biodiversity conservation to meet the Commonwealth's various obligations as expressed in the EPBC Act and to meet the objectives of the EPBC Act.*

From a Tasmanian perspective many who understand our RFA would argue that the Tasmanian RFA goes a lot further than the Commonwealth protections for threatened species and native vegetation communities, because we list many in Tasmania that are not on the Commonwealth register. It might sound like semantics, but it's an important distinction that benefits our environment, economy and community.

Tasmania went through a rigorous three-year process to accredit our State legislation and reserve system – including our comprehensive forest practices system - as meeting the same objectives as the EPBC Act and therefore fulfilling the intent of the Act. The accredited substitute system is formalised through the RFA. This process has been followed by a comprehensive review every five years.

Another strength of the current system is that RFAs have delivered a substantial reduction in red tape by recognising one regulatory system (at the State level) rather than requiring two levels of regulation (State plus Commonwealth), each delivering on the same objectives. This is critical for the efficiency of our forest practices on both public and private land.

The Tasmanian RFA covers all forms of forestry and forest management across the entire state of Tasmania including public and private, plantation, native, reserve and production areas. This efficiency leads to better outcomes for the environment because implementation requirements are clear – for our foresters, our farmers, our private landowners, and our parks managers, who all adhere to the same accredited and consistently applied set of rules.

The RFA is not a set and forget agreement. It is an adaptive management framework rather than a static set of rules. Like any business or industry, we are always looking at ways we can improve our operations, both to better protect the environment and to create a more efficient and innovative industry.

This Bill is just doing that, improving the overall intent, and making it clear to all that the under s38 it has always been for it to be interpreted to mean "any forestry operation that happens in an RFA area".

In February this year, rural and regional Tasmania breathed a sigh of relief when the Full Bench of the Federal Court of Australia upheld the validity of Tasmania's Regional Forest Agreement. The next step now is to pass the changes to s38 of the EPBC Act to provide more certainty and security for our forest industry, the people employed within it, and our regional and rural communities who rely upon it.

Please contact me if you require further information.

Yours sincerely,

**Nick Steel**
Chief Executive Officer