



Forestry Bill 2012

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FORESTRY BILL 2012

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Bill introduced, and read a first time and ordered to be printed on motion by the Hon. Duncan Gay.

Second Reading

The Hon. DUNCAN GAY (Minister for Roads and Ports) [11.20 a.m.]: I move:

That this bill be now read a second time.

The Forestry Bill 2012 will, first, strengthen the governance arrangements and commercial viability of Forests NSW by establishing it as a State-owned corporation—the Forestry Corporation of New South Wales; second, update and modernise the previous Forestry Act; and, third, make consequential amendments to a number of associated Acts and repeal the Timber Marketing Act 1977. There has been significant change in the operating environment of the forestry and timber industries since the inception of the Forestry Act in 1916, and the Timber Marketing Act in 1977. Moreover, government and communities expectations in relation to expenditure and management of public goods and services have also changed. The bill is important because it will provide a modern framework for the commercial operation of the Forestry Corporation, improving the management and use of over two million hectares of State forests, and provide greater efficiencies for the timber industry.

The corporatisation of Forests NSW was recommended after a Better Services and Value Taskforce review which found the financial performance of Forests NSW could be improved and confirmed an assessment by Forests NSW that there was potential to significantly improve the organisation's profitability. The review concluded that corporatisation would provide the most effective governance structure for achieving the maximum financial improvement. As a public trading enterprise, Forests NSW is restricted from reaching its full financial and operational potential because of governance arrangements. For example, Forests NSW must operate within a budget-dependent agency, namely, the Department of Primary Industries. Corporatisation offers a solution. It will afford the Forestry Corporation greater commercial focus and flexibility so that it can concentrate on its core business and deliver a better return on our State-owned assets. The Government established an interagency steering committee to oversee and guide the corporatisation process. The corporatisation structure in the bill has been recommended by that committee.

New South Wales State forest land will remain publicly owned and the nature of the business, and the business and community relationships, will remain largely the same. The bill does not change the ability of members of the community to access State forests, whether they are mountain bikers, hikers, conservation hunters, dog walkers or four-wheel drivers. While this bill corporatises Forests NSW, the State forest estate will remain in public ownership. Any possible future revocation of land from the State forest estate is not a matter for the corporation: it will continue to require the approval of both Houses of Parliament. Likewise, expansion of the State forest estate is not a matter for the corporation but remains a matter for the Government. Corporatisation will simply lead to a change in the governance structures and financial performance of the organisation.

While the provisions of the Forestry Act 1916 have been updated and modernised, and modified to reflect that the Forestry Corporation will be a State-owned corporation rather than a statutory authority, the regulatory requirements on forestry operations have not been substantively changed by the bill. Corporatisation also will have the effect of limiting the politicisation of the industry—as happened through the terms of the previous Government. For too long the New South Wales forestry industry has been the subject of political objectives and electoral preference dealings.

I will now outline the provisions of the bill. The bill dissolves the Forestry Commission and establishes the Forestry Corporation of New South Wales as a statutory State-owned corporation. The bill provides for the vesting of the assets, rights and liabilities of the Forestry Commission in the new Forestry Corporation and provides that the State-owned corporation is taken to be a continuation of the Forestry Commission, including for the purposes of legal proceedings. Part 2 of the bill provides for the appointment of a commercial board of the corporation by the shareholder Ministers of the State-owned corporation. The board will appoint the chief

executive officer of the corporation, with the approval of the voting shareholders.

Clause 10 sets out the objectives of the corporation, which include the objectives set out in the State Owned Corporations Act as well as a further objective: to be an efficient and environmentally sustainable supplier of timber. Clause 11 sets out the principal functions of the corporation, which include: to carry out or authorise the carrying out of forestry operations in accordance with good forestry practice on Crown timber land or land owned by the corporation; to sell, supply or process timber, forest products or forest materials; to establish and maintain plantations; to control and manage forestry areas, subject to the provisions of the bill relating to land managers; and, subject to the Rural Fires Act 1997, to carry out measures on Crown timber land for the protection from fire of timber and forest products on that land.

Land currently dedicated as State forest under the Forestry Act 1916 will remain as State forest land. The bill continues the requirement in the 1916 Act that revocation of land from the State forest estate requires a resolution of both Houses of Parliament. Clause 12 will vest ownership of the trees in a plantation established on a State forest in the Forestry Corporation. The main purpose of this clause is to extinguish unequivocally the State's interest in these trees. This will encourage investment by the corporation in its plantation business. The current position in relation to trees on State forests that are not part of plantations will continue to apply—the corporation will not own the trees, but will be entitled to cut down and sell the timber.

Part 4 of the bill regulates the taking of timber from Crown timber land and provides for an updated licensing scheme to allow the corporation to continue to issue timber licences and other licences. Part 5 of the bill provides for the management of non-forestry uses of State forests by land managers, which will ensure continued public access to State forests for recreation and other non-forestry uses. A land manager of a forestry area has the objectives of facilitating public access to the forestry area, promoting the recreational use of the forestry area and managing flora and fauna living in the forestry area. The Forestry Corporation will be the initial land manager for all State forest land.

The portfolio Minister may, however, with the concurrence of the voting shareholders of the State-owned corporation, appoint an agency, body or person as land manager for a specified area or for particular purposes within a specified area. This would allow, for example, a government agency to be appointed as a land manager for an area that the State-owned corporation no longer requires for forestry operations. Part 5 of the bill will allow the Minister to enter into agreements with land managers for the provision of services and facilities for the benefit of persons who use the area for non-forestry purposes, including for the establishment and maintenance of roads.

The bill will also transfer the provisions of the Forestry and National Park Estate Act relating to forest agreements and integrated forestry operations approvals into the new Forestry Act as parts 5A and 5B of the Act. No substantive changes have been made to these provisions. In preparing the bill, however, the opportunity has been taken to transfer these provisions into the new Forestry Act in order to consolidate the provisions regulating forestry operations into one Act. The Forestry and National Park Estate Act is currently administered by the Minister for the Environment. The provisions from that Act, which are to be transferred into the Forestry Act, will continue to be administered by the Minister for the Environment.

Part 6 of the bill provides for investigatory and enforcement powers of authorised officers appointed by the Minister. Part 7 of the bill relates to proceedings for offences under the Act. Clause 91 of the bill provides for a review to be undertaken every three years of the corporation's native timber harvest and haulage costs. The report of the review is to be provided to the Independent Pricing and Regulatory Tribunal, which may make recommendations as to improvements that the Forestry Corporation might make to its management of native timber harvest and haulage to reduce costs. The reports and recommendations are to be provided to the voting shareholders of the corporation, who are to make them publicly available.

Part 4 of schedule 2 to the bill provides for the transfer of staff to the corporation. Clause 16 provides that the Treasurer may by order transfer existing members of staff of the Forestry Commission to the employment of the State-owned corporation. Clause 17 (2) provides that a transferred staff member will remain on the same conditions as to hours of work, salary, shift, overtime and penalty rates, allowances and leave, during a transition period, being the lesser of six months from transfer, or the time between the transfer and when a new enterprise agreement under the Commonwealth Fair Work Act dealing with the employee's conditions is entered into.

Clause 17 (2) is similar to the provision in the Technical and Further Education Commission Amendment (Staff Employment) Act 2011 in relation to transfer of staff, which was passed by this Parliament last year. Clause 18 (1) provides that a transferred staff member retains their rights to leave accrued during their employment in the commission. The bill also includes a number of consequential amendments to other Acts as a result of the repeal of the Forestry Act 1916, the abolition of the Forestry Commission and the establishment of the Forestry Corporation as a State-owned corporation.

The last amendment under the bill is the repeal of the Timber Marketing Act 1977 and the Timber Marketing Regulation 2010. This Act and its supporting regulation regulate the sale and use of certain timbers to ensure that they are fit for their intended purpose. A provision of the Act prohibits the sale of lyctid-infested timber.

Lyctids are small wood-eating borer-beetles that attack hardwood timbers. The Act also covers moisture content of timber and the preservative treatment of timber. A recent review found that the retention of the Act is unnecessary. This is mainly due to the fact that the issues the Act regulates are no longer areas of concern for the timber industry because of the widespread use of softwood timber or they are issues that are adequately covered by Commonwealth legislation, for example, the preservative treatment of timber, or by Australian Standards. Whilst the Australian Standards are not enforceable standards for timber materials, they are widely recognised and accepted as a benchmark for quality throughout industry in Australia.

The Forests NSW Timber Inspection Unit has largely been responsible for administering the Act and as such the proposed repeal of the Act and regulation would mean that this unit is no longer required. This unit currently has seven staff members and a change management plan is currently under development and is considering a range of options for the unit. The repeal of this Act will reduce red tape for the timber industry as it will no longer need to register timber that has been treated with preservative with the new State-owned corporation.

Instead the industry will continue to register preservative treatments with the Australian Pesticides and Veterinary Medicines Authority. In September 2012 a number of key forestry stakeholders were briefed on the major proposals in the bill. These stakeholders included peak forestry industry groups, key environmental non-government organisations, relevant State and Commonwealth agencies, Forests NSW staff, relevant councils and relevant unions. The bill does not represent a major policy change as the general nature of the business to be conducted by the Forestry Corporation remains the same as that conducted by the Forestry Commission, and the corporation will remain in Government ownership.

The change in its governance structure will, however, benefit the taxpayers of New South Wales, who can expect a better return on the community's assets. Timber marketers in the State also will benefit from the repeal of the Timber Marketing Act 1977, which means less regulation and one less step to worry about in conducting their business. I commend the bill to the House.