

**Statutory Review
of the
*Forest Products Act 2000***

Government Response

September 2007



Statutory Review of the Forest Products Act

Government Position on Review Recommendations

Recommendation 1:

That the FPC retains responsibility for non-commercial activities and includes a full description of these in its annual Statement of Corporate Intent, identifying their cost, funding source and impact on the financial performance of the organisation.

Supported

Implementation: Legislative

Recommendation 2:

That the FPC provide lead agency functions for the forest products industry on behalf of Government.

Supported

Implementation: Legislative

Recommendation 3:

That the FPC continue to focus on improving profit performance, Return on Capital Employed and Return on Assets, at closer to commercial rates and establish a formal gearing policy to help guide future debt management and optimisation decisions.

Supported

Implementation: Administrative

Recommendation 4:

That the FPC closely monitor employee costs to achieve appropriate benchmarks to be set by its Board.

Supported

Implementation: Administrative

Recommendation 5:

That the Minister consider commissioning a review of resource allocation and the internal structure of the FPC.

Supported

Implementation: Administrative

Recommendation 6:

Any further State Agreements or State Agreement Acts, and related contracts, for supply of forest products must achieve and maintain commercial rates of return.

Supported, noting that such sub-commercial agreements have been entered into in the past due to policy decisions of the government of the day. Such decisions were no doubt made to encourage the development of processing industries for the benefit of the broader economy. It is the long-term nature of the sub-commercial agreements that has given rise to ongoing market distortion as much as the nature of the agreement itself.

Future policy decisions need to consider not only the broader economic imperatives but also, importantly, when transactions will return to a normal commercial basis.

Implementation: Administrative

Recommendation 7:

That the Minister should consider the preparation of an industry plan for the native forest timber industry in Western Australia.

Supported. An industry plan already exists, however now is an appropriate time to review the present shape of the industry and its future direction. The native forest sector has undergone major restructuring during the time of the design and implementation of the Forest Management Plan and a review would be helpful in taking account of the way the industry has been able to meet the value adding ambitions of the original plan.

Implementation: Administrative

Recommendation 8:

That the functions undertaken by the FPC be retained, as a separate statutory authority.

Supported. The role of the FPC is specialised and few if any of its functions are transferable to the skill set of any agency other than DEC, which has itself evolved since the division in November 2000.

Implementation: Status quo. No action required.

Recommendation 9:

That the Board of Commissioners be retained, its appointment criteria broadened, with an additional requirement that at least one member has expertise in finance and at least one has expertise in forestry/sustainable silviculture.

Supported

Implementation: Legislative

Recommendation 10:

That all new Board members undergo a two-stage formal induction process.

Supported

Implementation: Administrative

Recommendation 11:

That the FPC be made an SES organisation, to allow the Minister for Public Sector Management to employ the General Manager.

Supported. Currently the Commissioners appoint the General Manager. In comparable agencies both board appointed and Ministerial appointed models exist. The advantage of SES status arises from the clearer expression of the chain of responsibility of and to the Minister for Forestry.

Implementation: Legislative

Recommendation 12:

That the FPC and the DEC establish, in consultation with the Conservation Commission, a joint system for dealing with non-compliance in ESFM standards, and objective measures of environmental performance for forest operations.

Supported. The object of this recommendation is to enable clarification of the way that standards will be achieved and to provide a greater degree of certainty to those responsible for the implementation of and reporting against those standards

Implementation: Administrative

Recommendation 13:

That the MOU between the DEC and the FPC be amended to provide more effective dispute resolution procedures, and a means for transparently recording the delivery of works and services by the DEC to the FPC. Eventually payments for work undertaken by DEC should reflect the work actually performed.

Supported. The FPC is a commercial agency and as such requires a clear pathway to commercial accountability.

Implementation: Administrative

Recommendation 14:

That the Minister require the development of a cooperative inter-agency strategy to manage the competing requirements of the DEC and the FPC in regards to harvest supervision and fire suppression responsibilities.

Supported, as in Recommendation 13 above.

Implementation: Administrative

Recommendation 15:

That the Minister, in cooperation with the Minister for the Environment, support initiatives by the FPC and the DEC to clarify their respective roles and interactions.

Supported. The government acknowledges the professional manner in which DEC and FPC officers deal with their objectives which, since 2000 have become quite different. Greater clarity of these different roles and objectives will further assist the harmonious relationships that exist between the two agencies.

Implementation: Administrative

Recommendation 16:

That the MOU between the DEC and the FPC be amended to specify that access to land be subject to working arrangements which allow the FPC to have input into any proposed land use changes.

Supported. The FPC is required to ensure the continuity of forest product production and has a clear responsibility to ensure that land is available to meet ongoing planting and supply needs. This recommendation provides recognition of that critical component of the FPC's obligations and functions.

Implementation: Legislative

Recommendation 17:

That the Forest Products Act be amended so that the concurrence of the Minister for Forestry is required before changes reducing the land available for forestry can go ahead.

Not supported to the extent that this would lead to a reversal of the CALM Act amendments of 2002. As noted in 16 above, an updated MOU between DEC and FPC that ensures sufficient consultation with the Minister for Forestry and the FPC prior to the confirmation of any proposed land use changes is sufficient to deliver security of tenure for the FPC.

Implementation: See Recommendation 16.

Recommendation 18:

That the Forest Products Act be amended to confirm that the FPC can buy and sell freehold land, with appropriate checks and balances.

Supported.

Implementation: Legislative

Recommendation 19:

That the DEC transfer to the FPC the fee simple land identified in the Marketable Land Review dated 22 November 2001.

Supported. The intention at the time of the division of CALM and the FPC was that the "Executive Director's" land would be transferred to the FPC and this land was subsequently identified in the Marketable Land Review in 2001, however, the transfer never actually occurred.

Implementation: Administrative

Recommendation 20:

That the Minister considers legislative change and subsequent vesting in the FPC of reserves intended for the production of forest products.

Not supported. In future cases where these reserves are to be removed from timber production DEC must supply an area of equivalent timber value land. Where such reserves are for the production of Sandalwood and it becomes DEC's intention to transfer them into the conservation estate, this should be done in consultation with the FPC in a manner that supports the objectives of both agencies, as exemplified in the recent purchase of the Credo pastoral station lease where sustainable sandalwood extraction will continue to occur for the benefit of the overall management of the property. These allowances are to be included in the MOU between DEC and the FPC. The amended MOU between the FPC and DEC should reflect this requirement.

Implementation: Status quo. No action required.

Recommendation 21:

That miscellaneous and consequential amendments as detailed in Chapter 9 should proceed.

Supported when modified to “That miscellaneous and consequential amendments as detailed in Chapter 9 should proceed in consultation with DEC.”

Implementation: Legislative

Recommendation 22:

That accepted recommendations in this report be implemented as soon as possible and a progress report provided to the Minister by 1 February 2008.

Supported.

Implementation: Administrative