

# FOREST PRODUCTS AMENDMENT BILL 2021

## EXPLANATORY MEMORANDUM

The Forest Products Amendment Bill 2021 amends the *Forest Products Act 2000* (the FP Act) so as to expand the rights and functions of the Forest Products Commission (the Commission), the statutory agency created under Part 2 of the Act. The Bill serves to empower the Commission to allow it to:

- purchase land for the purpose of establishing plantations;
- dispose of land assets it currently holds; and
- trade in carbon assets associated with forest products, where those forest products are located on land either owned by the Commission or other freehold land which the Commission holds rights in respect of.

The Bill does not empower the Commission to deal with carbon associated with native forest products, where those native forest products are located on Crown Land.

The Bill makes further ancillary changes to the FP Act in respect of the above amendments.

A clause-by-clause commentary of the Bill is as follows:

### **Clause 1     Short title**

This clause provides the short title of the *Forest Products Amendment Act 2021*.

### **Clause 2     Commencement**

This clause provides that sections 1 and 2 of the Act will commence on Royal Assent and the remaining sections will commence upon proclamation.

### **Clause 3     Act amended**

This clause provides that this Act amends the *Forest Products Act 2000*.

### **Clause 4     Section 3 Amended**

This clause amends section 3 of the FP Act so as to:

- provide the new statutory definition "storage of carbon" which means the absorption of carbon dioxide by forest products and the storage of carbon in those forest products; and
- amend the definition of "departmental land" so as to remove an obsolete reference to land "held by the CALM Act CEO" and replace it with a reference to land "vested in the Conservation and

Land Management Executive Body", which serves to better reflect current legislative and administrative arrangements.

**Clause 5 Section 4 Amended**

This clause amends the statutory definition of "forest products" in section 4 of the FP Act so as to include forest products located on land purchased by the Commission.

**Clause 6 Section 6 Amended**

This clause amends subsection 6(3) of the FP Act so as to prohibit certain persons serving as Commissioners of the Commission, where those persons have a material personal interest in commercial undertakings relating to the Commission's dealings with carbon.

**Clause 7 Section 10 Amended**

This clause amends section 10 of the FP Act to provide for a new statutory function for the Commission. Under a new subsection 10(1)(ga), the Commission has the function of applying for, holding, exploiting, or disposing of any rights, or other legal and commercial benefits arising from the storage of carbon in forest products. This function may be exercised in respect of forest products located on freehold land owned by the Commission or other freehold land in respect of which the Commission holds a "relevant right".

Clause 7 further amends section 10 of the FP Act to include the new definition of "*relevant right*" which means a right to:

- establish and/or maintain and harvest forest products; and
- to perform a function under subsection 10(1)(ga) relating to rights and benefits accruing from the storage of carbon in forest products.

Additionally, clause 7 inserts subsection 10(3A) into the FP Act, which allows the Commission to dispose of premises or land that it currently owns and provides for a new subsection 10(4A) which grants the Commission the power to enter into arrangements, open accounts or do anything else necessary and convenient to fulfil its function under subsection 10(1)(ga).

Finally, clause 7 makes some grammatical improvements to subsections 10(1) and 10(3).

**Clause 8 Section 13A inserted**

Clause 8 of the Bill inserts section 13A into the FP Act. This section serves to validate the Commission's previous purchase of freehold land, prior to Cabinet approval of the Bill.

**Clause 9      Section 22 amended**

Clause 9 of the Bill amends section 22 of the FP Act to obligate the Commission to include a report on strategies for performing the Commission's functions relating to carbon assets as part of the Strategic Development Plan.

**Clause 10     Section 70 amended**

This clause expressly allows regulations to be made in respect of the Commission's new functions related to carbon assets and makes some minor grammatical improvements.