

FOREST PRODUCTS BILL 1999

Council's Amendments

Amendments made by the Council now considered.

Consideration in Detail

The amendments made by the Council were as follows -

No. 1

Clause 3, page 3, line 1 - To insert after "Conservation" -
and Land Management

No. 2

Clause 3, page 3, line 31 - To insert after "tend" -
(including thinning)

No. 3

Clause 4, page 4, line 23 - To delete the line and insert instead -
For the purposes of this Act -
"forest products" means -

No. 4

Clause 4, page 4, line 28 - To delete the line.

No. 5

Clause 4, page 5, lines 1 to 4 - To delete the lines.

No. 6

Clause 6, page 6, line 13 - To insert after "activities" -
, the plantation timber industry or labour relations

No. 7

Clause 6, Page 6, lines 25 to 28 - To delete the lines and insert instead -
(d) a person who has a material personal interest in a production contract or in a
company or business that is a party to a production contract.

No. 8

Clause 10, page 12, after line 9 - To insert the following new subclause -
(7) A copy of a memorandum of understanding made under subsection (1)(l) must be
tabled in each House of Parliament not later than 14 sitting days of each House from
the day on which that memorandum of understanding was executed.

No. 9

Clause 12, page 12, line 21 - To delete "to be" and insert instead -
are

No. 10

Clause 12, page 12, lines 23 to 25 - To delete the lines and insert instead -
(2) For the purposes of subsection (1)(b) the principles of ecologically sustainable forest
management are —

No. 11

Clause 12, page 12, line 26 - To insert before "the" -
that

No. 12

Clause 12, page 12, line 29 - To insert before "if" -
that

No. 13

Clause 12, page 13, line 3 - To insert before “the present” -
that

No. 14

Clause 12, page 13, line 7 - To insert before “the” -
that

No. 15

Clause 12, page 13, line 10 - To insert before “improved” -
that

No. 16

Clause 19, page 19, line 6 - To insert before “A” -
The Minister must within 14 days after being given

No. 17

Clause 19, page 19, line 6 - To delete “shall” and insert instead -
cause a copy of it to

No. 18

Clause 19, page 19, line 7 - To insert after “Parliament” -
or dealt with in accordance with section 69

No. 19

Clause 31, page 23, line 15 - To insert before “principles” -
application of the

No. 20

Clause 31, page 23, line 16 - To delete “to be applied” and insert instead -
set out in section 12(2)

No. 21

Clause 69, page 48, line 27 - To insert before “24(5)” -
19(5)

No. 22

Clause 71, page 50, line 30 - To delete “as soon as is practicable after” and insert instead -
within 12 months of

No. 23

Schedule 1, page 52, line 27 - To insert after “ineligible” -
under section 6(3)(a), (b) or (c)

No. 24

Schedule 1, page 53, after line 4 - To insert the following new paragraph -
(b) is ineligible under section 6(3)(d) to hold office as a commissioner;

No. 25

Schedule 1, page 56, lines 20 to 26 - To delete the lines.

No. 26

Schedule 1, page 57, after line 11 - To insert the following -

22. Ineligibility provisions not affected

This Division does not affect the operation of section 6(3)(d) and clause 4(1)(d) and (2)(b).

No. 27

Schedule 3, page 61, after line 5 - To insert the following new clause -

4. *Transfer of Land Act 1893 amended*

Section 4(1) of the *Transfer of Land Act 1893** is amended in paragraph (b) of the definition of “**Profit à prendre**” by inserting after “1984” -

“ or Part 7 of the *Forest Products Act 2000* ”.

[*Reprinted as at 23 July 1999.]

Mr OMODEI: I move -

That the amendments made by the Council be agreed to.

Dr EDWARDS: The Opposition will not oppose the amendments received from the Legislative Council to the Forest Products Bill. In the upper House some of the amendments moved by the Opposition were accepted and others were not accepted.

I must point out that the whole course of this debate has been very protracted. This issue first came to Parliament in November last year. It has taken a long time for the Bill to pass through both Houses, and there had previously been much consultation. I attended a number of meetings at which we went through the various draft Bills. I will quickly move through my comments on these amendments, which we are considering en bloc.

The first amendment inserts “and Land Management” after “Conservation”. The Opposition is a little amused that it will again be the Department of Conservation and Land Management, when the Government promised there would be a new Department of Conservation. Nevertheless, the debate has been argued in the upper House and I will not go over that ground. The Opposition is pleased with amendment No 7, which will include people who have a material personal interest in contracts. The Opposition believes that a number of amendments like this will improve the accountability of the Forest Products Commission.

The Opposition is pleased with amendment No 8, which provides for a copy of the memorandum of understanding to be tabled in each House of Parliament not less than 14 sitting days from its date of execution. As the Bill passed through this House, the Opposition considered that a number of changes were needed to make the workings of the Forest Products Commission more transparent. We argued these in some detail and, with a number of these amendments, we took further advice, had some discussions with the Government, and refined them. The Opposition is pleased now to see that some of these proposed amendments have been included. The amendments that follow on from No 8 are mostly of a consequential nature.

Amendment No 22, however, was the subject of considerable debate, negotiations and discussions in the upper House. We are now assured that, after the review of the Act both the report of the review, and the review itself will be tabled in Parliament within a reasonable time. There will be some interest in how the Forest Products Commission works, and it faces some huge challenges, as the industry is being subjected to a great number of changes, both from within and externally. It is important, given the background to the present debate, that the Forest Products Commission not only work effectively, but also be seen by the public to work effectively. The tabling of the review and the report as soon as practicable is a step in the right direction.

The Opposition also moved, in the upper House, that contracts be tabled, so that Parliament could be apprised of what is going on in the forests. Access to contracts was discussed in this House, but the Opposition wanted the opportunity to consider such contracts in more detail. That amendment was not accepted, but this issue is one that will not go away. The community will want to know what contracts have been issued, how they compare with each other, what volumes are being allowed, and what this means for logging, value adding, and the ultimate use of the native timber being cut from our forests. The Opposition is unhappy that this amendment was not accepted, but there was considerable discussion in the upper House.

There was a lot of discussion in the upper House concerning amendment No 24. A number of possible amendments were considered, but the one that appears here sets out some of the conditions under which a person is ineligible to hold the position of commissioner. I have read some of the remarks of Hon Peter Foss, who had passage of the Bill in the upper House, and I appreciate that these things are not always straightforward, and that it can be difficult to define people’s interests. We do not want people to take these issues to the courts. At least this amendment makes some advance.

Mr KOBELKE: The member for Maylands, as the opposition spokesperson for the environment, has taken a close interest in this area, and has put a lot of work into it and, given that we are considering all 27 amendments en bloc, she requires extra time to complete her remarks.

Dr EDWARDS: It is much more sensible to consider these amendments en bloc, as the minister suggested, since many of them are machinery provisions. We will be watching very closely the level of accountability and

transparency that flows from this Bill. Earlier this year I made an application under the Freedom of Information Act, for information about Westrail sleepers. Consequently, I will be in the Supreme Court in November defending the Information Commissioner's decision on this matter. Some questions of process in relation to forest products, about which the community has concerns, are still to be resolved. Although some of the amendments to the operation of the Forest Products Commission have been picked up, not all the Opposition's proposed amendments were accepted, so we will be monitoring the operation of this legislation in some detail. Subject to those comments, the Opposition supports this message.

Mr BROWN: I wish to ascertain from the minister whether these amendments will overcome a problem being experienced by a company in my electorate, Pinetec Pty Ltd, in gaining access to pine sawlogs. Pinetec is a very successfully company, providing pallets for exporters all over the State. Due to the increase in the export trade Pinetec needs to increase its supply of timber, but has not been able secure additional supplies from the Department of Conservation and Land Management. The company has been told that from time to time contracts, for which it can compete, will become available. When the competition is on a level playing field, that is fine, but Pinetec also understands that a very significant amount of the pine sawlog resource is being held back, and will not be put out to contract, but rather will be subject to a state agreement Act. The company understands that this arrangement, which is not yet formalised, has resulted in the Government withholding access to this resource.

Although I am happy to raise matters in Parliament on behalf of companies in my electorate, in this case I do so not merely because this company is successful, but because it also provides many jobs, and its work force will continue to increase so long as it can get access to timber resources. With the technology the company uses, more jobs can be created by releasing this resource to it than by locking it up for use elsewhere. The company cannot understand why another company is being treated preferentially. If the resource is put out to contract, Pinetec will compete for the contract, but this will not happen. The resource is to be held back for another enterprise. As a result, Pinetec is being denied the opportunity to expand and to create additional jobs.

Mr Omodei: That is not quite right. It has the capacity to expand, which I will explain later.

Mr BROWN: It is appropriate that the additional resource is made available. It is not appropriate for there to be differential treatment. I understand it is proposed that an allocation be made without it being subject to contract or going through the normal procedures. Yet, the company in my electorate is unable to get access to that additional resource.

I am pleased the minister will reply and hope that I will have the opportunity to make some further comments.

Mr OMODEI: I thank the shadow spokesperson on Forest Products for agreeing to discuss these matters en bloc. Most of them are machinery-type amendments moved by the Government. I thank my representative in the upper House, Hon Peter Foss, for his handling of the legislation in that House and for the assistance of Hon Mark Nevill in proposing some amendments. One of those amendments is significant, and it concerns an issue raised by the Labor Party during the second reading and consideration in detail stages; that is, the composition of the Forest Products Commission. Clause 6 has been amended so that it now reads -

The Commission is to have 7 commissioners appointed by the Governor on the nomination of the Minister as having such expertise in commercial activities, the plantation timber industry or labour relations as is relevant to the functions of the Commission.

The amendment, moved by Hon Mark Nevill, inserted the words "the plantation timber industry or labour relations". The Government agreed to it as it wants the commission to comprise people with broad rather than definitive experience. If it did not, the Government would risk alienating some sections of the industry. The clause, as amended, means the commission will comprise people with broad experience who will work to the benefit of the forest products industry in Western Australia. One of the other amendments, moved by the Attorney General in the other place, requires documents to be tabled within 12 months rather than "as soon as is practicable". The original wording could have meant within 12 months; however, the legislation now contains a definitive period. The other amendments are fairly straightforward.

This Bill has been before the Parliament since last November. The passage of legislation is a time-consuming process as it must pass the Legislative Council. This legislation was referred to a committee of the upper House. Despite that, almost every clause was debated, even though much of the legislation is straightforward and self-explanatory. One wonders why the upper House took so long to pass this legislation.

The member opposite mentioned that a forest products division is being set up outside the Department of Conservation and Land Management. The industry is going through significant change, which had been proposed for a number years. The forest industry knew at the beginning of the last management plan that a restructuring of the timber industry in this State would take place. This restructure would have occurred even the

new Regional Forest Agreement had not been entered into. There is no doubt there has been waste in the forest for a number of years. We need to redress that issue and ensure that the industry is transformed into a manufacturing industry in which every available stick of timber is value added. Manufacturing is a growing sector of the forest products industry. It is not well known that Western Australia has a \$50m furnishing industry, and I am confident that industry will be able to double over the next five years. The Government is preparing an assistance package for people who are prepared to value add and expand that side of the industry.

The member for Bassendean raised the issue of Pinetec Pty Ltd. The resource he referred to is the Gngangara pine plantation, which is a plantation of pinaster pine. That is a significant resource of 20 000 hectares. It has been intended for some time that the resource will form the basis of a laminated veneer lumber industry in Western Australia. That intention is to form part of an agreement Act with a company that is prepared to enter into the manufacturing side of the industry.

Mr BROWN: I am grateful the minister is explaining the matter. He expressed some frustration with what occurs in the other place. I assure the minister that those of us on this side of the House understand. We have a history of understanding that; it has been a problem for 100 years, which members on the minister's side of the House never understood. It is encouraging to see that the penny has dropped after 100 years. The Labor Party has complained about the situation for years and years. At least the coalition Government is able to get its legislation through. When we were in Government, our legislation hit a brick wall. I join with the minister in his concern. It is nice to see that this frustration is felt by members opposite and we look forward to the Government generating some legislation that will provide a mechanism for genuinely breaking the deadlock between the Houses. Such legislation has been proposed but, unfortunately, has been rejected by members on the government side of the House. The minister's comment will be cherished.

Mr OMODEI: I understand the Labor Party has encountered problems in the upper House for 112 years. During that time, though, sanity prevailed in the "House of Lords" in this State, and sensible legislation was passed. I cannot say that sanity is in place at this time; however, I do not want to adversely reflect on the other place. I remind the member that the Conservation and Land Management Act, which the Labor Government introduced, passed through this Parliament in the early 1980s. It progressed through the Legislative Council and created a good organisation called the Department of Conservation and Land Management that is well recognised not only nationally but also internationally. Good legislation was passed even though the conservatives controlled the Legislative Council for a long time. I acknowledge the member's comments.

Pinetec Pty Ltd is a good company. I have met with it on a number of occasions and visited its premises. Its pallets enable us to export billions of dollars worth of product. They are an important product of a company, as are its bins and other products.

I have responded to questions on notice on this issue and I understand there will be a significant resource for the company to use to expand its business. Some of the resource is in the great southern and some will be from Gngangara.

The name Conservation and Land Management was as a result of an amendment moved by Hon Mark Nevill in the Legislative Council. It was proposed that it would be called the Conservation Commission in order to emphasise its conservation work. The Department of Conservation and Land Management has always been an integrated land manager. The cost of changing the badges and signs would have been significant - well and truly in excess of \$1m. Every sign, piece of stationery and reference to the department in legislation would have to be changed. The amendment moved by Hon Mark Nevill was sensible and the Legislative Council saw the wisdom of it. I do not want to see a situation exist in which the comment could be made that nothing has changed. There have been significant changes. Most of the management of the forests will be handled by the Department of Conservation and Land Management in its restructured form. It will also control all aspects of firefighting. Much of the science of conservation will also be managed by it. The Forest Products Commission will be allowed to purchase services to enable it to operate effectively. It will purchase fire control, cutting and coupe regeneration services from the Department of Conservation and Land Management. The Forest Products Commission will have overall control of silviculture practices.

There is a challenge for the State at the moment to create a Forest Products Commission that is unashamedly pro-forest products and in the business of maximising the value of forest products, whether they come from native forests, plantations, sandalwood or any other source. It is high time we got on with the business of managing the restructure of the Department of Conservation and Land Management, as it was, and creating a new Department of Conservation and Land Management and a Forest Products Commission. I thank members for their cooperation during the debate.

Mr BROWN: I am pleased that the minister has indicated resources will be made available to Pinetec Pty Ltd. The minister indicated that the resources may not necessarily come from Gngangara and that they may come from elsewhere. The minister knows that the resources may come from further afield. The company already incurs

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Mr Paul Omodei; Dr Judy Edwards; Mr John Kobelke; Mr Clive Brown

considerable transport costs and it was encouraged to establish itself in Bassendean in the first instance. It is not a company that has been there for 100 years.

Mr Cowan: It has been there between seven to 11 years.

Mr BROWN: It was encouraged to establish itself in Bassendean. There will be considerable costs in relocating or carrying timber over long distances. I am keen to obtain an indication from the minister about when the resources will be made available to the company. I understand some discussions have taken place but they have been inconclusive. The discussions also rest on the requirement of the company to make certain investments based on the inconclusiveness of the discussions. I am keen to get more detail from the minister.

The legislation has been subject to some sensible amendment in the other place. Prior to entering Parliament I was involved in developing a piece of legislation that enjoyed widespread support from the Government of the day, employers and the union movement. It came into this place and was passed by the Government. It went to the other place and was amended. The amendments made the legislation unworkable. The Government decided to proceed as it was the only way in which it could get the legislation through. When the Government changed, the new Court Government introduced legislation abolishing the original legislation on the basis that it was unworkable. The legislation never did work. It was designed by those in the other exalted place not to work. When people tell me about the wisdom that may exist in some other place, I think it is something to be doubted. Members should not reflect on the other place and I do not wish to. Wisdom is a passing thing and different people interpret it at different times. Be that as it may, I am keen to obtain from the minister advice on what resources will be made available and where they will be available and any conditions that may be attached that are unreasonable and cannot be met by the company.

Mr OMODEI: The information the member seeks has been supplied in answer to a question on notice. I cannot remember the figures off the top of my head and I will get hold of the information for the member. There are a number of sources for forest products around the State. The product in Gngangara has been largely set aside for a significant new industry. Pinetec Pty Ltd has a series of options when seeking supply of the resource. Most are located in the south west land division. To date, the company has not taken up a number of offers. I am more than happy to give the member a full briefing on the situation regarding Pinetec Pty Ltd and its options.

Mr Brown: Will the company be able to take advantage of the new resources when they are made available?

Mr OMODEI: There is scope for the company to grow its business in the State. When I became the minister, I found it surprising that little effort had been undertaken by the private sector to put its own money into plantations, apart from Bunnings which started its own blue gum plantations. The Labor Government initiated that project. Apart from the plantations around Bridgetown, very little effort has been put into softwoods by the private sector. Many of the big players have relied on the Government's providing the resource for them. Since becoming the minister, I have put my concerns to the industry that it was not doing enough to provide more resources. I believe that attitudes are changing and I hope that the private sector will soon match the Government with maritime pine and radiata pine plantations in the State. The location of a new major industry in the State that sources its timber from the Gngangara plantation will obviously be somewhere near the metropolitan area because of its proximity to the resource. The other options are there for the company to move to where the resource is, or to bolster its resource from another source around the State. I will provide a briefing on that.

Mr Brown: Are you happy to provide a high level briefing session for me and the member for Maylands with company representatives?

Mr OMODEI: The member for Maylands has always been able to get access to information.

Mr Brown: I simply wanted to get that on the record. Are you happy to do that?

Mr OMODEI: Certainly. I do not know whether the member needs the Pinetec Pty Ltd people there, but I will provide him with the information that he requires.

Question put and passed; the Council's amendments agreed to.

The Council acquainted accordingly.