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Dear Dr Frost,

We are looking forward to the first major audit of VicForests since its inception 2004.

Our organisation, in conjunction with other concerned community groups including the Wilderness Society, have been informed that on May the 7th a Bill to amend the SUSTAINABLE FORESTS (TIMBER) ACT 2004 (SFTA) will be subject to debate. The proposed will open Victoria to massive liabilities. The Victorian public needs some insights into the effects of these amendments which may be provided by the 2013 VAGO audit of VicForests. But November could be too late! Without a full audit of VicForests, how can Victorians be confident that these amendments are without risk given the previous major review of VicForests raised issues that have not been dealt with - i.e. problems with long-term legacy contracts with Australian Paper and market competition neutrality? **The SFTA amendments imbue VicForests with enormous risk potential that will render the state liable for meeting those debts. This could have the potential to bankrupt the state after a major bushfire or over-logging.**

So in order to assist our understanding of any risks, we are writing to request whether a (preliminary) draft of your findings can be made available anytime soon?

### Review of the [Sustainable Forests \(Timber\) Act](#)

#### SFTA Amendments - [Link](#)

There are numerous challenges laid down for Victorians and their environment in the SFTA amendments, however major concerns are;

**Changes to the objectives of the Act** - the major change **locks the public into long-term logging plans whilst removing government oversight.** The **Minister effectively hands the forests over to VicForests, as their property over a 20 year period.** Once VicForests control the forests they may make what ever decision they want as to the sustainability of the yields over time. That is, how  
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much they wish to log, from where and over what time frame and it will not be subject to state government scrutiny.

The added complement, but significant risk, to this is that **VicForests will be made accountable financially for third party ownership of the resource. Put simply, VicForests will sell the forests to a third-party and the state government will provide 'indemnity' (TIAP 1.4) to pay out any contracts unmet due to policy change or impediment to forest resource access.**

A perverse outcome maybe that Victorians are unable to afford protection of critical water catchments from the negative effects of catchment logging. Australian Paper's Forest license (VicForests largest client) area, (defined in the Forests (Wood Pulp Agreement) Act 1996) includes Melbourne's major water catchments. If the contracts for the wood in here are stopped to protect water values, the state will have to pay out any losses suffered by Australian Paper.

### **Locking in 20 year contracts**

**The proposed amendments will allow logging contracts to run as long as 20 years. This effectively locks in supply of wood that may not be available** or even exist due to failed regeneration, drought, fire, or depletion of resource in state forests. VicForests own figures point to resource depletion in fifteen years ([resource outlook](#)).

The SFTA amendments will allow for a maximum 20-year contract duration. Twenty year contracts are difficult both environmentally and economically. **The issue of 'legacy' contracts (being long-term contracts) was raised as a financial impediment to VicForests and a financial risk** (see [URS Audit for Treasury and Finance - VicForests](#)). **This review of VicForests also revealed that logs are being over-estimated by up to 56%.** If we lock in contracts for 20 years to a company that is inaccurately forecasting resource and have to pay out contracts because of premature depletion of the resource, then we are putting future state revenue at significant risk, an action the state should not take without due diligence on the operators i.e. a major audit. Long term contracts have not been shown to be prudent for an unstable resource like native forest wood. It's not like coal that you know will be in the ground in 20 years, wood is subject to weather and health risk variables.

### **Legal issues**

The [Timber Industry Action Plan](#) allows for logging in parks, water catchments and reserves. If this is being touted as a solution to a reducing future forecast wood stream it breaches national laws and may be subject to legal challenges under section 109 of the Constitution Act.

If there is a breach under Commonwealth law like the RFA Act 2002 or EPBC Act 1999, is the wood still being 'lawfully' extracted? Can the state legally sell it? The Commonwealth is currently investigating Victoria's conduct on such matters, particularly in relation to the status of the

Leadbeater's Possum. It maybe that VicForests' clients, like Australian Paper, will be liable under various Acts for procuring legally questionable timber.

## **Nippon Paper - The wealthiest benefactor of SFTA amendments**

As an example, let's take a snap shot view of how much Victoria would need to pay out by examining one contract. According to the SFTA Review; "Industry participants in the SFTA Review (such as [Nippon owned] Australian Paper) indicated it requires contract lengths up to 20 years to obtain finance for capital upgrades and realise returns on investments." On past history, Australian Paper is a likely client to demand a payout if that resource stream stops, as they are locking in long term financial commitments based on the state's undertaking.

Under legacy contracts currently existing in state law, the Forests (Wood Pulp Agreement) Act 1996 [link](#) Australian Paper have secured the following licensed agreement.

*(2) The Secretary shall be bound in each year to make available to the Company or to have the Department deliver to the Company as the Plan of Utilization may require from areas of forest as provided in this clause and in accordance with a Plan of Utilization a minimum annual supply of pulpwood which shall be -*

- *(a) in each of the years 1996 - 1997 to 2003 - 2004 inclusive - 500,000 cubic metres;*
- *(b) in each of the years 2004 - 2005 to 2006 - 2007 inclusive - 450,000 cubic metres;*
- *(c) in each of the years 2007 - 2008 to 2009 - 2010 inclusive - 400,000 cubic metres;*
- ***(d) in each of the years 2010 - 2011 to 2029 - 2030 inclusive - 350,000 cubic metres,***

*of which at least 300,000 cubic metres shall be made available to the Company or delivered by the Department to the Company as the Plan of Utilization may require **from mountain forests inside the Forest Area.***

The URS Treasury audit of VicForests in 2010 found that this legacy contract was a financial 'risk' to VicForests ([URS Audit for Treasury and Finance - VicForests](#)). According to discussions with industry, Australian Paper has added another independent contract approx. 250,000 m3 but the details of the costs and contract period are unknown. **However under the Forests (Wood Pulp Agreement) Act, 350,000 m3 per annum is contracted until 2030.**

If, as is likely, ([mathematically predicted by Melbourne University](#)) our state forests are next subject to a major landscape-scale burn, how will we financially meet this contract - even at the bare minimum of the obligated 350,000 m3 each year?

**Victoria would need to compensate Nippon AP to the tune of \$50 per m<sup>3</sup> x 350,000 x 20 years = \$350,000,000**

And that is only one contract.

According to the [Sustainable Forests and Timber Act Review](#) the current Allocation Order (AO) (as gazetted 27 September 2012) states that **there is approximately 40 million cubic metres of commercial timber resources (or biological assets) in the current AO area**. These assets have a **net value of just over \$31 million** as at 30 June 2012. Can we really run such risk debt against such small forecast return for operations? In the event that it needs to pay a contract out, how could this be financially achieved? Based on the facts, the basis of the contract is disingenuous and incentive for contractors to remain in the industry while the resource is depleted and the industry collapses.

The responsible Minister, Peter Walsh, under the guidance of Gary Blackwood (then Parliamentary Secretary for Forestry) 'reviewed' the [Timber Industry Action Plan](#) to enable logging in parks under Action 1.1:

*Undertake ecological thinning in reserves, parks and water catchments to improve environmental outcomes including water yields.*

This 'park pulp' may provide some surety to make up any predicted shortfall of available wood pulp to industry (as predicted loss under VicForests 'Future Ash' forecast). But logging in parks was not agreed to by Victorians when the government was elected into power so we require some transparency on how a government has arrived at approval of this management practice (wood-chipping) as the best return for managing the publicly-owned forest resource. Using 'thinnings' logging is also a dubious practice<sup>1</sup>, shown to increase fire risk by increasing the fuel load on the forest floor. To do so is in conflict with a legal mandate to protect life and property under the Forest Act.

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<sup>1</sup> Thinnings listed as 1/5 of log thru-put in the last ever produced [Monitoring of Annual Harvest Report 2008/2009](#) -page 26 refers to issues with thinning - "The coupe finalisation processes to date has observed issues with post-thinning basal area, retained tree density and retained tree damage. DSE will work with VicForests to correct these matters."

**Thinning was found to have 75% of coupes non-compliant in the 2011 DSE audit of VicForests** "Thinning standards - All bar 3 of the 12 thinning coupes field audited by DSE failed to meet at least one of the prescribed regeneration and rehabilitation standards. This failure needs to be resolved by meeting with VicForests to discuss the interpretation of the prescribed thinning standards."

[http://www.dse.vic.gov.au/\\_data/assets/pdf\\_file/0008/128735/Report-on-Coupe-Finalisation-2010-11-km02-v1-with-appendix.pdf](http://www.dse.vic.gov.au/_data/assets/pdf_file/0008/128735/Report-on-Coupe-Finalisation-2010-11-km02-v1-with-appendix.pdf)

Thinnings found to be non-compliant in [URS DTF Report](#) - 'Over all VicForests thinnings operations have been poor. This may adversely affect future yields.'

### **Public can't afford to buy back our forests**

When we have our next fire, when a species runs into extinction or the actual water loss figures from logging are revealed and the public demands healthy forests and the ecological services they provide, as a priority over wood products, we will not be able to afford to stop logging as the required contract payouts would exceed the state's ability to pay. **Payment may bankrupt Victoria.** Does this also set a precedent for Australian governments to allow international corporations to exploit resources for no gain to the tax payer, including long-term legislated payouts?

### **Reserves for species needed due to fires**

We know the Arthur Rylah Institute (ARI) and Department of Sustainability and Environment have undertaken surveys with scientific results that reveal threatened species in all forest areas are depleted in their populations and **some Commonwealth listed species are facing extinction.** Justice Osborn, in *MyEnvironment -v- VicForests* 2012, found that the reserve for Leadbeater's Possum needed urgent review. His honour stated in his judgement that "I am satisfied that the ARI research will result in a review of the adequacy of the current reserve and exclusion zone provisions". The state assured the Judge this was taking place. The amendments to the SFTA will inhibit reform to the reserve as it will become too costly, due to the removal of forest resource to industry. Victoria will effectively be unable to afford conservation outcomes for listed species in its forests.

### **Profitability in a downward trend**

According to VicForests' Statement of Corporate Intent, profits dramatically reduced this year and it is expecting to make only \$500,000 (down from \$4.6 million). This does not give the public confidence that the government business entity, VicForests, can manage the state's forests in a fiscally prudent manner while selling large quantities of valuable forests at commodity prices, undercutting well managed, sustainable plantations.

### **Request for Audit before amendments pass**

We respectfully request the Auditor General to provide the Victorian parliament and community with a preliminary draft of their findings to inform the parliamentary and public debates. This would enable informed discussion whether these amendments to the Sustainable Forest and Timber Act are a warranted risk for the government to undertake on behalf of the Victorian public. The absence of a dividend payment since 2006 shows Victorians are not getting best value for money from this management of the forest asset.

For more information, please contact me,

Sarah Rees

A handwritten signature in black ink, appearing to read 'Sarah Rees', with a large loop at the start and a horizontal line extending to the right.

Director

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