

FOREST PRODUCTS AMENDMENT BILL 2004

Second Reading

Resumed from 24 June.

HON NORMAN MOORE (Mining and Pastoral - Leader of the Opposition) [11.40 am]: I am not the lead speaker on this Bill. I speak on this Bill to raise my concern that this House seems to be going around in circles, chopping and changing and going from one Bill to another ad nauseam. That gives rise to a situation in which members are exhausted because they have to run from one end of Parliament House to the other to get to the Chamber in time to debate a Bill that they did not even know was coming on. I hope my colleague Hon Barry House, who is about to speak on this Bill, will take advantage of my comments during the next minute to catch his breath. I cannot work out why we cannot simply deal with a Bill from start to finish. One of the reasons that this House is in such a mess is that we start a Bill, we do the second reading speech and the second reading debate, we then put off the committee stage for a month and do a couple of clauses, and we then come back a week later and do another couple of clauses. Most of the time people just forget what the legislation is all about even though they may be halfway through it. I suggest to Hon Nick Griffiths, who is the minister in charge of the House at the moment, that we try to deal with a Bill from beginning to end so that everyone knows what is happening in a continuous sense and members do not need to run from one end of Parliament House to the other to get here in time to make a speech on a Bill.

HON BARRY HOUSE (South West) [11.41 am]: I am happy to indicate the Opposition's support for the Forest Products Amendment Bill. I will speak briefly, and I hope we can conclude the debate today.

Hon Norman Moore: Do not hold your breath. We have got to come back and do the pig Bill yet.

Hon BARRY HOUSE: Yes. Some people can organise and administer things; others cannot do that, obviously.

This Bill seeks to amend the Forest Products Act 2000. The intention of the Bill is to provide a level of resource security to the plantation timber processing industry that will encourage and maintain investment. Forgive me, but I must say at the outset that I cannot help but make a comparison between what has been happening in recent days, literally this week, with the native timber industry, and what has been happening with the plantation industry. This Bill seeks to establish a level of security for the plantation industry. That is perfectly appropriate. However, at the same time some elements of the Government's policy on old-growth forests have started to unravel. I will not dwell on this too much, although I cannot help but mention it in passing. This week information has emerged that native timber is being moved out of Western Australia to places like Vietnam for value adding. A major furniture processor has had to stand down some staff because of uncertainty of supply; perhaps other factors are involved as well. People involved in the craft industry who need specific types of hardwood from native forests have also been complaining, at least to me, that to a certain extent they feel that they have been used, because their industry was put up as the justification for changing the native forests policy, yet the promised benefits have not been forthcoming.

This Bill can be contrasted with that situation, because it deals with plantation timber. The Opposition is very pleased to support an increased level of security for the plantation industry. The Bill seeks to amend the Forest Products Act to put in place this increased level of security via an extension past the 10-year forest management plan time frame, and for up to 25 years, without a state agreement Act. The reason that the 10-year limit is currently in place is that the forest management plans have a maximum term of 10 years. However, in recent years there has been such turmoil in this debate and in this industry that effectively the forest management plans have been much shorter than 10 years, particularly for native timber. The plantation timber industry has sailed on irrespective of that. However, there is a degree of nervousness in elements of the plantation timber industry that the same sorts of debates may start to be applied to the plantation industry as have been applied to the native forest resource.

The first thing we need to do is acknowledge that the plantation timber industry is different from the native forest industry. Plantation timber is effectively another agricultural cropping exercise, and that is the way in which it should be viewed. Extensive plantations, particularly in pine and blue gum, have been established throughout the State. They have added another extremely valuable economic dimension to parts of this State. That has had some social and also some transport consequences. However, I do not think we can deny that over the years the pine industry has been a significant industry in Western Australia. In saying that I am talking about not only the agricultural aspects of growing that crop but also the further processing of that product for paper manufacture, veneer and furniture products, and a range of other things. Plantation timber is really a rural agricultural crop similar to wheat, rice and grapes, and we must view it in that way.

Three agreement Acts have been established in Western Australia to provide a level of certainty and security for processors, growers and industry participants. Of course, they relate to the Wespine Industries Pty Ltd sawmill

at Dardanup, the WESFI Ltd particle and medium-density fibreboard plant, also at Dardanup, and the Wesbeam laminated veneer lumbar plant that is currently being constructed at Neerabup. We passed the agreement Act relating to that resource in this place a couple of years ago.

Some other issues arise from those state agreement Acts, and they are usually not related to the resource security for which they were put in place. We have all heard debates in this place over the years relating to buffer zones and land acquisition as a result of those state agreement Acts, which have caused considerable controversy in local areas, and some problems. Nevertheless, they have provided the level of security that processors want. This is a historical thing. I know that an examination of state agreement Acts is being undertaken. The minister initiated that examination. All of us on this side of the House agree that it is perhaps time to reassess the need for and the validity of state agreement Acts in relation to a range of resources.

This legislation will provide a mechanism whereby state agreement Acts are not necessary for the plantation timber industry in the future. Of course, the plantation timber industry is now a mainstream industry. It has not been introduced as an experiment. We have extensive pine and blue gum plantations, in particular. I understand that one of the major purposes of this Bill is to expand the legislation to cover other products, such as mallee and sandalwood in particular, and perhaps others. That is very encouraging.

Hon Kim Chance: And also to accommodate smaller business propositions. We can already go into the long term under state agreement Acts, but it is in those smaller business propositions that we are inhibited.

Hon BARRY HOUSE: Yes. I understand that two are currently being negotiated; that is, Pinetec Ltd and WA Green Power, about which I am sure the minister will provide us with more detail. It allows the Forest Products Commission to enter into contracts of up to 25 years, which is realistic. With plantation rotations, sometimes the gestation period is beyond 25 years for many of these products. It is quite silly to have an agreement that does not cover at least the growing period of that product through to the size at which it can be harvested.

I understand that there is an extra amendment on the supplementary notice paper. I am sure the minister will explain the significance of that extra amendment. However, from my reading of it, and following the briefing I had yesterday, I understand that it enables the Department of Conservation and Land Management to enter into contracts on not only public land but also private land.

Hon Kim Chance: CALM is already permitted to do that, but FPC is not. It seems to me as though it was simply an oversight when the Bills were split that FPC did not get the capacity to manage for third parties.

Hon BARRY HOUSE: Yes. I said CALM; I probably meant the Forest Products Commission.

Hon Kim Chance: Yes.

Hon BARRY HOUSE: Of course, FPC needs that capacity to make its own arrangements with private landowners, which has become commonplace in Western Australia in joint tree farming exercises. The Forest Products Commission also needs that capacity to negotiate with private producers to raise the crop.

This is encouraging for employment throughout the State. I am sure the industry will get better through these new products. The situation with sandalwood, in particular, is quite exciting. If we can develop a commercial industry in sandalwood, which is a unique product around the world, hopefully it will be a significant employer and generator of wealth down the line.

I have one question to pose to the minister. This legislation is all about resource security. Is there a watertight assurance or an ironclad guarantee that the Environmental Protection Authority, environmental police or environmental departments in government that impose conditions on all forms of activity cannot come in at some future stage of this process and affect the ability to harvest a crop? I am not saying that it will never arise. It might arise. In a section of plantation, the western swamp tortoise might decide to establish a habitat. It might be perfectly legitimate to say that perhaps five hectares of that area should not be touched. Would the State be liable to fill that gap, either by compensation or with replacement timber? I believe it would be. However, that is a contingency that we perhaps should allow for. I would consider that a legitimate contingency. An illegitimate contingency would be a proposition put some time down the track to this effect: "Hang on a second. This harvestable timber is now beautiful-looking wood, and it looks much the same as the karris that we have preserved in old-growth forest. Let's preserve this too." I certainly do not accept that that is a valid condition and proposition, and I certainly hope that the minister will be able to rule out that proposition when he answers the question.

This is an important Bill in providing the framework for a future valuable plantation industry in the State of Western Australia. It goes one step further than the established plantation industry, which has already resulted in significant job creation and wealth generation in Western Australia. I wish the Forest Products Commission and all of its future partners well.

HON CHRISTINE SHARP (South West) [11.57 am]: I have mixed feelings about the Bill before us, although I will not go so far as to oppose it. I say at the outset that I understand that for practical purposes the application of the extension of contracts that is provided for in this Bill, which amends the Forest Products Act, is, at this stage at least, designed to facilitate proposals by Pinetec and Beacons, which has put forward a biomass proposal that it will run in conjunction with the Wesbeam state agreement Act. The Greens support both of those commercial proposals. On the one hand, we believe they are good industrial developments, and we are pleased to support them. On the other hand, when I look through the Forest Products Act, when I consider the track record of the profitability of the Forest Products Commission and when I consider the provisions of state agreement Acts with regard to the long-term provision of similar public resources with which the provisions of these amendments will mesh in due course when the Bill is passed, as I assume it will be, I continue to have long-held concerns about the track record of the State in meeting the public interest with regard to the profitability of the plantation sector. I have raised this matter before and the minister is aware of my arguments. When he was first appointed as the Minister for Agriculture, Forestry and Fisheries, he had the courtesy to conduct a site visit with me to certain radiata pine plantations in the south west. I had the opportunity to show him on the ground my concern about the lack of profitability of that sector to the State. I showed him the inadequacies in the management of the standing timber, and the infestation of noxious weeds throughout those plantations. Generally, the plantations had virtually not been managed at all. That is because the commercial provisions of the relevant state agreement Acts do not provide enough returns to the State for the State to have significant management input to weed control, pruning or tree thinning so that larger, more significant quality timber can be produced. Thousands of hectares of radiata pine plantations of older trees in the south west have not been actively managed since the Dardanup Pine Log Sawmill Agreement Act with Wespine Industries came into force in 1992. The branches of the trees have been allowed to grow incredibly long because they are not pruned. If the minimum management requirements were met and those trees had been pruned in the past 15 years, their value would probably be worth treble their present value. The State will receive less revenue from those plantations because the wood is very inferior as the trees are old and knotty. Therefore, the timber will be used presumably as a residue product under the WESFI market. That is one example of my concerns.

Also, I am concerned and frustrated about the long-term public resourcing and investment in the State's plantation estate. The previous generation thoughtfully implemented a strategy to ensure that this generation would have adequate timber supplies. I assume that the previous generation foresaw the dwindling quantity and quality of our native timber supplies. Without going into that debate, that is exactly what has happened. Finally we have reached the stage at which a greatly reduced quantity of prime timber is available from native forests. At a time when those plantations should really come into play and provide the State with a very valuable, much needed and well-managed resource, we have failed to follow through on the management of the plantations to maximise their potential. For example, a review of CALM's plantation activities was conducted just before the Forest Products Commission took over that role from CALM. The report into those activities is titled "FORPAC: Review of CALM Plantations Business Unit Activities", and was tabled in December 1999. The report made some very serious comments and endorsed my remarks about the lack of profitability of that sector to the State. For example, the report points out that at that stage the price the State received for pine sawlogs was approximately 40 per cent below that received by growers of similar logs in the eastern States. Clearly the eastern States are far more vulnerable to market penetration from the enormous quantity of radiata pine that is exported from New Zealand than is Western Australia. Western Australia's track record raises concerns about the public interest record of past commitments given under state agreement Acts, and, of course, the Bill before us today would extend the inapplicability of those Acts to other long-term contracts.

In his second reading speech, the minister pointed out that it is envisaged that these new provisions will apply for commercial contracts of a lower order than the large-scale propositions, which have been committed to under past state agreement Acts. However, I cannot see any clear indication of what the minister has in mind. What level of scale does he envisage will be triggered by a state agreement Act? Is this Bill intend to replace state agreement Acts? It is not clear what the minister has in mind on that issue. With regard to the commerciality of the management of forest products, I am told that the provisions of this Bill will not provide to the Forest Products Commission greater powers than the Department of Conservation and Land Management has. The Bill will put in place some parity between those two departments, which is a fair proposition.

Hon Kim Chance: Are you commenting on the proposed amendment?

Hon CHRISTINE SHARP: Yes. Nevertheless, I keep coming back to the fact that Western Australia's record in this area is poor. Indeed, members will note in the Forest Products Commission's annual report, which was tabled in this place just this week, the very low returns that that organisation provides to the State. It seems to me that the shining light of profitability in the timber industry appears to be the sandalwood sector, which my colleague Hon Barry House has mentioned. Yesterday I asked the minister questions about that. In the past financial year the net income to the State from sandalwood was \$2.326 million. It is anticipated that in this current financial year the income to the State will rise to \$4.691 million. That is one aspect of the plantation

sector that is working well. However, the sustainability of the sandalwood industry has received very little scrutiny. I presume that these profits are largely accrued from harvesting in the wild. We know that the way sandalwood is harvested is highly disturbing in the sense that the tree is not just cut with a chainsaw but in fact grubbed root and all from the ground. I am not aware of any public review of the sustainability of those practices or any long-term plan to ensure that the sector is investing in plantation-grown material to replace the native sandalwoods growing in arid regions. Although that is the one part of the sector that is doing well financially, to my mind the sustainability of the practices of the sandalwood industry deserves some scrutiny. I clarify that I have no evidence to suggest that it is unsustainable; nor do I have any evidence to suggest that it is sustainable. I am aware that over the past decade there have been significant increases in the take of natural sandalwood. The minister is shaking his head to tell me that I have that wrong.

Hon Kim Chance: In the answer I gave to your question yesterday, that was only over a four-year period, but that did not indicate an increase.

Hon CHRISTINE SHARP: I am aware that about 10 years ago there was an inventory of sandalwood resources, which greatly increased the estimate of the availability of sandalwood. Given that that followed very shortly after a similar inventory was taken of jarrah resources, which also found a miraculous increase in availability and underpinned a considerable period of appalling over-cutting of jarrah, I feel a bit of cynicism about recent history in that regard. It is entirely speculative, but something that will doubtless come before this place at some time in the future is the need for a proper investigation of the sustainability of sandalwood harvesting practices.

I have raised some of my concerns about the lack of accountability provided by the commercial powers that will be set up under this Bill in that the Forest Products Act does not provide any way of ensuring that those involved with this public resource will be publicly accountable for its profitability. Earlier this week I wrote to the minister to explain my concerns about the need for some kind of public interest audit of these matters. I also raised a similar concern as that just raised by Hon Barry House about the issue of changing circumstances. Given that we are now talking about contracts of up to 25 years, if there is some reason that the resource does not grow as well as anticipated or, to use the example given by Hon Barry House, there is some reason that some of the land should not be harvested for conservation purposes or whatever, how does the Government intend to deal with the possibility that supply may need to be reduced under those changing circumstances? Yesterday I received a letter from the minister, and I thank him for his prompt response to my concerns. In response to my concerns about the matter of changing circumstances, the minister wrote -

You have raised the prospect of offering Investment Security Guarantees . . . in order to provide a form of security against changes in resource availability over time.

The ISG's provided to FPC customers for native hardwood sawlogs effectively extended the period for which they enjoy a level of security beyond the 10-year term of the Forest Management Plan, and therefore their contracts. This allows their investments to be fully amortised and greatly assisted them in finding finance for their proposals. The extension of term for plantation timber contracts, proposed by the Bill, is intended to and will have the same effect.

Further, I am of the view that any changing circumstances are likely to be of a specific and restricted nature. Contract holders would be adequately protected from resource reductions or unavailability during the term of the contract by the provisions of the contract itself and I did not see a need for further measures to be included in the Bill.

I understand the minister's argument and I thank him for his response. It seems to me that, to allow the native forest timber industry to get over the perceived commercial problem of the 10-year restriction on contracts, the minister has implemented the new investment security guarantee provisions, to which I am now a convert. I agree now, as I understand his argument that there is some merit in making clear to both parties the terms for the reduction in resource over time. Therefore, I now accept that it is probably a good thing that he has put in place the ISGs for the native forest contracts. Under the provisions of the Bill, there will not be similar ISGs for these contracts, because we have adopted a different mechanism, which is to extend the contracts themselves. The minister tells me that any change to availability brought about by changing circumstances will be dealt with in the provisions of the contract itself. Will the minister please elaborate to the House on that issue, because clearly, as Hon Barry House has also said, this is a very critical matter? What is the liability of the State in those circumstances? How does the minister intend to weave into the provisions of these contracts a clear guidance to both parties in the event of a reduction in supply?

Hon Barry House: Perhaps even through a bushfire.

Hon CHRISTINE SHARP: That is a good example. Indeed, we saw just such a circumstance in Bridgetown less than a year ago, which has clearly reduced the supply of quality plantation resource in that district.

I return to the theme of the long-term public interest in the profitability of contracts. I understand it is currently envisaged that the contracts that can take advantage of these new provisions will be established through a public open tender process; in other words, there will be a competitive element in getting access to a guaranteed long-term supply of the resource. That is a good thing and I am very pleased to learn of it. I do not, however, see anything in the Forest Products Act or this amendment Bill that will guarantee the use of a public open tender system. I again use the parallel with native forest timber contracts. Although the jarrah request for proposals was a form of open tender process, it was not one of the criteria for eligibility. The criteria for eligibility specifically excluded the profitability of returns to the State. As a result, the adequacy of royalties from native forest logging remains in question. I want to know why this amendment Bill does not contain any provision to ensure that a competitive system is in place for these long-term resource contracts.

Lastly, to provide me with some comfort on the accountability issue in these contracts, the minister is considering introducing a simple further amendment to the Bill. That amendment will be circulated in due course and will require contracts made under these provisions to be tabled in Parliament so that they go onto the public record. In anticipation of that amendment, I thank the minister for at least partly responding to my concerns.

I have gone on for far too long this morning about this matter, but I wanted to explain to the House that the Greens (WA) support the application of these new provisions to the biomass proposals of Pinetec and Beacons. In that sense, we are pleased to facilitate these new provisions. The Greens continue to have outstanding concerns that the plantation sector is not managed in the most profitable way for the public interest of Western Australian taxpayers and I see nothing in the Bill to reassure me that anything will change in the future.

HON BILL STRETCH (South West) [12.23 pm]: I will make a couple of quick comments on the Bill that will reflect on the security of contracts. I am aware of plantation harvesting rights in other countries being overturned by an upswing in environmental concerns, resulting in the cancellation of at least one major processing plant. People in the industry know what I am talking about. I want an assurance that the powers of the Environmental Protection Authority, which will be pretty gargantuan under the proposed amending legislation, will not be able to come in over the top of these contracts that were written in good faith. I want to know that plantation plantings on farms cannot be overridden for the same reason; that is, just because somebody may think the plantings have an effect on downstream salinity or whatever. In some cases questions arise about whether plantings should ever be harvested because they have a beneficial effect. They can be harvested and replanted if they are having a beneficial effect. I want an assurance that that process can continue.

My major worries are security for the on-farm plantings and the security of contracts written by the Government in good faith. I am also interested in any supply contract for the proposed Lignor plant at Albany. I asked a question about that some months ago and the minister assured me that supplies would come from existing stock. Where will those trees come from, if it is possible to say? Can the Department of Conservation and Land Management plantations meet that supply or will it be supplied from private plantings - in other words, through negotiations with other plantation growers? If the plant gets going, that operation will have a somewhat voracious appetite. The number of trees required, as outlined to me, would strain supplies, both government and private. My main concern is that such arrangements will stand up against the frightening proposals contained in the Environmental Protection Act as amended.

HON KIM CHANCE (Agricultural - Minister for Agriculture, Forestry and Fisheries) [12.27 pm]: I thank all members who made a contribution for their indications of support. That support is warranted across the board, as has been extended. Essentially, the Bill sets out to create jobs and opportunities from both our existing plantation resources and those that might exist in the future. This is not a Bill about the establishment or even, in a sense, the management of plantations per se. I will comment on the effect of the amendments a little later. This Bill will simply allow what already happens in respect of contracts in the plantation industry to extend over longer periods. That is all the Bill will do. It will extend the time limit from 10 years to 25 years. It will do so only on the basis that contracts that exceed 10 years but are for less than 25 years need the concurrence of the minister, who, for the time being, will be the minister responsible for the Conservation and Land Management Act.

There was one very particular reason for the insertion of proposed new section 58A(3), and this relates, in part at least, to the question raised by both Hon Bill Stretch and Hon Barry House. The Bill requires the concurrence in writing of the minister with responsibility for the CALM Act for any changes that for some reason may be required in the contract commitment. For example, what is the case with a land use change that is proposed on public land particularly? It is not the intention that this Bill will be capable of setting impediments to the future land use of an area currently subject to plantation use. It has always been anticipated that those are decisions that need to be made by planners, whether they be from the minister responsible for the Conservation and Land Management Act or the minister responsible for planning, at the appropriate time and through the appropriate

processes. In this instance it is necessary to indicate that notwithstanding the restrictions that may operate - in other words, provided that the CALM Act minister is prepared to give his or her concurrence to this - that contract can be let for that land at a given time.

Debate interrupted, pursuant to sessional orders.

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