

Australian Government Review of Taxation Treatment of Plantation Forestry

Submission

by

Board of Private Forests Tasmania

15 August 2005

TABLE OF CONTENTS

- 1.0 Introduction**
- 2.0 Terms of Reference**
- 3.0 Private Forests Tasmania**
- 4.0 Forests and Plantations in Australia: An Overview**
- 5.0 Plantations in Tasmania: An Overview**
- 6.0 Forests, Plantations and Regional Australia**
- 7.0 The Current Taxation Treatment of Plantations**
- 8.0 Addressing the Terms of Reference**

Summary of Principal Recommendations

- 1.0 The review committee:
 - support retention of the existing taxation treatment of plantations;
 - recommend the removal of the existing ‘sunset clause’;
 - consider broadening the existing taxation regime to encompass alternative joint venture investment options, taking into account administrative and compliance costs to governments, investors and promoters.

- 2.0 The review committee:
 - consider the implications for taxation laws of:
 - drivers of plantation investment;
 - encourages fund managers to invest in high yield short term liquid assets (such as listed equities);
 - high sovereign risk associated with forest investments;
 - capital requirements necessary to maintain or expand the plantation estate.
 - support a change to Paragraph 48 of TR2000/08 and work with the Australian Taxation Office with a view to reissuing its interpretation such that the current impediment to investing in long-term rotation plantations is removed (in line with the 2005 FWPRDC Report recommendations).

- 3.0 The review committee note the ability of Government owned forest business enterprises or similar to distort the efficient working of the private market and support the privatisation of such enterprises (or similar) by all State and Territory Governments by 2010.

- 4.0 The review committee examine alternative taxation measures that encourage ongoing private capital investment to meet NRM objectives while providing commercial returns and supporting industry development. The existing taxation regime for plantations should not be amended with the specific idea of promoting investment in ‘approved’ NRM strategies or to meet perceived acceptable NRM outcomes.

- 5.0 Before any changes to the current taxation regime are considered by the review committee, the committee consider the nature of current support mechanisms and the level of investor confidence and security provided through existing legislation and regulations.

1. Introduction

Forestry is a substantial contributor to the economic wealth and social well-being of the Australian community, particularly in regional areas and even more particularly in Tasmania. It is an industry that on the processing side is capital intensive, relying for supply of wood products on an agricultural crop that takes upward of 14 years to mature for woodchips and upwards of 30 years for sawlog, while in the plantation establishment phase it is more correct to characterise it as being 'cash hungry' rather than capital intensive, largely as a result of the taxation environment.

The Australian Government's Department of Agriculture, Fisheries and Forestry 2005 investment report¹ estimates that over \$6 billion has been invested in forest products processing and related investments in the period 1997 - 2004. More than \$2 billion is currently being invested either in upgrading existing facilities (such as Australia Paper's \$500 million expansion to their Morwell paper mill and the \$200 million Norske Skog upgrade to its Albury paper mill) or in developing new processing capacity (such as the \$1.2 billion pulp mill proposed by Gunns Limited in Tasmania and the \$140 million Lignor Western Australia OSB mill).

In furnishing this submission to the Review, the Board of Private Forests Tasmania hopes to be able to provide assistance to the Review Committee as to the key elements that should be considered when formulating taxation and/or other associated policies that will impact on the forestry industry.

As a general comment, however, it is the view of the Board of Private Forests Tasmania that taxation treatment is just one of the policy 'levers' that can be exercised in respect of plantations. Changing the taxation treatment (and hence investment environment) will impact on decisions that are made about plantations, including but not limited to matters such as planning, establishment, structure of investment, required internal rate of return and rotation period. Amending the taxation regime in isolation of a broader assessment of investment drivers often has unintended consequences: witness the dramatic decline in plantation establishment that followed the removal in 1998 of the '13-month' taxation rule.

The importance of plantations to the economic, environmental and social health of Australia cannot and should not be underestimated. As a corollary to the current review, the Review Committee should recommend the Australian Government commission a comprehensive assessment of the social and economic factors affecting the siting of plantations.

This submission is made by the Board of Private Forests Tasmania, a statutory authority established under the Tasmanian *Private Forests Act 1994*. The Board wishes to make it clear that the views expressed in this submission are the views of the Board and do not necessarily represent the views of the Tasmanian Government or necessarily reflect the views of any Minister in the Tasmanian Government. This

¹ 2005 internal DAFF estimates compiled with advice from Jaakko Poyry and URS Forestry.

submission may be read in conjunction with, but is independent from, that lodged by the Tasmanian Minister for Infrastructure, Energy & Resources.

Further, the Board of Private Forests Tasmania is aware that other submissions are dealing with issues related to secondary markets and the Board wishes to place on record its support for the broad comments made in those submissions in respect of the need to support and foster secondary markets. This submission, however, does not deal directly with the issue of secondary markets.

2. Terms of Reference

The Australian Government has agreed that the Department of the Treasury and the Department of Agriculture, Fisheries and Forestry with the Department of the Prime Minister and Cabinet are to conduct a review of the application of taxation law to plantation forestry in the context of the Government's broader plantation and natural resource management policies, addressing:

- a. the commercial viability and current tax treatment of plantation investment;
- b. whether the operation of the Income Tax Assessment Acts impedes investment in longer term forest rotations which produce higher value products;
- c. the role of State and Territory Governments in plantation industry development as investors, growers and land managers, and any implication this has for competitive neutrality with regard to tax liabilities and incentives;
- d. the capacity to adapt existing tax policies to contribute to achieving the Australian and State Governments' desire to achieve a greater integration of plantation and natural resource management policies to improve the management of salinity and water quality; and
- e. the relative roles and effectiveness of tax system and expenditure programmes in the delivery of assistance to the industry.

3. Private Forests Tasmania

Private Forests Tasmania ("PFT") is a statutory authority established pursuant to the *Private Forests Act 1994* and has an independent, representative Board. The powers, functions and responsibilities of PFT are set out in Parts 2 and 3 of the Act and can broadly be summarised as follows:

- Promote and foster the use of tress in land management;
- Promote the development of plantations as a means of ensuring sustainable production of timber;
- Advise landowners on appropriate management of native forest;
- Provision of policy advice to the Government on matters relating to or affecting the private forest estate;
- Promote private forestry, including in the area of processing as well as planning and growing.

A copy of Parts 2 and 3 of the Act is attached to this report for the information of the review committee. The Board of PFT, by resolution at meeting 109 held on 15 July 2005, resolved to make a submission to the review committee, and this submission is provided pursuant to that resolution.

4. Forests and Plantations in Australia: A Brief Overview

Australia has approximately 164.3 million hectares of forests, of which 70 per cent are effectively privately managed with 46 per cent leasehold agricultural land and 24 per cent private freehold land. Forests cover approximately 21% of the Australian landmass and the overwhelming area of forest is native forest (162.7 million hectares). There are just 1.6 million hectares of plantations, comprising less than one percent of the total forest cover². Of the privately managed forests, over 11 million hectares are used for a range of environmental and aesthetic benefits as well as agricultural and wood production.

Ownership of commercial forest assets was traditionally held through governments, thereby restricting private ownership. Under current government policies, large public (Australian and foreign) companies and individuals have become forest owners through direct and indirect investments. The Tasmanian Farmers & Graziers Association estimates that there are approximately 5,000 farmers in Tasmania, a great proportion of whom engage in forestry management. The Board of Private Forests Tasmania understands that nationally there are about 4,000 farmers who have integrated forestry, either as plantations or by managing their native forests, into their farm operations for commercial returns and environmental outcomes. There are a further 40,000 individual private forest owners who have invested in plantations through managed investment projects³.

Concerns have been expressed in some quarters about the social and environmental impacts of the rapid expansion of new plantations. To the extent that governments may seek to influence where plantations are grown, they should use appropriate catchment and landscape planning policies and taxation incentives, and leave alone the standard 'year-of-expenditure' business tax deductions and the 12-month prepayment rule.

Governments in general have not recognised the extent to which plantations provide a number of environmental benefits. Plantations offer somewhere in excess of 30% of the biodiversity values of a native forest, a not insubstantial amount and a value that will increasingly become important for governments and others to note. As governments move to place further restrictions on the harvesting and use of native forests, often acceding to pressure placed by 'deep green' conservation lobby groups that owes little to science and a great deal to polemics, then plantations offer an alternative resource source that not only should be encouraged but must be encouraged if Australia is to continue to have a viable wood products sector.

² DAFF, [Australia's forests at a glance 2004](#),

³ 2005 DAFF, in consultation with industry.

Plantations for Australia: The 2020 Vision

On 10 October 2002 the Primary Industries Ministerial Council (PIMC) endorsed the revised 1997 2020 Vision statement and Ministers reaffirmed their commitment to achieving the “goal of increasing Australia's plantation base to 3 million hectares by 2020”⁴. Support for the 2020 Vision was reaffirmed by PIMC on 15 April 2005. Ministers noted the significant achievements since 1997, including progress on removing impediments to the development of plantation forestry. In particular, current government regulatory and policy responses (as previously noted) have addressed many of the impediments identified in 1997. In the issued communiqué, PIMC “endorsed a number of recommended actions to ensure implementation of *Plantations for Australia: the 2020 Vision*. These actions included maintaining a positive policy environment for plantation investment...”⁵.

The revised 2020 Vision’s Action 4 continues to promote “the development of appropriate structures to encourage investment in the plantation sector” and seeks to remove outstanding impediments to “ensure a regulatory system that: is supportive of long-term investments with irregular income such as plantation forestry, particularly where public good benefits are delivered; and enables the development of secondary markets”.

5. Plantations in Tasmania: A Brief Overview

Tasmania’s total plantation area, at 31 December 2004, was 225,692 hectares (151,272 hardwood and 74,420 softwood) of which around 62 per cent is privately owned, 27 per cent jointly managed, and 11 per cent government owned. Nationally, around 58 per cent of all plantations are privately owned (992,000 hectares), 36 per cent publicly owned (622,000 hectares) and 6 per cent jointly managed (101,000 hectares)⁶.

TASMANIAN PLANTATION AREAS (31-12-2004)

Plantation Type and Land Tenure	New area planted in 2004	Total area under plantation	Proportion of Tasmania
Hardwood	11,585	151,272	2.2%
public land	4,464	37,959	
private land	7,121	113,313	
Softwood	287	74,420	1.1%
public land	273	54,042	
private land	14	20,377	
Total	11,872	225,692	3.3%
public	4,737	92,001	
private	7,135	133,690	
Proportion of Australian total	22%	13%	

⁴ www.maff.gov.au/releases/02/pimc202.html

⁵ www.maff.gov.au/releases/05/pimc8.html

⁶ 2005 NPI, BRS

Tasmania ranked 2nd in 2004 new plantings with 22% of the total new plantation area established in Australia and ranks 4th in total plantation area (with 13% of Australia’s total plantation area) behind Vic (383,000 ha), WA (370,000 ha) and NSW (341,000 ha). Tasmania ranks 3rd in the total area of hardwood plantings

By contrast, the area of new softwood plantations established in Tasmania (287 ha) has decreased substantially from 2003(1396 ha) while the area of hardwood plantations established (11,872 ha) is substantially more than 2003 (9485 ha). The total reported area of softwood plantation on private land has decreased from 24,200 ha in 2002 to 20,377 ha in 2004.

Plantation establishment in Tasmania needs to be understood within the broader context of the Tasmanian Regional Forest Agreement (“RFA”), signed on 8 November 1997 by the Prime Minister of Australia and the Premier of Tasmania.

The RFA reinforced the Australian Government’s commitment to support the establishment of new plantations to assist *“the move to plantations from native forests...”*⁷.

One of the key outcomes sought under the RFA plantation component was to *“complement efforts by industry and governments to increase plantations within Australia helping to achieve the ‘Plantations for Australia: 2020 Vision’ of trebling the area of plantations by 2020”*⁸.

As part of the RFA, the Australian Government directly funded the establishment of a number of long rotation plantations to produce high value wood products. However, the Tasmanian plantation program was not designed to establish the critical resource supply necessary to develop new markets and/or support new processing capacity.

The significant impact of managed investment schemes on plantation establishment in Tasmania over the past decade can be gauged from the following table.

Tasmania Managed Investment Scheme Plantation Areas by Year Planted Class		
Data is in hectares for both public and private plantings		
Age Class	Plantation Area Established via MIS	Total Plantation Area
unaged	-	4,447
Before 1970	-	1,858
1970-74	9	3,710
1975-79	-	7,947
1980-84	-	11,953
1985-89	-	18,810
1990-94	222	37,313
1995-99	4,587	54,542
2000-04	41,839	80,972

⁷ 8 November 1997, the Prime Minister of Australia, the Hon John Howard MP.

⁸ 8 November 1997, The Hon John Anderson MP, Minister for Primary Industries and Energy.

**Australian Government Review of
Taxation Treatment of Plantation Forestry
Submission by Board of Private Forests Tasmania**

	Plantation Area Established via MIS	Total Plantation Area
Totals	46,657	217,106
Note:		
1. The major plantation species for MIS is hardwood		
2. No unaged plantation is under MIS		
3. Data collated by Private Forests Tasmania		
4. Total plantation includes all hardwood and softwood on both public and private land		

The following tables show how important managed investment schemes have been for fostering investment into plantation establishment on private land in the period 2000 – 2004.

Total areas planted on private property in Tasmania 2000 - 2004

Source GIS Private Pi-types as at 31 December 2004

Year	Plantation Hardwood (ha)	Plantation Softwood (ha)
2000	13,166	777
2001	8,471	846
2002	7,665	154
2003	8,811	22
2004	9,532	118
Total	47,464	1,917

Total Plantation Areas Established Under MIS		
Year	Plantation Hardwood (ha)	Plantation Softwood (ha)
Before 1970		
1970-74		9
1975-79		
1980-84		
1985-89		
1990-94	1	0
1995-99	864	305
2000-04	8,783	0
Totals	9,648	314

The above table shows that in the period 2000 – 2004 plantations established under MIS schemes accounted for 92% of all plantations established on private land, reinforcing the importance to the plantation (and more broadly the forestry) industry in Tasmania. To the extent that Tasmania needs to ensure such investment continues then any amendment to the taxation system will need to be very carefully considered so that there are no unintended consequences, principal amongst which could be a substantial reduction in investment in plantations.

One indicator, admittedly not necessarily conclusive, that plantations have been established with a view to replanting following harvesting is the proportion of plantations that are on land in Tasmania gazetted as a Private Timber Reserve (“PTR”).

Private Timber Reserves are a planning instrument pursuant to the *Forest Practices Act 1985* and provide landowners with an alternative to seeking local government approval for planning forestry operations. A PTR obligates the landowner to undertake forestry operations (in accordance with the provisions of the Forest Practices Code) and a PTR cannot be approved over an area of land where forestry is a prohibited use under the relevant local government planning scheme that would apply if a PTR were not granted over the land. The importance of a PTR is that not only does a PTR provide a landowner with greater certainty over their future rights to undertake forestry operations, but a PTR is also a positive indicator that a landowner is likely to continue with forestry on the site following harvest of native forest or a plantation.

<i>Plantations by Private Timber Reserve on private property</i>			
<i>Plantations as at 31 December 2004; PTRs as at 31 July 2005</i>			
PTR STATUS	Hardwood plantation	Softwood plantation	Total
GAZETTED	90,228	15,510	105,738
PENDING	1,533	61	1,594
NOT UNDER PTR	17,487	3,787	21,274
Total	109,248	19,358	128,606

6. Forests, Plantations and Regional Australia

There is no dispute that rural and regional populations have declined across Australia in recent decades, largely as farm families have exited regions, and existing farms have been amalgamated into larger holdings. These changes have by and large been in response to changing agricultural markets and the introduction of new technologies improving the efficiency of the sector.

In Tasmania, the number of farming families decreased 19 per cent between 1986 and 2002 (from 5,300 to 4,300)⁹. The number of farming families decreased nationally by 22 per cent between 1986 and 2001¹⁰. At the same time, nationally, the median age of farmers increased from 47 in 1986 to 51 in 2001. Around 65 per cent of farm families rely on off-farm income to remain financially viable¹¹ and the availability of such income influences whether families remain within a region.

In 2000, the Australian Government’s Action Agenda for forest and wood products indicated that the industry’s impact in regional and rural Australia is significant. The

⁹ www.dier.tas.gov.au/forests/rural_land_trend_2003

¹⁰ 2003 ABS, Australian Social Trends.

¹¹ 2005 Productivity Commission, Trends in Australian Agriculture.

Action Agenda highlighted that when indirect employment effects are taken into account, the industry plays a crucial role in the economic and social health of rural and regional Australia. Specifically, “186 towns have a forest dependency above 5 per cent (being the number of people directly employed in forest-related industries as a proportion of the total working population). Of these, 104 towns have a dependency in the range of 5-10 per cent; 35 towns have a dependency of more than 20 per cent and 5 towns have a dependency of more than 50 per cent”¹².

A recent unpublished report examining the socio-economic impacts of the plantation sector in the Great Southern region of Western Australia (GSR) and the South West Slopes of New South Wales (SWS) between 1991 and 2004 concluded that the establishment of new plantations within these regions have provided significant benefits. For example, for every dollar spent by the plantation sector in the GSR, an additional \$1.76 in spending is generated. In the SWS region, between \$1.63 and \$1.83 additional spending is generated¹³.

Recent economic analysis studies in the South East of South Australia have indicated that 27 per cent of gross regional product and 21 per cent of total employment is attributable to the forest and wood processing industries, from 13 per cent of the total land area in the region¹⁴.

7. The Current Taxation Treatment of Plantations

The current taxation regime for plantations comprises legislative provisions and relevant tax rulings and product rulings. This section is far from exhaustive but seeks to indicate Private Forests Tasmania’s understanding of the principal components of the taxation regime.

Section 82KZMG of the *Income Tax Assessment Act 1936* allows growers to claim 'year-of-expenditure' tax deductions for eligible services to be carried out in the following 12 months (just as if the eligible services were carried out in the same tax year). Section 15-45 of the *Income Tax Assessment Act 1997* requires that plantation managers must declare those gross receipts from growers as assessable income in the same year, whereas they would not otherwise have to do so until the services were completed.

In its May 2005 Budget, the Federal Government extended by two years to 30 June 2008 the current 12-month prepayment taxation rule for plantation managed investment schemes (MIS). Managed investment plantation projects have proven to

¹² <http://www.affa.gov.au/content/publications.cfm?ObjectID=2DF1ECEA-8D77-4B29-AA2B0F1B797BFCE0>

¹³ Unpublished Bureau of Rural Sciences, Socio-economic impacts of the plantation forestry sector, 2005.

¹⁴ Econsearch Pty Limited (2005). *Economic Impact of the Timber Industry in the Green Triangle Region, 2003/04*, Report prepared for Green Triangle Regional Plantation Committee and Forestry SA, June 2005.

be by far the most effective source of private funds to establish new broad-acre plantations.

The current taxation rules also require project managers to bring forward company tax liabilities to match the year the growers claim their deductions, thus eliminating any mismatch in the timing of tax expenditure and revenue.

Managed investment scheme (MIS) plantations, and the pre-1998 'prescribed interest' schemes, have been subject to prepayment rules for a number of years.

The removal of the previous 13-month prepayment rule had two serious unintended (but predictable) consequences. It forced MIS plantation managers to make forecasts on their requirements for land, seedlings and contractors well in advance of woodlot sales, and also to carry out plantation establishment operations in sub-optimal seasonal conditions - both of which consequences occurred in financial years 2000-01 and 2001-02.

The current 12-month prepayment rule was introduced to correct the unintended consequences. A prepayment rule for MIS plantations is a timing device, not a special incentive or tax concession. The 12-month rule does not offer a special incentive to growers and causes no revenue tax loss as the MIS scheme pays tax on the amount raised in the relevant year.

As with other agricultural crops, all non-capital costs of plantation establishment, management, harvesting and transport are legitimate tax-deductible business expenses, claimable in the year they are incurred. A grower in an MIS plantation is carrying on a business, and is entitled to claim the standard 'year-of-expenditure' business tax deductions.

Maintaining the 12-month prepayment is essential for the stability of the MIS plantations sector, which has proven to be the most substantial and reliable source of private investment in new and replanted plantations in Australia (see sections 3 and 4 above). Successful plantation-based industries require a stable and predictable operating environment, where the rules aren't continually being changed or re-interpreted. Stable plantation investment in turn leads to the secure long-term flow of harvested resource that underpins the viability of the plantation-based processing and value-adding industries in regional Australia.

Ideally, not only should the 'sunset clause' be removed or extended for a substantial period, but the 'eligible service period' should be extended from 12 months to at least 15 months, to enable the maximum necessary flexibility in optimal planting times both in southern and northern Australia. Section 15-45 would still apply, meaning no revenue leakage irrespective of the length of the prepayment period.

The current administrative arrangements within the Australian Taxation Office (ATO) provides Product Rulings for each MIS product which meet specified criteria. The issuing of these Rulings covers all private investors under a particular scheme which provides certainty for the investor. The benefit of this approach is that individual

investors do not need to seek Private Product Rulings from the Commissioner of Taxation. In the case of MIS schemes, a removal of the current Product Ruling system could result in significant costs being imposed on both investors and the ATO as individual investors seek such rulings.

It is recognised that the above comments need to be read in a broader context of those taxation rulings and legislative provisions that are relevant to the plantation industry, among which the key ones (as understood by the Board of Private Forests Tasmania) are:

- Section 8-1 and s. 15-45 of the *Income Taxation Assessment Act 1997*
- Section 35 of the *Income Taxation Assessment Act 1997*
- Tax Ruling 95/6
- Tax Ruling 2000/8
- Tax Ruling 2001/14
- Product Ruling 99/95

8. Addressing the Terms of Reference

8.1 “the commercial viability and current tax treatment of plantation investment”

The Board of Private Forests Tasmania supports the current tax treatment of plantation investments as these arrangements are achieving a level of investment necessary to support diverse and competitive plantation based industries in Tasmania.

There are a number of benefits which support the retention of current arrangements, including the simplified administrative processes for investors and regulators that arose from the introduction of corrective measures in the *Taxation Laws Amendment Act (No 1) 2002* which addressed the inequity associated with long term investments characterised by plantations. These measures have resulted in the return of private capital to forest based investments and the establishment of plantations across Australia at an annual rate of around 70,000 hectares over the past three years¹⁵.

However, the Board also considers that, just as with almost all sectors of the economy, the plantation industry, and the broader forestry industry, is best served where there is competition for investment. It is the Board’s view that individuals wishing to invest in plantation development should be provided with as broad a range of investment options as practicable, and that the taxation system should not unduly differentiate between a range of options. For example, Private Forests Tasmania has

¹⁵ Based on NPI figures and estimates of establishments arising from 2004 and 2005 capital raising periods.

developed a standard template joint-venture agreement that should, in the Board's opinion, be considered as offering a real and viable alternative investment vehicle to the managed investment schemes. Accordingly, the Board would contend that the tax regime should recognise such alternative investment vehicles.

The Board of Private Forests Tasmania would welcome the opportunity to discuss this matter further with members of the Review Committee.

The Board recommends the review committee:

- | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none">• support retention of the existing taxation treatment of plantations;• recommend the removal of the existing 'sunset clause';• consider broadening the existing taxation regime to encompass alternative joint venture investment options, taking into account administrative and compliance costs to governments, investors and promoters. |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

8.2 *“whether the operation of the Income Tax Assessment Acts impedes investment in longer term forest rotations which produce higher value products;”*

To the greatest extent possible there should be non-discriminating treatment of industries under taxation laws. Changes to address perceived or actual anomalies within the Australian taxation system must be considered carefully to ensure changes do not disadvantage particular sectors or undermine policy objectives.

It is also critical that taxation laws are not used to distort or manipulate commercial market forces. Any change to existing taxation laws should address market failures and impediments which restrict the development of open, transparent and liquid markets. Change should not drive commercial investments at the expense of alternative investments.

The Forest and Wood Products Research and Development Corporation's 2005 report, *'Impediments to investment in long rotation timber plantations'* (the 2005 FWPRDC Report), noted that the majority of new plantation investments have been through the raising of private retail capital through the Managed Investment Scheme (MIS) model with public and wholesale (institutional fund managers such as superannuation funds and trading banks) capital investment limited.

This report also noted that wholesale investors are generally only interested in the purchase of established plantations which reduce the long-term risks and up front capital expenditure associated with the establishment of new plantations.

The 2005 FWPRDC Report's analysis of investment drivers supported the 1998 Australian Government Farm Forestry Program report *'Institutional Investment in Forestry'* (FFP Report) which undertook research into institutional investment in forestry in the United States, United Kingdom, New Zealand and Australia.

The FFP and the 2005 FWPRDC Report highlighted the interest of wholesale investors in plantation forests. There was generally clear acknowledgment of the attractive characteristics offered through forest investments, including their ability to generate stable returns over long periods of time (where such forests include multi-aged stands) and as an asset which provides diversification (reduced volatility of returns), as well as providing environmental benefits which support broader company (and community) objectives.

It is important to note that the outstanding capital required to reach the Vision 2020 target of three million hectares is conservatively estimated at around \$8 billion. This value is small compared to the capital controlled by wholesale fund managers, which is estimated at around \$700 billion and is increasing by around \$20 billion annually¹⁶. Of this \$700 billion, around 5 per cent (\$35 billion) is invested in 'alternative' assets (including rural enterprises), which could include forestry, but usually does not.

In the event that Australia's 2020 Vision goal to establishing a plantation estate of 3 million hectares is achieved, around \$1 billion annually will be required to re-establish harvested areas¹⁷.

The Board recommends that the review committee:
<ul style="list-style-type: none">• consider the implications for taxation laws of:<ul style="list-style-type: none">• drivers of plantation investment;• encourages fund managers to invest in high yield short term liquid assets (such as listed equities);• high sovereign risk associated with forest investments;• capital requirements necessary to maintain or expand the plantation estate.

<ul style="list-style-type: none">• support a change to Paragraph 48 of TR2000/08 and work with the Australian Taxation Office with a view to reissuing its interpretation such that the current impediment to investing in long-term rotation plantations is removed (in line with the 2005 FWPRDC Report recommendations).

8.3 *the role of State and Territory Governments in plantation industry development as investors, growers and land managers, and any implication this has for competitive neutrality with regard to tax liabilities and incentives;*

It is the view of the Board of Private Forests Tasmania that support by successive Tasmanian Governments for the forest and wood products industries has been unduly

¹⁶ Mr Graham Rich, Director Brilliant! 2004: Austimber 2004 Investment Seminar.

¹⁷ Based on a conservative \$6,000 per hectare establishment cost and an average (based on long and short rotation harvesting regimes) 18 year rotational period.

influenced by the existence in the market place of Forestry Tasmania as initially a Commission and more latterly as a Government Business Enterprise (“GBE”).

However, the role of the Tasmanian Government cannot be considered without examining the broad Australian Government policies which influence the approaches and outcomes adopted in this State. For example, when assessing competitive neutrality issues, the national and state policies which have been developed to establish competitive business operating environments must be considered together.

In Tasmania, the establishment of new plantations is being driven by private individual investors utilising Managed Investment Schemes (MIS). In 2004, 85 per cent (10,050 hectares) of all new plantations were established by private investors.

In Tasmania, capital provided by public, corporate and farm based investors for the establishment of new plantations is resulting in nominal or limited outcomes which are not sufficient to provide sustainable volumes of fibre required to support ongoing investment in processing and/or market development.

While State Governments and corporate plantation owners manage the majority of long rotation plantations in Australia (around 1 million hectares nationally and 100,000 hectares in Tasmania), the majority of investments by these agencies are in the reestablishment of existing plantations. On average, less than 20 per cent of all new plantings since 1997 have been by State Governments and/or corporate plantation owners. Only around 13 per cent of the expansion since 1997 has been in long rotation softwoods. In Tasmania, there are currently two managed investment schemes offering long rotation softwood products.

The Board recommends that the review committee note the ability of Government owned forest business enterprises or similar to distort the efficient working of the private market and support the privatisation of such enterprises (or similar) by all State and Territory Governments by 2010.

8.4 *the capacity to adapt existing tax policies to contribute to achieving the Australian and State Governments' desire to achieve a greater integration of plantation and natural resource management policies to improve the management of salinity and water quality;*

Native and plantation forests provide a range of environmental benefits which can address land degradation and habitat loss created through alternate land management activities, improve water quality, and store greenhouse gases. Nationally, 35 per cent of all farmers have planted trees for shade, shelter, land rehabilitation, agricultural production gains or other purposes. This broad adoption recognises the multiple benefits that private forestry offers.

There is also a growing body of research which indicates that for most species of fauna, plantations contribute to enhanced biodiversity by improving connectivity,

providing supplementary habitat and resources, and lessening the physical and biological edge effects of fragmentation¹⁸.

In Tasmania, 86 per cent of plantations are grown on previously cleared agricultural land that is uneconomical for cropping and of marginal suitability for grazing¹⁹.

Improved environmental commitment will only be supported through stronger economies and communities. Governments must avoid developing policies which seek to distort market forces by directing private capital to support NRM objectives without providing comparable financial returns. This approach may undermine existing NRM programs and/or result in undermining investor confidence within the forest and wood products industries. Such outcomes may reduce investments in new plantations and processing capacity, thereby adversely impacting the long-term viability of regional economies and communities, and commitment to meeting NRM objectives.

The Board recommends that the review committee examine alternative taxation measures that encourage ongoing private capital investment to meet NRM objectives while providing commercial returns and supporting industry development. The existing taxation regime for plantations should not be amended with the specific idea of promoting investment in ‘approved’ NRM strategies or to meet perceived acceptable NRM outcomes.

8.5 *the relative roles and effectiveness of tax system and expenditure programs in the delivery of assistance to the industry.*

In 1994, Australia’s national plantation estate was around 800,000 hectares (700,000 softwood and 100,000 hardwood). By 2005 1.7 million hectares had been established (1 million softwood and 700,000 hardwood). This is 57 per cent of the 2020 Vision target, of which nearly 24 per cent has been established since 1997.

It has taken 128 years for Australia to establish around 1 million hectares of softwood plantations (of which 74,420 hectares are in Tasmania). These plantations are predominantly grown as long rotation (20 years plus) crops to produce solid wood products. The majority of these plantations were established using public capital.

By contrast, the establishment of over 500,000 hectares of hardwood plantations (87,320 hectares in Tasmania) has been achieved in eight years (1997 to 2004) under current broad and targeted government policies. The majority of these plantations have been established using private capital.

The Australian Agribusiness Group is reported as quantifying the level of capital raised by MIS companies in the 2004/05 financial year at around \$765 million. This level of capital has been estimated as sufficient to establish 103,000 hectares of plantations forests with an eventual value of around \$3 billion.

¹⁸ 2005 Davis, Leith. Plantation Forestry in the Matrix. A thesis for the degree of Masters of Natural Resources, University of New England.

¹⁹ Private Forests Tasmania internal data

The complex nature of the current taxation system has created a number of anomalies which can be addressed through the provision of corrective measures, such as those introduced under the *Taxation Laws Amendment Act (No. 1) 2002* and apply specifically to plantations established under Managed Investments Schemes.

Policy objectives can be delivered through a number of mechanisms (such as grants or subsidies) outside the tax structure. However, the administrative and compliance costs associated with such alternative mechanisms are often high for governments and investors. Alternative mechanisms tend to distort commercial decisions and ‘drive’ investments to meet particular government outcomes (such as NRM objectives). They are also generally only available to a small number of individuals or companies which contribute to a reduction in available capital to support long term commitment.

Broader support mechanisms, such as those currently available through the taxation system, have been shown to be robust and responsive to market forces, are supporting long term private capital investments through the forest and wood products supply chain and reduce compliance costs.

The Board recommends that, before any changes to the current taxation regime are considered by the review committee, the committee considers the nature of current support mechanisms and the level of investor confidence and security provided through existing legislation and regulations.

**Attachment to Submission by Board of Private Forests Tasmania to Australian
Government Review of Taxation Treatment of Plantation Forestry – 15 August 2005.**

PART 2 - Private Forests Tasmania

4. Private Forests Tasmania

(1) Private Forests Tasmania is established.

(2) Private Forests Tasmania –

(a) is a body corporate with perpetual succession; and

(b) has a seal; and

(c) may sue and be sued in its corporate name.

5. Objectives of the Authority

The objectives of the Authority are specified in Schedule 1.

6. Functions of Authority

(1) The functions of the Authority are as follows:

(a) to advise the Minister on all matters relating to private forestry;

(b) to provide assistance and advice on forest management for commercial purposes and on the use of trees for sustainable land management;

(c) to process applications for private timber reserves under the *Forest Practices Act 1985* pursuant to a delegation from the Forest Practices Authority under that Act;

(d) to promote opportunities for more competitive markets for private forest owners;

(e) to advise, assist and facilitate the private forest sector in the development of commercial infrastructure;

(f) to maintain and update an inventory of private forests, prepare five-yearly reviews of private forests and report on compliance with export and other licence conditions as required by any agreement entered into between the State and the Commonwealth;

(g) to provide advice and assistance to the Forest Practices Authority for implementation of the *Forest Practices Act 1985* on private forest lands;

- (h) to provide co-ordinated input on behalf of private forest growers on land use issues;
- (i) to promote private forestry research and education;
- (j) to examine matters relating to the conservation of flora, fauna, land forms, cultural heritage and care of the environment on private forest lands;
- (k) to encourage non-commercial forestry on private land including strategic planning and appropriate technical and policy development;
- (l) to develop plans to deliver funding for private forestry programmes from private forest owners;
- (m) to perform such other functions as are imposed on it by this or any other Act.

(2) The costs and expenses incurred by the Authority in performing the functions specified in paragraphs (a), (g), (h), (i), (j) and (k) of subsection (1) are to be paid out of money provided by Parliament for the purpose.

(3) Notwithstanding subsection (2), any money not provided by Parliament which is at the Authority's disposal may be applied towards the payment of any of the costs and expenses referred to in that subsection.

7. Powers of Authority

In addition to such other powers as are conferred on it by this or any other Act, the Authority has power to do all things necessary or convenient to be done in connection with the performance of its functions including acquiring, holding, disposing of and otherwise dealing with property.

PART 3 - Board of Directors

Division 1 - Board

8. Board

(1) The Authority has a Board of Directors consisting of –

- (a) a person with practical knowledge of, and experience in, industry, commerce or economic development; and
- (b) three persons representing private forest growers of whom –
 - (i) one represents industrial private forest growers; and
 - (ii) two represent non-industrial private forest growers; and

- (c) a person with expertise in forest or related sciences; and
- (d) the chief executive officer.

(2) The directors referred to in subsection (1)(a), (b) and (c) are to be appointed by the Minister after the Minister has consulted the forest owners organisations.

(3) The Minister is to appoint a director referred to in subsection (1)(a), (b) or (c) to be the chairperson of the Board.

(4) The Board may, at its first meeting, elect one of its members to be deputy chairperson of the Board.

(5) Schedule 2 has effect with respect to the directors.

(6) Schedule 3 has effect with respect to the meetings of the Board.

9. Role of Board

The role of the Board is –

- (a) to manage and conduct the business and affairs of the Authority in a manner that is in accordance with sound commercial practice; and
- (b) to determine the strategies and policies of the Authority; and
- (c) to perform such other functions as are imposed on it by this Act or as are prescribed.

10. Powers of Board

The Board has power to do all things necessary or convenient to be done in connection with the performance of its functions under this or any other Act.

11. Delegation

The Board may, in writing, delegate any of its functions or powers other than this power of delegation.

12. Committees

(1) The Board –

- (a) must establish an audit committee; and
- (b) may establish such other committees as it considers appropriate.

(2) A committee –

- (a) must provide the Board with advice on any matter referred to it by the Board; and
- (b) must perform any functions, and may exercise any powers, delegated to it by the Board.

(3) In addition to its functions under subsection (2), the audit committee must provide the Board with advice on –

- (a) the internal audit charter of the Authority; and
- (b) monitoring the Authority's systems of financial reporting and internal control; and
- (c) the resources necessary for the performance of the internal audit function of the Authority.

(4) Schedule 4 has effect with respect to –

- (a) the members of a committee; and
- (b) the meetings of a committee.

Division 2 - Directors generally

13. Duties of directors

(1) A director must act honestly, exercise reasonable care and be diligent in the performance of the functions, and the exercise of the powers, of a director.

Penalty:

Fine not exceeding 50 penalty units.

(2) A director must not improperly use information acquired as a director –

- (a) to gain, directly or indirectly, a personal advantage or an advantage for another person; or
- (b) to cause damage to the Authority.

Penalty:

Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 5 years, or both.

(3) A director must not improperly use his or her position as a director –

(a) to gain, directly or indirectly, a personal advantage or an advantage for another person; or

(b) to cause damage to the Authority.

Penalty:

Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 5 years, or both.

14. Repayment by director of improper profit, &c.

If a director is found guilty of an offence under section 13, the Authority may recover in a court of competent jurisdiction as a debt due to it –

(a) any profit made by the director or another person as a result of the committing of the offence; and

(b) an amount equal to any loss and damage the Authority suffered as a result of the committing of the offence.

15. Acting directors

(1) In this section, "**absent**", in relation to a director referred to in section 8(1)(a), (b) or (c), means –

(a) absent from duty; or

(b) absent from Australia; or

(c) otherwise unable to perform the functions of the office of director.

(2) The Minister may appoint a person to act as a director referred to in section 8(1)(a), (b) or (c) if the director referred to in section 8(1)(a), (b) or (c) is absent.

(3) While a person appointed under subsection (2) is acting as a director –

(a) that person is taken to be a director; and

(b) this Act applies to that person as if he or she were a director.

(4) The appointment of a person to act as a director terminates when the absent director resumes the performance of his or her functions as director.