

EDO Legal Briefing Note

Changes to Victoria's Logging Laws

The Sustainable Forests (Timber) Amendment Bill 2013

23 April 2013

On 18 April 2013, the Victorian Government introduced a Bill to change Victoria's logging laws.

This Briefing Note explains how the Bill proposes to change the logging laws, and why the changes are of great concern to the Environment Defenders Office.

It is expected that Parliament will debate whether to make these changes in the coming weeks.

If the Bill concerns you too, you should let your Government know: you could write a letter to your local member, to the Premier, or to other relevant Ministers.

BACKGROUND

Logging in Victoria

Under Victorian law, the State Government owns State forests, and the trees in them. It is meant to look after these forests and trees on behalf of the public.

Commercial logging in Victoria's native forests is mostly carried out by VicForests, a State-owned logging enterprise. VicForests is a business, and is set up exclusively to log and sell native timber on a competitive, commercial basis. Every year VicForests logs around 4,500 hectares of native forest in the Gippsland and Central Highland areas, which it then sells to other companies who turn it into paper, furniture and other wood products.¹

Before VicForests can log State forests, the Government must transfer ownership of the timber to VicForests.

The Department of Environment and Primary Industries (**DEPI**, previously the Department of Sustainability and Environment) and its Secretary have an overriding responsibility to manage forests and oversee VicForests logging, and have legal responsibilities to protect the flora and fauna that live in forests.

The Act that sets out how the Government transfers trees to VicForests, and how the Government oversees VicForests' logging of these trees, is the *Sustainable Forests (Timber) Act 2004* (**the SFT Act**).

How does the SFT Act currently work?

Currently, the SFT Act states that three things must happen for VicForests to start logging in Victoria's State forests:

¹ VicForests, 'About Us', <http://www.vicforests.com.au/about-us.htm>.

1. The Minister must make an Allocation Order

First, the Minister must first make an Allocation Order, which describes the areas and types of native forest that VicForest can access for the purposes of logging. The Order is subject to conditions, including a requirement that VicForests provide DEPI with data about its logging and regeneration activities.

Under the current law, an Allocation Order lasts for 15 years, and must be reviewed every 5 years.

2. The Secretary must approve a Timber Release Plan

Once the Minister has made the Allocation Order, VicForests must then prepare 'Timber Release Plans' nominating the precise areas of allocated forest (known as 'coupes') it plans to log.

The Plan must then be approved by the Secretary to the DEPI. The Secretary can only approve the Plan if it is consistent with the Allocation Order and with the *Code of Practice for Timber Production 2007*. Once the Plan is approved, VicForests owns the timber in the coupes.

Under the current law, Timber Release Plans last for 5 years, and are subject to conditions.

3. Logging workers must obtain a Timber Harvesting Operator's Licence

Any person carrying out logging activities, like chain-sawing, driving trucks or climbing trees, must obtain a Timber Harvesting Operator's Licence from the Secretary of the DEPI.

Operators must comply with Licence conditions, which relate to things like occupational health and safety, and environmental standards.

Why is the Government changing Victorian logging laws?

The Victorian Government proposes to change the SFT Act by enacting the *Sustainable Forests (Timber) Bill 2012*.

On coming into power in 2010, the Victorian Coalition made clear its policy of making it easier to log native forests in Victoria.

This policy was crystallised in its '[Timber Industry Action Plan](#)' of 2011, which outlines the Victorian Government's plan to assist the logging industry to deliver a 'secure investment environment'.

In 2012, the Government implemented the first step in the Timber Industry Action Plan by announcing a review into the operation of the SFT Act. The SFT Bill is the outcome of this review.

Where can I access the SFT Act and Bill?

The SFT Act as it currently stands can be found [here](#).

The SFT Bill, along with an Explanatory Memorandum, which summarises the Bill, can be found [here](#).

WHAT CHANGES ARE PROPOSED BY THE BILL?

The Bill proposes the biggest changes to the SFT Act since it was put in place in 2004.

The key objective of the changes is to encourage the logging of Victoria's native forests on a long-term basis, and to remove some of the regulatory steps that oversee VicForests' logging practices.

The key changes proposed in the SFT Bill are as follows:

1. A new purpose, to entrench the long-term logging of Victoria's native forests

The Bill will change the SFT Act so that it has a new objective: to enable logging in Victoria's native forests in the long-term.

Currently, the purpose of the SFT Act is to provide a framework for sustainable forest management and timber harvesting. Sustainable forest management refers to a system for managing forests that balances economic, social and environmental concerns, so that all Victorians, including those in future generations, will benefit from a better quality of life.

If the Bill is passed, the SFT Act will include the following additional two purposes:

- 'To provide for the granting of long-term access to timber resources in State forests'; and
- 'To foster investment in, and returns from, timber resources in State forests'.

2. Unlimited Allocation of Forests to VicForests

The Bill proposes to change the SFT Act to remove much of the Government's oversight of VicForests' logging practices.

Under the Bill, Allocation Orders would become the sole Government approval that VicForests would need to obtain ownership of State forests to start logging – VicForests will no longer need to seek Government approval for Timber Release Plans.

Under the Bill, once the Minister has approved and published the Allocation Order, VicForests will own the timber in the forest stands referred to in the Order. As a business, VicForests will then make as much money as it can by logging and selling the timber.

The Bill will also pare back the limits currently imposed by Allocation Orders by:

- Removing the current 15-year time limit, making the potential life-span of an Allocation Order unlimited;
- Removing the current regular 5-year reviews of the Allocation Order; and
- Removing the Minister's ability to change Allocation Orders if VicForests has sold the timber to a third party.

Under the new arrangements, Government will not only be able to give away Victoria's *current* native forests to VicForests for logging, but also its *future* forests. There is no longer any limit on how far into the future.

3. Timber Release Plans become internal VicForests documents

Under the Bill, VicForests would no longer need the Government's approval for Timber Release Plans, which detail which coupes VicForests plans to log. Instead, these will now be approved by VicForests' Board of Directors. VicForests will make such decisions on a solely commercial basis.

The time limit on Timber Release Plans of 5 years is also recommended to be removed – VicForests will be able to determine how long each Plan will last.

4. No more Timber Harvesting Operators Licences

The Bill will also remove the need for logging operators to obtain Licences.

This means that Government will no longer have any regulatory oversight of these operators, other than through its contracts (which are not publicly available).

WHY IS THE EDO CONCERNED ABOUT THE BILL?

The EDO has serious concerns about the proposed changes to Victoria's logging laws.

Public feedback ignored

The Government first proposed these changes in 2012, and many environment groups made submissions, including the EDO, strongly opposing the changes. You can read the [EDO's submission on our website](#).

The Government has not responded to these submissions, and has not made substantial changes to the Bill in response to these submissions.

The Bill locks in logging in Victoria's native forests, for the indefinite future

Victoria's native forests are extremely precious – not only in their own right, but because they are habitat for a huge number of native flora and fauna. This includes around 145 species that are listed as either threatened, or extinct, such as the Leadbeater's Possum, which is found nowhere else in the world. Logging forests is an inherently environmentally damaging activity.

Native forests are publicly owned, and Government should manage these forests on behalf of the public.

The Bill is designed to allow Government to give away native forest trees to VicForests for commercial logging for the indefinite future, taking trees away from the public today, and from generations 20 years – or potentially 30 or 40 years – into the future.

The EDO believes this is not in the interest of the environment, or the public.

Less oversight of VicForests

The Bill removes key mechanisms that Government uses to oversee VicForests' logging operations: it removes the need for Government to approve Timber Release Plans, and the need for logging operators to obtain Licences.

Under the Bill, once Government has approved the Allocation Order, it will have handed over the trees in the Order to VicForests for the indefinite future. This is problematic: while Government has responsibilities to manage the trees in the public interest, and in the interests of the environment, VicForests is a commercial business and does not have these obligations.

An environmentally damaging activity on public land such as logging must have strong and careful oversight by Government. The Bill proposes less oversight.

What about the environment?

The Government has stated that the Bill does not explicitly remove any environmental controls from the SFT Act.

However, the Bill does not attempt to remedy any of the longstanding problems with the existing environmental controls that regulate logging, such as:

- Out-of-date Forest Management Plans.
- Out-of-date or non-existent Action Statements for many of Victoria's threatened species.
- Poor enforcement of existing environmental controls.

Moreover, the Victorian Government has not demonstrated that the long-term logging facilitated by the Bill can even be sustained by our forests, particularly given other dangers to forests like bushfires.

In reviewing Victoria's logging laws, the Government could have envisaged a brighter future for our native forests: one that allows threatened species to flourish, that provides extensive native forests for future generations and that proposes a solution to the inherent social, environmental and economic conflicts involved in native forest logging (such as providing for a transition from native forest logging to plantation logging²). The Bill fails to do this.

WHAT CAN I DO?

If you are as concerned about the Bill as we are, we suggest that you write to your local Member, or to the Premier or one of the Ministers relevant to the Bill.

Their details are:

- **The Hon Dr Denis Naphine, Premier**
Level 1
1 Treasury Place
Melbourne, Victoria, 3002
Email: premier@dpc.vic.gov.au
Phone: (03) 9651 5000
- **The Hon. Ryan Smith, Minister for Environment and Climate Change**
Level 17
8 Nicholson Street
East Melbourne, Victoria, 3002
Phone: (03) 9637 8890
Email: ryan.smith@parliament.vic.gov.au
- **The Hon. Peter Walsh, Minister for Agriculture**
Level 20
1 Spring Street
Melbourne, Victoria, 3000
Phone: (03) 9938 5954
Email: peter.walsh@parliament.vic.gov.au

² See Victorian Forest Alliance, 'Choosing a Future for Victoria's Forests', June 2006 and National Institute of Economic and Industry Research, 'Opportunities, issues and implications for a transition of the Victorian wood products industry from native forests to plantations', prepared for the Australian Conservation Foundation and The Wilderness Society, 2010.

ABOUT THE ENVIRONMENT DEFENDERS OFFICE (VICTORIA) LTD

The Environment Defenders Office (Victoria) Ltd (**EDO**) is a Community Legal Centre specialising in public interest environmental law. Our mission is to support, empower and advocate for individuals and groups in Victoria who want to use the law and legal system to protect the environment. We are dedicated to a community that values and protects a healthy environment and support this vision through the provision of information, advocacy and advice. In addition to Victorian-based activities, the EDO is a member of a national network of EDOs working to protect Australia's environment through environmental law.

If you have a query about anything in this Briefing Note, or would like the Environment Defenders Office to assist you to protect the environment, please call us:

8341 3100 (metropolitan) or 1300 336 842 (regional)

To learn more about the EDO – who we are and what we do – please visit our website:

www.edovic.org.au

DISCLAIMER

While all care has been taken in preparing the information on this fact sheet, it is not a substitute for legal advice. For any specific questions seek legal advice. The Environment Defenders Office accepts no responsibility for any loss or damage suffered by people relying on the information on this fact sheet.