

Review of the Tasmanian Private Hardwood Plantation Estate



Prepared for

***The Hon Bryan Green
Minister for Energy and Resources
Deputy Premier of Tasmania***

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GLOSSARY

Administration	If a company's Directors decide that the company is insolvent or likely to become insolvent they will appoint a Voluntary Administrator (Administrator). Alternatively a voluntary administrator may be appointed by a liquidator, provisional liquidator, or a secured creditor. From that point a company is deemed to be in 'Administration'.
Independent Verification Group	An Independent Verification Group, Chaired by Professor Jonathon West, was established to provide advice to the Prime Minister and the Tasmanian Premier on sustainable timber supply requirements and areas and boundaries of reserves from within the ENGO-nominated 572,000 hectares of native forest.
Liquidation	The purpose of liquidation of an insolvent company is to have an independent and suitably qualified person (the liquidator) take control of the company so that its affairs can be wound up in an orderly and fair way for the benefit of all creditors
MIS	Managed Investment Scheme
RE	Responsible Entity who has the dual role of Trustee and Manager of Managed Investment Schemes. An RE must be an Australian Public Company, hold an Australian Financial Services Licence and their duties are defined in the Corporations Act.
Receivership	Receivership is an insolvency procedure where a receiver is appointed (normally by secured creditors) over some or all of the company's assets to realise enough of the assets to repay the secured debt. The receiver has no responsibility to unsecured creditors.
Landlord	Private landowner in a lease arrangement with a plantation company for the purpose of growing trees on their land
Grower	In this report a Grower is an investor in a hardwood plantation and they may also be landowner
Sharefarm	A share farm is a joint venture where the costs of developing a plantation are shared in some way. For instance a landowner may provide the land and the plantation company supplies the seedlings and pays the contractor to establish the plantations. There is no standard Joint Venture and there a numerous options for how the costs, risks and revenues are shared.

SUMMARY

Tasmania has a long history in the forest industry and was one of the pioneers in hardwood plantation development, in particular to provide high quality wood fibre for fine paper production. The predominant species that is well suited to the Tasmanian climate is *Eucalyptus nitens* (Shining Gum) despite *Eucalyptus globulus* (Blue Gum) - the favoured fibre species - being native to Tasmania. While research into the development of hardwood plantations in Tasmania commenced in the late 1970s and early 1980s the expansion of the estate boomed with the expansion in Managed Investment Schemes (MIS) in the late 1990s and 2000s. Unfortunately, these schemes have proven not to be financially sustainable and all the promoters in Tasmania are now in Receivership.

Defining the current private hardwood plantation estate is complex due to range of ownership structures that were largely developed as a result of MIS. The area also varies by reporting periods, methods and planting scheme. However, a reasonable estimate of the private hardwood plantation estate in Tasmania is 177,000 ha and that the harvest from this estate could peak at 2.5 to 3.0 million cubic metres per annum. The sustainability of this production capacity is difficult to determine due to the uncertainty that exists around the re-establishment of plantations in the future.

The majority of the private hardwood plantations are on Freehold land (106,000ha) with leasehold approximately 50,000 ha and the balance on leased Crown land. The bulk of the plantations (approximately 120,000 ha) were developed by MIS. While MIS was initially successful at establishing the resource it created uncertainty for the processing industry as there was no guarantee of replanting which is not attractive to large domestic investments like a pulpmill, even though the scale and quality of the plantations are ideally suited to this type of processing plant. There are alternative processing options that should be considered such as engineered wood products (veneer, Hardlam and cross laminated timber) and bio-energy and bio-fuels can be made from residues. These alternative options look positive for integrated community and industry development in regional areas but they are small and could sub-optimize the resource compared to a world scale pulpmill. There is a place and a need for both over time.

Resolving the financial problems of the MIS companies is not simple, either legally or emotionally, and deriving a consensual resolution could take many years and significant cost (FEA has been in administration since 2010). Many people are frustrated, the Growers (investors – numbered in the tens of thousands) who paid lump sums for establishment and management through to harvest are particularly aggrieved as they believe they are innocent victims. Correspondingly, Landlords (landowners – numbered in the hundreds) who have leased their land for MIS plantations are also frustrated with the process as it is not clear whether they can remove the Forestry Rights for the non-payment of rent, yet they are still paying rates and some other government charges and cannot productively use their land for other purposes. Currently, the Receiver Managers / Liquidators for the main plantation companies, Gunns and FEA, are working towards a sale process which will likely see the plantations sold unencumbered and the MIS

implications dissolved by a court of law and the proceeds split among the various parties. It is not clear how the proceeds will be divided but what we can be sure of is there will be winners and losers to varying degrees.

The Panel (comprising Chair Martin Ferguson AM and members Norm McIlfattrick – Secretary Tasmanian Department of Infrastructure, Energy and Resources (DIER), Jan Davis – CEO Tasmanian Farmers and Graziers Association (TFGA) and Tom Fisk – CEO Private Forests Tasmania, and assisted by Rob de Fégely – forest industry consultant) has consulted widely with a range of stakeholders, a prospective new Responsible Entity and the Receiver Managers / Liquidators of the main Tasmanian based plantation companies through public forums and face-to-face meetings and has collated and considered the issues raised by all these parties. It is no news to anyone that the matter at hand is complex and its resolution will take some time. The Panel believes that the key aspects of the resolution process must be left to natural justice and the Courts to resolve, where government can play no real part. However, the Panel is of the view that there are some actions that government can take in order to assist in securing the future of the privately owned hardwood plantation estate such that it continues to benefit those specifically involved with it and Tasmania as a whole.

The main recommendations by the Panel are as follows (further detail is provided in Section 7 of this report):

Immediate

- Develop an Information Portal for landowners and investors.
- Land Titles Office clarify issues pertaining to Forestry Rights (Portal).
- Assist in clarifying plantation insurance issues (Portal).
- Consider government financial assistance to speed up the resolution of the deeds of ownership.
- Consider forms of financial assistance to offset statutory costs of land ownership for areas under defaulted lease arrangements.
- Government statement of support for new forest products processing developments in Tasmania (of all scales) to encourage development and assist in reducing Sovereign Risk.

Near Term – 2014+

- Investigate opportunities to improve export port infrastructure in southern Tasmania.
- Promote an expansion of the forest estate through supporting the integration of more trees into the agricultural landscape by methods that enhance farm productivity and value.
- Government support forestry Research and Development.
- Develop a bio-energy and bio-fuels policy for Tasmania.
- Ensure independent forest management advice is available for Landlords who inherit plantations and work to avoid resource fragmentation.
- Government support for Renewable Energy Credits for energy derived from forest residues.
- Promote ongoing expansion of the plantation estate by revisiting incentive schemes.

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1 INTRODUCTION

The Hon Martin Ferguson AM was requested by the Hon Bryan Green Minister for Energy and Resources and Deputy Premier of Tasmania to chair a high level panel to help examine Tasmania's privately-owned hardwood plantation industry.

The Panel has been established following Gunns Ltd going into receivership, the collapse of MIS schemes generally and changing global markets for timber products. All these events have made it very difficult for those involved in the Tasmanian forestry sector including many Tasmania landowners who have lease arrangements with plantation forestry companies.

The Panel that Mr Ferguson chairs includes:

- **Norm McIlftrick** - Secretary of the Department of Infrastructure, Energy and Resources;
- **Jan Davis** - Chief Executive Officer of the Tasmanian Farmers and Graziers Association; and
- **Tom Fisk** - Chief Executive Officer of Private Forests Tasmania.

Mr Ferguson has been assisted by Rob de Fégely, a Registered Professional Forester, experienced forest industry consultant and President of the Institute of Foresters of Australia. Together they have consulted with Growers, private landowners and other key stakeholders such as the Receivers and Managers of the MIS companies to explore options for the future. Along with other Panel members they also conducted two community forums, one each in Hobart and Launceston, in order to engage directly with landowners, Growers and other stakeholders.

The objectives of the Panel are to:

1. Obtain a clear picture of the existing Tasmanian hardwood plantation estate where possible by type, quality, location and tenure.
2. Undertake a broad consultation of the forest industry and communities to help develop recommendations on the best ways to enhance the value of the plantations and capitalise on future opportunities.

The following report outlines in broad terms the current Tasmanian hardwood plantation estate, the status of the current management and timelines for those companies in Administration and/or Receivership or Liquidation. It then outlines issues raised during the consultation process and provides some thoughts on future prospects and current barriers to progress before providing a list of recommendations for consideration by the Tasmanian Government.

2 THE TASMANIAN PRIVATE HARDWOOD PLANTATION ESTATE

2.1 Area and Supply Estimates

Forest area data, even for plantations, is often variable and it depends on how the area is reported - gross plantation area which includes roads and firebreaks and stream buffers etc, net plantation area which is the area that has been developed for plantations or net stocked area which is the net plantation area less the areas that have been developed but are not planted or have been harvested and are waiting to be replanted. Plantation area is dynamic due to harvesting, planting and the acquisition or sale of plantation areas.

For these reasons plantation statistics from different entities do not always match and this can be simply due to different area reporting and or timing of reporting.

The following section provides a broad overview of the total hardwood plantation estate in Tasmania with some reference to its scale within the national estate. However, the primary focus is the private hardwood plantation resource in Tasmania.

Total Hardwood Plantation Estate in Tasmania

The Australian Bureau of Agricultural and Resources Economics and Sciences (ABARES) publish national data on plantation statistics through its National Plantation Inventory¹.

ABARES has been collecting data annually on softwood and hardwood plantations for various regions around Australia since 1993. The data relates principally to plantations developed for wood production. The 2013 update is the most recent and reports on plantations established and managed in the 2011-12 financial year and suggests that the Tasmanian hardwood plantation estate is approximately 236,000 ha across all tenures of which 92% is *E. nitens*.

Tasmania represents approximately 24% of the total Australian hardwood plantation estate of 980,000 ha. The nearest mainland hardwood plantation region is the Green Triangle region of south west Victoria and south east South Australia which has 171,000 ha of which 100% is *E. globulus* (ABARES, 2012).

Private Hardwood Plantation Estate in Tasmania

Private Forests Tasmania (PFT) collect hardwood plantation data on an annual basis and their most recent report estimates the total area across all private tenures is 177,297 ha. Data from Forestry Tasmania suggest that the public hardwood plantation estate is just over 41,000 ha. There appears to be inconsistency and/or confusion when reporting area on plantations at a State and National level where area data could be reported by landowner (Freehold, Leasehold or Crown), planting scheme manager or percentage of ownership within a Sharefarm. It is relatively easy for double-counting to occur.

¹ http://www.daff.gov.au/abares/publications_remote_content/publication_series/plantation_inventory

However, research by the Panel of plantation data supplied by the current plantation managers and subject to commercial in confidence requirements suggest that the PFT total hardwood plantation estimate is well supported. The PFT estimate of the private hardwood plantation estate as at 31 December 2012 is 177,297 ha and the split between *E. nitens* and *E. globulus* is estimated as follows:

Table one: Estimated Private Hardwood Plantation Estate in Tasmania

Private Hardwood Plantations	E nitens	E globulus	Total
Area in hectares (ha)	167,000	10,000	177,000

Source: – (PFT Annual Report, 2013)

There have been various attempts to model this plantation resource and this report has not attempted to review this modelling in any depth but the harvest from the total plantation estate could peak at around 2.5 to 3.0 million cubic metres per annum. The sustainability of this volume will depend on the adoption of sustainable forest management techniques, Growers and landowners having the confidence to replant and potentially expanding the resource in some areas to make up for failed and/or unviable plantations.

Importantly, this is a significant volume in Australian terms and ideally suited to a large scale processing plant like the proposed Bleached Hardwood Kraft Pulpmill at Bell Bay.

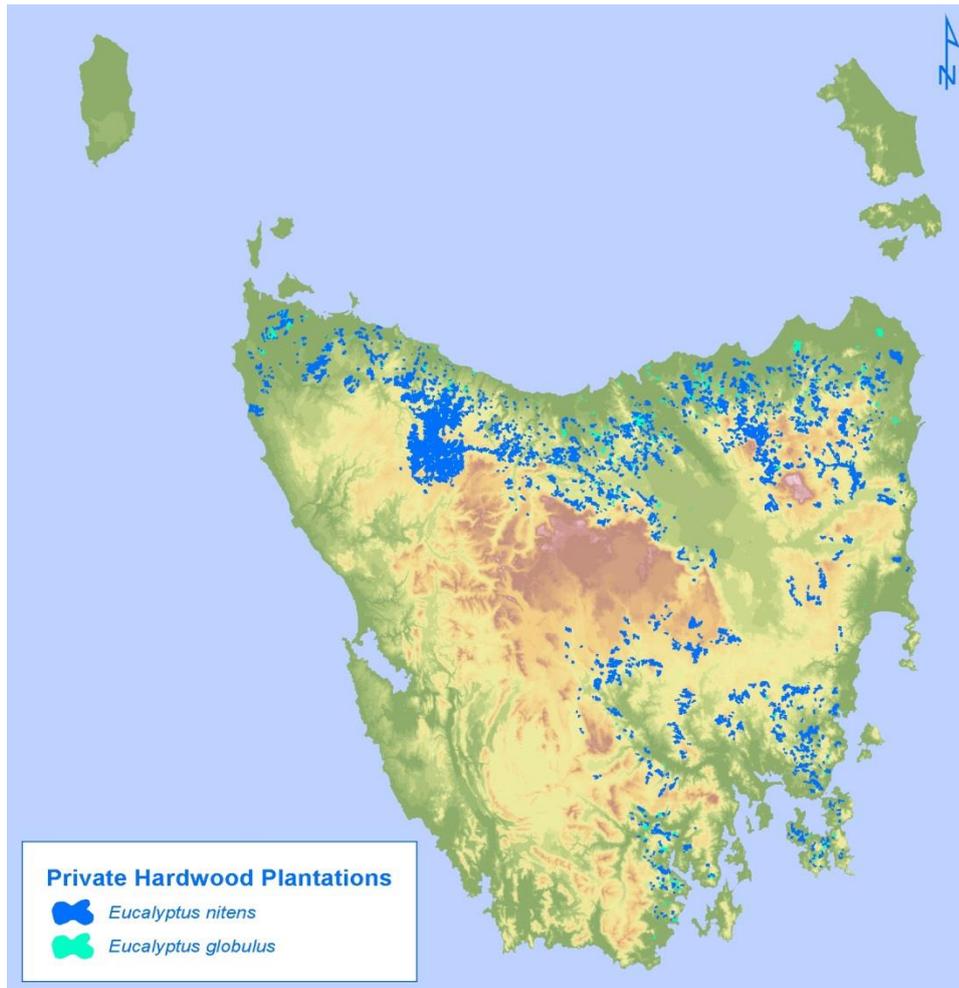
Following the recent consultation with the main hardwood managers the following table has been developed to provide an estimate of the hardwood plantation area by landowner and planting scheme.

Table Two: Estimated private plantaton area in Tasmania by Owner and Title.

Ownership	Freehold	Leasehold	Crown lease	Total
Company	27,000	1,500		28,500
MIS	67,000	39,000	14,000	120,000
JV/Sharefarm	7,000	10,000	7,000	24,000
Farm woodlots	5,000			
Total	106,000	50,500	20,500	177,500

The following map provides an illustration of the location of the private hardwood plantation estate in Tasmania and it is obvious that the bulk of the estate is in the north.

Figure 1 – Location of Private Hardwood Plantations Tasmania



Source: – (Pitt&Sherry et al, 2012)

2.2 Estate Characteristics

This section will give brief comment on the physical and management characteristics of the hardwood plantation estate in Tasmania.

Physical – Tasmania has a cool temperate climate and good soils that are generally favourable for the development of plantations and it was the first state in Australia to commence any serious development of eucalypt plantations in the mid to late 1980s. The focus on plantations arose from the private forestry sector in the State who realised in the late 1970s and early 1980s that pulpwood derived from native forests would eventually become a less desirable commodity for the international pulp and paper industry. Consequently, the sector focussed breeding and silviculture programs on the cultivation of suitable hardwood plantation species – primarily *E. nitens* and *E. globulus*. It is for that reason that the bulk of the Tasmanian hardwood plantation estate has been developed to provide wood chips for the production of high quality wood pulp which is eventually processed into fine writing and copy papers.

Plantation management practices are designed around short rotations, traditionally clearfell harvested at around 15 years of age depending on site quality (growth) and demand, with predominantly no pruning or thinning.

Some Managed Investment Schemes (MIS) included pruning and thinning regimes to add variety to their public offerings and these practices have been adopted in the management of State-owned hardwood plantations anticipating the potential future use of these forests as a sawlog resource. There is still no clear indication that fast grown eucalypt plantations will provide a cost effective source of sawlog for conventional sawn board production and further work on genetics, silvicultural management and sawing technology are required to achieve this objective.

What is certain is that the vast majority of the current private hardwood plantation estate is not suitable for traditional sawn board production. It may, however, find uses in non-traditional product manufacture such as engineered wood products, bio-fuels and bio-energy.

Despite the favoured nature of *E. globulus* as a source of fibre for the manufacture of kraft hardwood pulp the private hardwood plantation estate in Tasmania is dominated by *E. nitens*. This is because the climatic conditions that prevail in areas available for plantation development are not suitable for the sustained and successful growth of *E. globulus*. This is unfortunate because *E. globulus* naturally has superior pulp yield and fibre characteristics making it the most sought after feedstock on the international fibre market. These characteristics have been further improved through selective breeding. *E. globulus* will also regenerate by coppicing from cut stumps making plantation re-establishment easier whereas *E. nitens* will not regenerate this way. However, through intensive focus on selective breeding programs current day *E. nitens* plantations can produce feedstock similar to *E. globulus* but to improve its appeal to international buyers more work is required. Alternatively, domestic processing may not be so problematic. Importantly, the hardwood plantation estate on the mainland is entirely *E. globulus* and can be regarded as a supplementary source of feedstock for Tasmanian based processing industries.

The state of Tasmania is blessed with numerous deep water Ports, two in the North at Burnie and Bell Bay and two in the south at Hobart and Triabunna, although the latter was recently purchased from Gunns by a group who do not appear to be actively encouraging any export business from the timber industry. These ports have formed focal points for the development of the private hardwood plantation estate by the industry and have efficiently serviced traditional export wood chip activities (native forest residues and plantation) and log exports. Port access will remain important for the future of the industry.

Ownership and Management -

- **Forest owners** – While exact areas are not known the majority (over 80%) of the private hardwood plantation is either owned or managed by Gunns Ltd or one of its subsidiaries Gunns Plantations Ltd (GPL). GPL also manages other plantations such as those of Great Southern in its role as a Responsible Entity (RE). The remaining 20% is split between Forest Enterprises Australia (FEA) and its subsidiaries and other smaller private landowners. Hardwood plantations have been established on Freehold, Leasehold and Crown land, the estimated area by each is shown in Table five.

- **Public ownership** – While the public resource is not the subject of this project Forestry Tasmania has approximately 41,000 ha of hardwood plantations.
- **Growers (Investors)** – Investors in Managed Investment Schemes (MIS) are normally referred to as Growers. MIS plantations make up nearly 80% of the private plantation estate and Gunns related MIS companies are over 80% of the MIS plantations. Within the Gunns plantation estate a total of 48,984 Growers invested \$1.6 billion in Gunns MIS schemes which results in an average investment of \$32,600. While initially successful in establishing a large proportion of the private hardwood estate a significant weakness of MIS is that it did not guarantee any replanting and as such support sustainable forest management or attract or encourage the development of any long term (20 or 30 years) sustainable processing industry. Unfortunately this uncertainty created significant project risk for potential proponents of any major new domestic processing.
- **Processors** – The current domestic processing industry for plantation grown hardwood is relatively small, sawmilling is commercially unproven on any significant scale and the bulk of the estate is harvested for export as woodchip from facilities around Burnie and Bell Bay. With the closure of Triabunna the plantations in the south are struggling to competitively reach any export market.

3 CURRENT STATUS OF THE TASMANIAN PLANTATION MANAGERS

A number of the major plantation managers in Tasmania, including Gunns Ltd, Great Southern and FEA Ltd have been placed in Administration and are now in the process of either working through a deed of Company Arrangement or the companies are being liquidated. These companies' financial problems have caused a significant amount of stress and uncertainty for not only many individuals and landowners in Tasmania but also the State Government as the private hardwood plantation industry makes a significant contribution to the economy of the State. In addition, many Growers (investors) in these companies and/or their various hardwood plantation managed investment schemes (MIS) are frustrated with the uncertainty of the future for their investments.

Importantly, not all forest managers in Tasmania are suffering the same financial problems and they have intimated to the Panel that they are ready and willing to assist in the ongoing management of the private hardwood plantation estate. The Chair met with two potential managers in SFM Forest Products and Forestry Tasmania and a number of others were present at the community forums. The government authority Private Forests Tasmania can also play a significant role as an independent source of professional advice.

The following section is predominantly focussed on the companies in Administration or Liquidation as they represent the majority of the private hardwood plantation in the state. The section provides a brief outline of the legal process that these companies are working through and their current status.

3.1 Administration

If the Directors of a company decide that the company is insolvent or likely to become insolvent they will appoint a Voluntary Administrator (Administrator). Alternatively a voluntary administrator may be appointed by a liquidator, provisional liquidator, or a secured creditor.

The Administrator must be an independent and suitably qualified person who then takes full control of the company to attempt to either save the company or its business.

Voluntary administration is designed to resolve a company's future direction quickly and there is a formal process which is summarised² as follows:

1. The Voluntary Administrator must hold the first meeting of creditors within 8 days of their appointment (Five days notice is required) to allow the creditors to vote that their appointment as Administrator should continue (Creditors can vote to appoint another Administrator) and create a committee of creditors. [Note in all instances the Administrator can apply to the Court for an extension of time].
2. The Administrator must then investigate company's affairs and report to a second creditors meeting on alternatives normally within 25 to 30 days following appointment.
3. The second meeting of creditors must decide on the company's future which can be one of three outcomes:
 - i. Creditors decide to return the company to the control of the Directors and it continues trading as normal.
 - ii. Creditors agree to accept a deed of company arrangement (DOCA). This is a binding agreement between the company and its creditors governing how the company's affairs will be managed in the belief that this will result in a better outcome for creditors than placing the company directly in liquidation, although, this could still be the final outcome. A DOCA must be signed within 15 days of the second creditors meeting and the external administrator appointed to oversee any deed of company arrangement is known as a Deed Administrator.
 - iii. Creditors agree to place the company into liquidation and unless the creditors vote otherwise the voluntary administrator becomes the liquidator and the assets of the company are sold to repay creditors

3.2 Liquidation and Receivership

*Liquidation*³

The purpose of liquidation of an insolvent company is to have an independent and suitably qualified person (the liquidator) take control of the company so

², Voluntary Administration a Guide to Creditors, Australian Securities & Investments Commission December 2008, www.asic.gov.au

³ Liquidation a Guide to Creditors, Australian Securities & Investments Commission , 30 January 2012, www.asic.gov.au

that its affairs can be wound up in an orderly and fair way for the benefit of all creditors

There are generally two categories of creditor: secured and unsecured.

1. A **secured creditor** is someone who has a security interest (as defined in s12 of the *Personal Property Securities Act 2009*), such as a charge or a mortgage, over some or all of the company's assets, to secure a debt owed by the company. For example lenders usually require a security interest over company assets when they provide a loan
2. An **unsecured creditor** is a creditor who does not have a security interest over the company's assets.

Employees are a special class of unsecured creditors. In liquidation, some of their outstanding entitlements are paid in priority to the claims of other unsecured creditors.

In terms of the distribution of funds from a liquidation of the company's assets after payment of the costs of the liquidation, and subject to the rights of any secured creditor, the proceeds of realisation are distributed as follows—first to priority creditors, including employees, and then to unsecured creditors. The general priority in which funds are distributed is:

1. costs and expenses of the liquidation, including liquidators' fees;
2. outstanding employee wages and superannuation;
3. outstanding employee leave of absence (including annual leave, sick leave—where applicable—and long service leave);
4. employee retrenchment pay; and
5. unsecured creditors.

The priority order can change for particular assets for instance priority creditors which are normally employees may rank above secured creditors for returns from circulating assets (formerly floating charge assets) such as debtors, stock and cash.

It is important to note that each category is paid in full before the next category is paid. If there are insufficient funds to pay a category in full, the available funds are paid on a pro rata basis and the next category or categories will be paid nothing!

Receivership⁴

Receivership is an insolvency procedure where a receiver is appointed (normally by secured creditors e.g. Banks) over some or all of the company's assets to realise enough of the assets to repay the secured debt. If the receiver is also appointed to manage the company's affairs they become a Receiver and Manager.

It is possible for a company in receivership to also be in liquidation or subject to a deed of company arrangement.

The receiver's role is to:

⁴ Receivership a Guide to Creditors, Australian Securities & Investments Commission, December 2008, and <http://www.asic.gov.au/asic/ASIC.NSF/byHeadline/Creditors%20-%20Receivership>, www.asic.gov.au

- collect and sell enough of the charged assets to repay the debt owed to the secured creditor (this may include selling assets or the company's business)
- pay out the money collected in the order required by law, and
- report to ASIC any possible offences or other irregular matters they come across.

The receiver's primary duty is to the company's secured creditor. They have no obligation to report to unsecured creditors about the receivership. A receiver also has the same general duties as a company director.

The main duty owed to unsecured creditors is an obligation to take reasonable care to sell assets at fair market value or, if there is no market value, the best price reasonably obtainable. The receiver may continue to trade the business until they sell it as a going concern.

The money from the realisation of assets must be distributed as follows:

1. money from the sale of fixed charge assets is paid to the secured creditor after the costs and fees of the receiver in collecting this money have been paid, and
2. Money from the sale of circulating assets is paid out as follows:
 - i. The receiver's costs and fees in collecting this money;
 - ii. Priority claims, including employee entitlements (if the liability for these hasn't been transferred to a new owner); and,
 - iii. Repayment of the secured creditor's debt.

Any funds left over are paid to the company or its other external administrator, if one has been appointed.

Although a receiver must report to ASIC on any possible offences or irregularities they come across, unlike a Liquidator they don't have a specific duty to investigate and report on the affairs of the company generally.

3.3 Gunns Ltd

On 25 September 2012, Ian Carson, Daniel Bryant and Craig Crosbie of PPB Advisory were appointed Administrators of the Gunns Group by the Gunns Ltd directors. Concurrently, Mark Korda and Bryan Webster from Korda Mentha were appointed as Receivers and Managers over assets of the Gunns Group⁵.

The Administrators PPB are not in control or in charge of realising the assets of the Gunns Group as it is the role of the Receivers to realise the assets. However they do have the power to freeze accounts and hold creditors and payments while they sort the company's affairs. For example they initiated a hold on rental payments to landowners.

The first creditors meeting of Gunns Ltd was held on 10 October 2012 in Launceston and voted to keep PPB Advisory as Administrators to investigate the business affairs of the Gunns Group of companies.

⁵ PPB Advisory Gunns Fact Sheet no 1 & Minutes of the Joint First Meeting of Creditors held pursuant to Section 436E of the Corporations Act 2001, held on 10 October 2012 in Launceston.

The second creditors meeting was held on the 5 March 2013 in Launceston and the Administrators PPB recommended that the Gunns Group of Companies were insolvent and that they be placed in Liquidation.

Following their appointment as Receivers Korda Mentha has sought to liquidate the assets of the Gunns Group of Companies and sold the Gunns Timber Products business which included the Bell Bay sawmill and the former Auspine business in Tarpeena South Australia to New Forests on 31 January 2013, the new business is now known as Timberlink. Korda Mentha will continue to liquidate assets to recover funds for secured creditors. There are some assets which the Receivers do not have control over which are as follows⁶:

- assets subject to other security interests ranking ahead of the Lenders
- property held by GPL as RE for the Schemes, such as harvest or insurance proceeds (but not GPL's beneficial interest in the Schemes)
- Schemes-related tree crop and associated benefits.

The last two asset groups are effectively assets of the Schemes managed by Gunns Plantations Ltd (as Responsible Entity- RE) on behalf of the Growers

PPB advised creditors at the second meeting that the Gunns Group of Companies had a combined debt of \$3.02 billion which included \$2.2 billion of intercompany loans and that the total claims by external creditors was \$780 million. The employee entitlements as priority creditors are \$9.6 million. However, the Receiver and Manager Korda Mentha advised PPB prior to the meeting that it is unlikely there will be sufficient proceeds from secured asset realisations to satisfy the secured debt of approximately \$446 million.

Accordingly, PPB advised the meeting that they do not expect any surplus funds from the receiverships for distribution to ordinary unsecured creditors.

The Receivers have advised PPB that they estimate that all employee priority claims should be met in full from circulating asset realisations, however, the timing of any payment remains uncertain.

The Receivers are continuing to liquidate the Gunns Ltd assets and announced on 1 November 2013 a major asset sale including:

- 175, 850 ha of freehold land and 2,300 km of road infrastructure
- 96,850 ha of hardwood and 3,780 ha softwood plantations
- A fully operating forestry services business which employs and/or contracts over 150 people. Processing and operations facilities include:
 - Tamar Woodchip Mill at Bell Bay
 - Hampshire Woodchip Mill south of Burnie
 - Leasehold interest in the Burnie Port facility
 - Somerset Nursery operations, and
 - Ridgley office and fibre technology processing laboratory
 - Opportunity to develop the proposed Bell Bay Pulp Mill.

⁶ Report by Administrators PPB Pursuant to Section 439A of the Corporations Act 2001 25 February 2013

Expressions of Interest are due by the end of 2013.

3.4 Gunns Plantations Ltd (GPL)

Gunns Plantations Ltd is a subsidiary within the Gunns Group of Companies and has responsibility for 21 Managed Investment Schemes (MIS), including nine MIS previously managed by Great Southern Plantations Limited. The Receivers and Managers were not appointed to GPL in its capacity as Responsible Entity (RE) of the MIS and as such PPB were appointed Liquidators for GPL.

At the second Creditors meeting PPB advised Growers (investors in the MIS) that there are options for them to realise returns from their woodlots being:

- i. the continued management of the Schemes and associated tree crop under a new RE where net proceeds may be available upon harvest, which essentially allows the investments to continue as normal.
- ii. a sale of the Scheme assets under a wind-up of the Schemes (i.e. a replacement RE does not occur)
- iii. undistributed tree crop sale proceeds in Scheme custodial accounts at the appointment date of PPB.
- iv. insurance proceeds from tree crop damaged by fire during the period of the administration.

PPB also suggested that certain Growers may also have a claim against GPL for breaches of RE duties (Ref Footnote 6). This point and the last two points above are mainly issues of law so this report will only consider the first two realisation options of continuation or sale of the schemes.

3.4.1 Continued Management of the GPL Schemes

PPB advised Growers that the potential returns under their investments remain dependent on either:

1. The continued management of the Schemes and harvest on maturity of the plantations but this will depend on the viability of the Schemes and the ability to engage a new RE, or
2. The winding up of the Schemes where a replacement RE is not found and the short term harvest and/or sale of Scheme assets.

The search for a replacement RE commenced on 15 October 2012. While 21 expressions of interest were received only ten were granted access to the data room and only four proposals were submitted. Two of the four proposals were rejected as being deficient or incomplete and one withdrew which left only one remaining party which was subsequently disclosed as a division of Macquarie Bank (Macquarie) and their proposal to become a replacement RE is discussed below.

PPB engaged the services of URS Forestry to review the viability of the MIS's managed by Gunns and commented at the second creditors meeting that some of the schemes do not appear to be viable. In addition as the schemes are largely non-contributory, that is the Growers paid all establishment and

maintenance fees and lease payments up front, there is no requirement to contribute any further funds for ongoing maintenance of the schemes. While the Growers are not insolvent the Schemes do not have the funds to manage them through to harvest.

The background to the Macquarie proposal is in the following section but in the absence of a workable offer from Macquarie, PPB have commenced a sale process for the GPL assets and it is understood they have formed an agreement to work with Korda Mentha to combine the GPL assets for sale with the other assets of Gunns Ltd.

3.4.2 Macquarie Group

The Macquarie Group, commonly referred to as Macquarie Bank, based in Sydney has a division known as Specialised Investment Solutions which has Responsible Entity (RE) experience as it manages hardwood plantation MIS which is predominantly based in Victoria. It also has an Almond MIS. Macquarie's Specialised Investment Solutions division (Macquarie) were invited to provide a proposal to take over the RE of Gunns Plantations Ltd. They had also been requested to undertake a similar role with FEA. As noted above Macquarie were the only viable RE option at the end of the expression of interest process run by PPB.

Macquarie could see a number of problems in taking on the RE role namely:

- Most of the schemes were non-contributory so there was no additional source of funds to the schemes for management.
- Some of the schemes were not viable because they were either too far away from the export ports or were low productivity or both.
- Some of the schemes were planted on land leased from private landowners and some with very high rental rates. There is now back rent due and continuing to pay rent at the levels originally negotiated is not viable.
- The international market for export hardwood chips is currently depressed due to the high Australian dollar and increasing competition from other Asian suppliers, in particular Vietnam and Thailand. In addition Japan which has been the dominant and stable buyer particularly in terms of price for hardwood chips for the last 40 years from Australia was weakening and China has emerged as the major buyer but with a much more aggressive approach to pricing and supply.

Despite the above problems Macquarie believed they had a workable solution and had joined with another MIS company, WA Blue Gums, to develop a proposal and held a Grower meeting of the 2002 - 2006 and 2008 schemes on 28 May 2013. The proposal was to restructure the schemes by replacing GPL as RE and removing the unviable areas of plantation for a small remittance (no back rent was payable) which gave those Landlords ownership of the trees and Macquarie offered to assist with removing the Forestry Right to unencumbered their land. Macquarie subsequently wrote to Landlords on the 18 June 2013 to outline their proposal and requested their response by 28 June 2013.

PPB challenged the Macquarie proposal believing it was misleading and deceptive and this resulted in PPB taking court action against the Macquarie/WA Blue Gums proposal in the Supreme Court of Victoria. PPB's challenge was upheld for the following reasons⁷.

- *it failed to explain the effect of the Corporations Act 2001 that all rights, liabilities and obligations of the former responsible entity (RE) (including in respect of the Head Leases) would become the rights, liabilities and obligations of the new RE*
- *it did not disclose the quantum of the outstanding and future rent and maintenance liabilities in respect of the commercial Head Leases that would become the liability of the new RE*
- *the argument Macquarie was relying on to avoid liability for the commercial Head Leases was untested and involved a significant risk that should have been explained to Growers*

Essentially, the Macquarie / WABG Proposal gave Growers the false impression that the proposal was a viable method for the GPL Woodlot Nominated Schemes to continue unburdened by the Head Leases bearing commercial rental rates (i.e. that the new RE could pick and choose which Head Leases it would and would not become the lessee of⁷.

According to the Grower update the Court also found that the resolutions passed at the Grower meetings on 28 May 2013 are invalid. The Grower update further commented that:

The Court's determinations mean that, in order to become the RE of the GPL Woodlot Nominated Schemes, Macquarie / WABG will need to:

- *provide Growers with a new restructuring proposal*
- *hold new Grower meetings*
- *accept liability for accrued and future rental obligations⁷.*

Following this decision GPL (i.e. PPB as Liquidator of GPL) remains the RE. Despite their lack of success in this process Macquarie stressed to the Chair of the Panel and his assistant that they are happy to continue discussions to develop a workable proposal for all parties to take over as RE of the GPL schemes. Macquarie also have the support of some Growers who have made significant investments in the GPL schemes and these Growers stressed that they made their investment in the belief that the hardwood plantation and pulp mill strategy was good for Tasmania and are still keen to see their investments grow on to maturity.

3.4.3 Great Southern Plantations

Great Southern Plantations (GSP) was another hardwood plantation business that went into Administration around the 19 May 2009 and is now in liquidation. PPB Advisory is the liquidator. The bulk of the company's 118,000 ha of plantations are on the mainland in Western Australia and in the

⁷ Excerpt from GPL's Liquidator PPB in GPL Grower Update – 23 August 2013.

Green Triangle but they also developed approximately 7,000 ha of hardwood plantations in Tasmania.

Gunns Plantation Ltd took over the RE role of GSP in late 2009 and so that role remains with GPL as a potential asset.

PPB initiated a sale process for the GSP plantations earlier this year and received initial expressions of interest in June and according to a GPL Grower update⁸ on 5 September for the 1998 to 2006 GSP Schemes a preferred bidder for all but 14,000 ha of this estate was selected in July.

The next steps were to complete contract negotiation and execution of asset sale agreement and submit an application to Court to approve the sale by the end of September with a Court application for approval of the sale by November 2013.

GPL have notified Growers that distributions are likely to occur at least six months after the conclusion of the sale although the magnitude of this distribution is unknown and it will vary across individual schemes.

3.5 AFPT – Australian Forestry Plantations Trusts

The Australian Forestry Plantations Trusts (AFPT) extend over 21,777 ha on 94 properties in Tasmania and are split between two Trusts - The Australian Forestry Plantations Trust and the Australian Forestry Plantations Trust 2. These Trusts have a connection to the Gunns Group of Companies via one of its subsidiaries Wesleyvale Engineering. However, as the security structure is different from the main Gunns group of companies the secured creditor appointed their own Receiver and Manager who is McGrath Nicol.

The characteristics of the two Trusts are as follows.

AFPT includes 59 properties extending over 16,963ha and has approximately 8,659ha of *Eucalyptus nitens* plantations.

AFPT 2 includes 35 properties extending of approximately 4,814ha containing approximately 3,098ha of *Eucalyptus nitens* plantations.

These Trusts are spread across Tasmania and they contain a mix of both MIS and Gunns owned plantations.

McGrath Nicol as Receivers and Managers instructed real estate agents CBRE to advertise the Trusts for sale on the basis that a buyer would be purchasing both the land and the trees in an unencumbered state (CBRE, pers com).

The sale process commenced in late October and expressions of interest are due by 4pm on 20 November 2013.

3.6 FEA – Forest Enterprises Australia Ltd

Forest Enterprises Australia Ltd (FEA) and its subsidiaries including Forest Enterprises Australia Plantations Ltd (FEAP) went into Administration in April 2010.

Deloitte were appointed as Receivers and Managers/Controllers and BRI Ferrier are Deed Administrators of a DOCA for FEA and FEAP.

⁸ <http://www.ppbadvisory.com/uploads/i297-GSP-Schemes-1998-to-2006-Grower-Update-5-Sept-13.pdf>

FEA operated 17 Managed Investment Schemes with around 13,000 investors across three states and the Northern Territory. The total plantation estate is approximately 61,000 ha of which approximately 46,000 ha is on freehold and 15,000 ha on leasehold land. This represents approximately 4.7 ha per investor.

The Tasmanian estate is made up of nearly 16,000 ha on freehold and nearly 8,500 ha on leasehold land⁹.

Deloitte as Receivers and Managers of FEA have brought a proceeding in the Supreme Court of Victoria (the Declarations Proceeding) in order to seek declarations that any head leases, forestry rights, Grower Leases or other interests granted in respect of land that is owned by FEA companies are at an end, and that the Receivers and Managers are able to sell the land unencumbered by those interests.

FEAP, in the hands of its Deed Administrators, BRI Ferrier, is a defendant in the proceeding and is opposing those declarations.

Deloitte are of the belief that the best outcome for everyone concerned with FEA is to undertake an unencumbered sale but on the basis that it is consensual of all the main parties concerned.

A FEAP Growers meeting is planned for 11 November where it is hoped that an agreement can be struck to allow the sale of FEA assets to proceed.

⁹ Deloitte High Level Discussion Paper provided to Chair of the Panel 23 Oct 2013.

4 PROJECTED TIMELINES FOR COMPANIES IN RECEIVERSHIP

The following chart illustrates anticipated timelines for the Tasmanian hardwood plantations companies that are in Receivership. Feedback to the Chair during consultation with Growers, Administrators and receivers is that this issue is complex both physically and legally and solutions are not necessarily simple. What is obvious from Table Three below is that unless all entities work together to resolve these companies problems it could take years and result in significant additional costs, particularly fees to Liquidators and Receivers who receive priority payments.

Table Three: Projected Timelines for Plantation Companies in Receivership

Company	Time in Administration	Proposed Action	Planned Completion
Gunns Ltd	14 months	Sale of all Assets	EOI Dec 2013, Completion June 2014
GPL	14 months	Sale of all Assets	As above
AFPT	14 months	Sale of all Assets	EOI Nov 2013, completion March 2014.
Great Southern Plantations	54 months	Assets sold pending Court hearing.	Hearing set for 16 Dec & if Liquidator is successful settlement will follow.
FEA	43 months	Was under Deed of Arrangement, Growers Meeting Nov 11 2014 to vote to sell all Assets	Unknown at this stage.

What is obvious from Table Three is that both Great Southern and FEA have been under Administration and/or in Liquidation for many months which will be incurring significant costs against assets that are unlikely to be increasing in value to any significance. While Deloitte has laudably been working on a consensual approach to resolving the problems at FEA this course of action may ultimately be more expensive and create more stress than the faster and possibly less consensual approach taken by Korda Mentha for Gunns.

5 MAJOR STAKEHOLDER CONCERNS

The following is a Summary of the comments from the Hobart and Launceston Community forums plus meetings with individuals, groups and associations (TFGA) and relevant comments from the Liquidators and Receiver Managers.

Table Four: Major Stakeholder Concerns and Comments

Entity & Issue	Comment
Landowners / Community Forums	
Land Rental	Many landowners are owed back rent for plantations established on their land and there is no clear indication as to whether this will be paid under a sale arrangement and or what the future rent will be. Although comments from Receivers and Managers suggest that rental will be presented in Sale documents as they currently stand, any change to this will need Land owners consent. Some forum attendees suggested they were prepared to negotiate on future rental income.
Forestry Rights	Landowners are concerned that they have Forestry Rights over their land for which they are not being paid any rent and they are unsure about whether they will get rent in the future. These Forestry Rights are encumbering land which landowners believe is lowering values or even making the land unsalable. A teleconference with the Land Titles Office (LTO) suggests that they cannot remove the Forestry Rights on the basis that rent has not been paid (Refer to Appendix 1). Landowners want access to their land and there appears to be some debate about the LTO's position and confusing messages from the Receivers and Managers.
Maintenance, Fire Protection and Insurance	There are concerns from landowners, some of who are also forest owners via share farm arrangements, that there is no ongoing maintenance in regard to insect pests and fire prevention. In addition, some landowners, who believe they might inherit the plantations that are on their land under lease arrangements, would like to insure the asset but cannot do so because of uncertainty about ownership status.
Pulp mill	A number of landowners are keen to see the pulpmill developed although others expressed concern about a potential monopoly which could see the value of their trees decrease even more. This is a vexed issue as the wood needs to be competitively priced to attract the pulpmill but not so cheap as to be a disincentive to investment. Another concern was the gap in supply (no planting for 4 years) for a potential pulpmill and landowners asked if there could be a consideration (pulpmill permits) to allow native forest pulpwood to fill any supply shortfalls. Landowners were keen to see a mix of plantation and native forest pulpwood used in a future pulpmill if one were to eventuate. There is also the potential to see the pulpmill as the 'Silver Bullet' to Tasmania's forest industry problems. Note: the environmental representatives on the Special Council expressed concern at the proposal for a pulpmill indicating

	they are unlikely to support it and a number of forum attendees expressed concern that extreme views had too much sway over government.
Estate management	A number of landowners expressed concern that there appeared to be harvesting without replanting. <i>E. nitens</i> does not coppice like <i>E. globulus</i> which means re-planting must take place after harvesting to ensure the second rotation occurs. There were also concerns that cherry picking was occurring with the best blocks being harvested and some too early because they were a desirable species, namely <i>E. globulus</i> . There is a concern that landowners could end up with a paddock full of stumps and no money to replant. There is a need to develop something soon otherwise farmers will start clearing trees. People want to continue with forestry but not at any cost.
Native Forest	Some landowners commented that they want to manage their native forests for high quality products like sawlogs but they need an outlet for the lower quality pulpwood logs and the pulp mill would be an ideal market. Cost effective access to an export port, particularly in the south of the State is required. Since the closure of Triabunna and the GFC there has been a significant drop in turnover from private native forests. There are also concerns about the impact of the Permanent Native Forest Estate policy that essentially locks private forest owners into native forest management (for which there is limited / no current demand for their forest products) while inhibiting their capacity to convert their native forest to plantation or other productive agricultural uses. Restrictions become more onerous in 2015.
Other Processing	A number of forum attendees expressed an interest in other processing options particularly bio-energy, bio-fuels, wood pellets etc. Dorset Renewable Energy group are proposing a pellet production plant for Scottsdale. Native forest residues should be reconsidered for the production of renewable energy options and should be eligible for Renewable Energy Credits should result from this use – currently not allowed under Federal legislation.
Infrastructure, particularly in the south of the State.	While a major processing plant in the north will be good for that region it is unlikely to help the south and there is a need for more infrastructure and in particular port access for chips and/or logs. The most likely ports are Hobart or Triabunna. Improving rail to allow for cost effective transport to the north would also help and co-operation between industries to develop critical mass for transport to the mainland and internationally will also be important. In addition, the Burnie Port has leases to Gunns which are quite exclusive.
Sovereign Risk a problem for Tasmania	This issue was raised not only in the forums but in other meetings as well. Removing sovereign risk will require some effort by Local, State and Federal Governments to give a potential investor in processing infrastructure and ongoing plantation development the comfort that government will not be at risk of succumbing to the demands of pressure groups.
Lack of confidence in	Concern among landowners that the process is not transparent and

Liquidators and Receiver Managers	the high fees paid to Liquidators and Receiver Managers are not in keeping with the pain that everyone is feeling.
Stress	A number of landowners are not only paying rates on land they cannot access but the current uncertainty around the MIS has caused some social problems for people trying to manage farm succession, fund retirement, borrow money or even sell their farms. These issues cannot be dealt with until the current situation is resolved.
TFA	There is a concern that as a result of the Tasmanian Forest Agreement Forestry Tasmania will become a significant competitor for private forest owners.
FSC	Concern that FSC certification will dictate to farmers what they can and cannot do on their farms if they wanted to get FSC for their forest management. If FT gets FSC there may be an expectation for other forest owners to comply in order to get access to markets.
ENGO's	Landowners felt they have too much power and there is a need for regulatory change to their tax deductibility status and their ability to boycott Tasmanian products in foreign markets.
Employment	A common point made in the forums and other meetings was the need for jobs in the State and the hardwood plantation resource represented great employment potential.
Monopoly	A number of landowners and growers expressed a concern that a new entity could enter the Tasmanian market at a discount due to the current MIS companies financial difficulties and subsequently create a monopoly that would make it difficult for small landowners to compete and or to expand the plantation estate.
Growers (Investors)	
Solvent	Most Investors believe that they have paid for their investment through to harvest and are therefore not insolvent, it is the RE that is insolvent not them.
Stress	Not all investors in MIS are high net worth individuals and there are some everyday "mum and dad" investors who have invested (and potentially borrowed to do so as encouraged by their financial advisor) in legal schemes who are now in dire financial straits paying off a worthless loan. It is likely that the Growers trees will, if anything, end up being owned by the landowners because the RE has defaulted on lease payments.
Sustainability	A number of people commented at the forum as well as privately from industry that while the MIS model was successful in gaining the initial establishment of the plantations the Growers were not obliged to replant and had not necessarily invested on the basis of developing a sustainable plantation resource. While commentators admitted that some Growers had definitely invested on basis of the of sustainable plantation development they were concerned that many were more attracted to the tax deduction. There is concern that this investment structure is not well aligned to long term

	sustainable plantation development.
Managers	(Receivers and Liquidators and Commercial forest managers)
Complexity	MIS was not designed to be unravelled and the contracts in place between Growers, REs and Landowners are legally complex and not all are the same.
Time	Given the legal complexity of these businesses and schemes the Receiver Managers believe that a fast unencumbered sale is the most likely option to deliver the best outcome to all parties. The longer the process takes the more fees and costs are incurred with little likelihood of them adding any real value to the assets.
Rental	The Receivers and Managers and Liquidators believe that the schemes cannot be split - that is some unviable properties excluded and the more profitable retained as Macquarie was proposing to do. They will present the properties for sale with the current lease agreements in place.
Maintenance	While some maintenance is being undertaken there is generally no income from Growers to fund this and the RE is insolvent. Commercial managers are concerned that the estate is not being managed as well as it should be.
R&D	The financial failure of most of the MIS companies along with the general downturn in the industry combined with cutbacks in government spending has seen a steady decline in Research and Development. The Tasmanian hardwood plantation estate was developed with the assistance of 30 plus years of research and development. With the closure of the CRC for Forestry in Hobart there is a risk that any new entrants will only exploit the research of the past and not invest in the future which could lead to low value export market and/or no significant domestic processing.

6 PROSPECTS AND BARRIERS TO THE FUTURE

Tasmania has plentiful supplies of both plantation and native forest fibre and a long history in developing and managing its hardwood forests both native and plantation to supply both domestic and export markets.

The demand for hardwood fibre in Asia remains strong as populations and economic growth in this region increase.

6.1 Bleached Hardwood Kraft Pulpmill

Tasmania has traditionally been Australia's largest exporter of hardwood woodchips to Japan. However in the mid 2000s Gunns announced it would develop a world scale and state of the art, environmentally sound bleached hardwood kraft pulpmill. It has been recognised for many years that mixed species native hardwood fibre wouldn't be good enough for modern pulp and paper making. Hence companies overseas and in Australia, particularly in Tasmania, spent many years in research and development to establish plantations to meet the quality standards that would be required. Gunns predecessors (Associated Pulp and Paper Mills (APPM) and North Forest Products) had a very good reputation with the Japanese customers because of their link with and knowledge of paper making. North Forest Products was such a trusted supplier to the Japanese that they undertook all the quality testing of their export chips at the Ridgley laboratory near Burnie. This data was then sent to the Japanese pulp mills and they would base their settings on the Ridgely data.

This research and development over the last 30 years was aimed at positioning the Tasmanian plantations as a premium provider of hardwood pulpwood fibre (albeit based on the lesser preferred species *E. nitens*) and is why a state of the art Bleached Hardwood Kraft Pulpmill has been thought to be a logical development for the State. The most recent pulpmill proposal (and associated permit) has nothing to do with native forest fibre. Importantly, eucalypt kraft pulp is the leading hardwood pulp traded around the world.

Barriers include enticing a world class investor, particularly in a high \$A environment and overcoming Tasmania's reputation for sovereign risk with reference to action by some pressure groups and two failed attempts in the past. In addition, as the resource is predominantly *E. nitens*, it will need some selling as the favoured species is *E. globulus* which is grown on the mainland. Importantly, the mainland *E. globulus* estates are potentially available as feedstock for a Tasmanian located pulpmill and Korda Mentha has analysed the potential to import approximately 20% of the feedstock from the mainland and report that it is economic to do so. Developing the mill requires an investment of approximately \$2.3 billion which would make it the largest manufacturing investment in Australia.

6.2 Other Processing Options

Apart from the Pulpmill there are other processing options including:

- **Woodchips for export** – supply has outstripped demand of late as markets have been subdued and new suppliers have entered the export market particularly from Thailand and Vietnam. In addition domestic supply from plantations has increased considerably particularly as new owners (post the MIS companies) have been keen to harvest plantations that had expensive lease commitments. However market commentators Industry Edge believe that markets are returning to some normality and prices could even rise to the around the old levels of AUD180/bone dry metric tonne for chips with certification. With China emerging as the major buyer surpassing Japan the price stability provided by the Japanese market in the past is unlikely to return. The current wood paying capacity is not stimulating new plantation investment but suppliers willing to negotiate are likely to find markets as the majority of new supply is now known and there are few alternatives. Therefore, exporting native forest residues as a means of securing the remaining hardwood sawmilling section post the TFA should still be considered along with other processing options for these residues. Supporting this component of the forestry sector helps maintain the viability of the entire sector.
- **Log Export** – has been trialled and some countries are interested to purchase logs rather than chips. Invariably because it allows for a greater range of processing options such as sawmilling or veneer and the port infrastructure required to handle logs is not as sophisticated as it is for chips. This market could provide opportunities particularly in the south where logs could be exported for peeling. Pentarch has a proposal for their Massey Greene site at Burnie based on exporting sawn timber and chips although the chips could be diverted to a pulpmill if this was developed.
- **Bio-energy** – common in Europe and good technology exists for cost efficient small scale operations. In some circumstances combined heat and power (CHP) or heat only systems could be established in local communities to service facilities such as the hospital, council offices, swimming pool, indoor sports centre etc. Commonwealth legislation would need to be changed to allow native forest residues to be used for renewable energy production for which renewable energy credits could be claimed as these plants would be unlikely to run on plantation residues alone.
- **Bio-fuels** – including bio – refineries (more simple technology to produce bio-crude than say ethanol and product is ‘drop in’ to standard refineries e.g. Licella). Wood has good potential and the technology is well understood but to date these technologies have struggled to reach commercial production.
- **Panel board plants** – veneer plants such as the Ta Ann production facility could be expanded to provide either export veneer or product laminated products such as traditional plywood, hardlam, Laminated veneer lumber. Cross laminated lumber (CLT) could be developed in conjunction with a plantation based sawmill and laminating plant.

- **Reconstituted Residues** – could also provide good processing opportunities for products where residues can be cost efficiently formed into pellets and briquettes for heating.

6.3 Summary

A value added product will create a greater wood paying capacity than the current woodchip or log export market which are possibly more easily accessed but tend to be more volatile than domestically processed product that enters higher value markets. In addition, processing industries that add considerable value to their raw materials tend to require a greater level of infrastructure investment which in turn requires more resource security. Value adding industries, therefore, are a better mechanism for securing the future of the hardwood plantation estate in Tasmania across all tenures.

7 CONSIDERATIONS AND RECOMMENDATIONS

The following actions are recommended for consideration by the Tasmanian Government to assist the continued development of the Tasmanian hardwood estate and bring important socio economic development to rural and regional areas of Tasmania.

7.1 Recommended Actions and Timeframes for implementation

Immediate
<p>1. Develop an Information Portal for landowners and investors.</p> <p>This will provide access to relevant information. e.g. advice sheets (including LTO advice), contact details for potential forest managers, wood brokers etc.</p> <p>The portal would be updated as plantation ownership issues are resolved and would include, for example, details pertaining to the formation of forest owner groups or “co-operatives” such as the one that has already been formed in the north of the State.</p>
<p>2. Clarification from Land Titles Office on the ability of Landlords and process to have Forestry Rights removed from their Title</p> <p>Once confirmed this advice would be displayed on the portal above.</p>
<p>3. Assist in clarifying the insurance position of Landlords should a plantation be destroyed by fire.</p> <p>Check / confirm insurance coverage implications. Check what is available for landowners for cleanup costs if the plantation on their land (that they don't own) is burnt and the plantation is not otherwise insured. A brief review of insurance suggests that a landlord could potentially ensure for cleanup costs as long as the normal fire precaution measures are undertaken.</p>
<p>4. Consideration of government financial assistance to speed up the resolution of the deeds of ownership.</p> <p>There remains doubt about the actual ownership (Growers or Landlords) of MIS plantations on leased land where lease payment defaults have occurred. This uncertainty is a major cause of frustration for Growers and Landlords alike. Advice to date indicates that a court decision may be needed to resolve this matter but a trigger for this action has not occurred. Indications are that Landlords are likely to be the eventual owners but it is unlikely that Growers will give up their investments without a fight. Landlord representatives advise that their stakeholders do not have the resources to fund this action.</p> <p>The Government should seek further advice on this matter and depending on that advice consider allocating funds towards facilitating a more speedy resolution of the issue. A barrister working with landowners gave an indicative cost of \$150k to fund this action but this would need confirmation. A</p>

government contribution need not fund the entire action.

5. Consider rate relief or holiday (or other forms of financial assistance) to offset statutory costs of land ownership for areas under defaulted lease arrangements.

Landlords are still paying land taxes and rates on their land that is now in a non-productive state. Until the issue of plantation ownership is resolved they cannot remove the trees and return the land to a productive use and they are not receiving lease income for the land's current use. Due to no fault of their own their land is not earning an income and they are still paying its statutory cost of ownership.

More work would be required to assess the likely cost of this initiative. The magnitude of the issue is not clear because of the implications of Private Timber Reserves and other land tax relief received by farmers.

6. Support for new forest products processing developments (of all scales) in Tasmania from all levels of government in order to provide some confidence in the industry – this needs to be, as much as possible, a long-term bipartisan commitment.

Tasmania needs a combination of large and small forest products processing infrastructure. Large – to do justice to the hardwood plantation estate (and benefit the mainland hardwood plantation estate as well) and secure its future; Small – to be regionally located, employing local people and using local resources, to create the social licence that is so important in securing the sector's future. The latter will also assist create an important competitive environment for forest products across the State.

Without processing infrastructure the forest estate will have no value and a great deal of it, particularly the plantations on potential useful agricultural land, will eventually be lost to the State.

7. Take action to reduce Sovereign Risk.

Linked to the above. If possible create an environment that supports processing industry development and in particular domestic processing. This will assist in ensuring the hardwood plantation estate is not exploited in a one off harvest, that it is replanted after harvest and is secured for the longer term benefit of all stakeholders.

Near Term – 2014+

8. Investigate opportunities to improve export infrastructure in southern Tasmania for logs and chips.

9. Promote an expansion of the forest estate by the sensitive integration of more trees into the agricultural landscape by methods that enhance farm productivity and value.

Communicate that it does not have to be an either/or option in relation to trees

on farms. For instance, some existing plantations could be partially cleared for dairy or other agricultural crops and existing farms could carry more trees. This is a normal cycle of events as markets for agricultural products change from time to time. Importantly, trees sensitively integrated into agricultural systems are known to improve agricultural productivity and enhance farm values while providing additional resource for industry.

10. Support for Research and Development.

Support for National Centre for Future Forest Industries (NCFFI) – (Prof Mark Hunt) – currently pursuing funding grant from the Plantation Manufacturing Innovation and Investment Fund (PMIIF)

With the demise of the CRC for Forestry, the general reduction / cessation of forest research investment by industry and government agencies and a reduction in research funding available through the FWPA (production levy based funding) the forestry industry has lost its R&D capacity at a time when it has most need. The NCFFI has the potential to fill the void and is already gaining wide support from industry and government.

11. Develop a bio-energy and bio-fuels policy.

In particular the use of native forest residues for renewable energy and encourage the development of regional or community based bio-energy schemes

12. Ensure independent advice is available for Landlords who inherit plantations and promote the development of “co-operatives” of private forest owners to assist in avoiding resource fragmentation.

Ensure management assistance is available for plantations that drop into private landowner ownership.

This will include the promotion / development of forest owner groups or “co-operatives”. One has already been formed in the north of the State largely as a means of providing support through the current MIS issues and it could morph into a forestry “co-operative” once the current issues are resolved. The development of such groups will help avoid the fragmentation of the estate, provide members with economies of scale when dealing with industrial processors and create a more efficient mechanism for industrial processors to engage with their forest suppliers. The development of such organisations will also assist with the implementation of forest management certification.

PFT can play a role in the initiation / formation of such groups and even in their infancy assist with their management. Ideally, however, they would have their own management structure that could be provided by existing organisations (e.g. SFM, AKS, Forest Technical Services, Tas Land and Forests) or new ones.

Assisting in the development of these groups would stretch PFT’s limited resources and depending on demand for services may require additional staff – order of cost \$100k p.a.

13. Support for Renewable Energy Credits for energy derived from

forest residues.

Tasmanian Government support for the inclusion of forest residues as a complying form of renewable energy to earn renewable energy credits.

14. Promote the ongoing expansion of the plantation estate.

Revisit options of incentives for tree growing e.g. Joint Assistance schemes, genuine JV schemes etc. and promote policy development that encourages commitments to multi-rotation plantation development.

Note: The MIS model is basically a good model, albeit with a weakness in relation to multiple rotations, but it has been too contaminated by recent events to have a place in the foreseeable future in promoting the expansion of the hardwood plantation estate. It may have a role in the longer terms if more strictly controlled and regulated.

8 APPENDIX 1 – FORESTRY RIGHTS INFORMATION REPORT

The following Appendix outlines information on Forestry Rights sent to the Panel from the Tasmanian Land Titles Office on 4 November 2011.

8.1 Forestry Rights Registration Act 1990

- A forestry right created under the *Forestry Rights Registration Act 1990* (the Act) is defined in section 3 as being the ownership of trees, and a right to establish, maintain or harvest, or maintain and harvest trees.
- Forestry rights are private agreements entered into freely by all parties.
- Section 5(1) of the Act provides that a forestry right is a profit `a prendre. A profit `a prendre is a right for a person to go onto the land in the ownership of another and to take from that land some part of its substance. As regards the Act, the substance in this instance being timber.
- Forestry rights can be registered under the *Land Titles Act 1980* against the title of the owner of the land over which it relates.
- The Land Titles Office's (LTO) role in relation to a Forestry Right is to register the right in accordance with the Act.

8.2 Extinguishment of a Forestry Right

- The *Forestry Rights Registration Act 1990* does not provide for the extinguishment of a forestry right. A profit à prendre can be extinguished under section 108 of the *Land Titles Act 1980*.

Section 108

- Under section 108(1) a person who has the benefit of the forestry right (profit `a prendre) can apply for the forestry right to be extinguished.
- Applications for extinguishment of a forestry right by persons who own land burdened by a forestry right have generally been under section 108(2) of the *Land Titles Act 1980*.
- Under section 108(2) a landowner burdened by a forestry right can apply for the forestry right to be extinguished. There are 3 circumstances upon which an application can be made under section 108(2) being:
 - a) the period of time for which it was intended to subsist has expired; [This is the time period indicated on the Instrument granting the Forestry Right].
 - b) the event upon which it was intended to determine has occurred; or

Generally, the event is the harvesting of the trees.

c) it has been abandoned.

[Abandonment is when the profit has not been used or enjoyed for a period of at least 20 years].

- Previously applications had been accepted by the LTO with the “event” claimed being monetary default that is where the person with the benefit of the forestry right has failed to pay money for the right to the person who owns the land with the burden of that right.
- In light of an objection to an application and further investigation it has been determined that ‘monetary default’ is not the ‘event’ referred to in section 108(2)(b). This is an issue related to the deed of agreement and the personal covenants contained therein that requires consideration by a court.

8.3 Deeds of Agreement

- The LTO has no authority to determine if a deed of agreement has been breached or terminated. The deed contains covenants that are personal to the parties to the deed. The appropriate body to examine these and other associated issues relative to the rights of the parties is the Supreme Court of Tasmania.
- The Supreme Court has the powers to adequately establish the rights that exist, and to instruct the LTO accordingly.
- The LTO cannot be seen to give legal advice to parties to a forestry right. If legal advice is required this should be obtained from an independent 3rd party (i.e. a solicitor). The LTO cannot provide legal advice as it may be a conflict of interest.