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Department of Justice
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Submission on the Workplaces (Protection from Protesters) Amendment Bill 2021

I write in response to Department of Justice' call for public feedback on the *Workplaces (Protection from Protesters) Amendment Bill 2021*.

The Tasmanian Forest Products Association (TFPA) is the peak body for forestry that undertakes policy development, lobbying and advocacy for members interests. TFPA represents all elements of the value chain from the sustainable harvesting of plantations and multiple use natural forest resource including forest establishment and management, harvesting, processing of timber resources and manufacture of pulp, paper and bioproducts.

The TFPA is not opposed to people's right to protest peacefully, but what frustrates us is that unfortunately some protestors somehow think it's okay to impinge on the rights of Tasmanians seeking to earn a lawful living, by invading their workplace.

We accept Article 21 under the International Covenant on Civil and Political Rights that states: *The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.*

And we also recognise under common law for freedoms of expression and assembly.

This means that we all should have the right to peaceful protest but knowing a government can impose certain laws to maintain a democratic society. In Tasmania, we have a range of laws relating to trespass and obstruction, however some within society are putting at risk public safety and the protection of the rights and freedoms of others.

There are several standout pieces of legislation that deal with trespass or obstruction:

Police Offences Act 1935:

- s13. Public annoyance (commit any nuisance)
 - Fine not exceeding 3 units or term not exceeding 3 months
- Division 1A – Offences relating to trespass to lands s14. Unlawful entry on land (without consent of the owner)

- Fine not exceeding 10 penalty units or term not exceeding 12 months

Forest Management Act 2013:

- S22. Request to leave permanent timber production zone land (preventing officer effectively or efficiently performing its functions) and (fails to comply with a request)
 - Fine not exceeding 20 penalty units

Criminal Code Act 1924:

- S118. Disobedience to lawful authority (disobeys any order)
 - Charge: Disobedience to lawful authority

The key part missing under the above pieces of legislation relates to obstruction. If we are dealing with a peaceful assembly, they are not wanting to obstruct people from doing their job, instead to highlight an issue or cause.

What we have seen in recent events by unlawful protesters is their want to obstruct those from undertaking their daily business. This could be a private business where they chain themselves to the front gate or it may be in a public forest coupe chaining themselves to machinery. This is far from peaceful.

An example of where the *Workplaces Amendment Bill 2021* could provide additional safeguards to business and deterrents to those thinking about undertaking an unlawful protest is the following:

In late February of this year several protesters were arrested for trespass and for failing to comply with a police officer's direction at a private sawmill. If charged, they may have received the following penalties under the Police Offences Act 1935 s14B / 63C:

- Unlawful entry on land; 10 penalty units
- Failing to comply with direction; 40 penalty units

Under the same example the *Workplaces Amendment Bill* would provide the following penalties:

- s7, obstruct the carrying out of a business activity; 600 units (body corporate) and 50 units (individual) or up to 12 months imprisonment
- s7(6), covers aggravation relating to the offence causing directly or indirectly a serious risk to the safety of the person or another person; 120 units or up to 30 months imprisonment.

The *Workplaces Amendment Bill 2021* provides for additional penalties to act as an incentive for those in society who want to peacefully promote a cause or issue, as all they will have to do is not obstruct business activities. And secondly, and importantly, is the issue of causing a serious risk to safety, which if undertaken under this amendment Bill will be heavily penalised.

Unfortunately, the need to bring in additional legislation is required for a minority within society who want to disrupt and intimidate, as their primary means of pushing a message. Where the majority know that there are nonintrusive ways through peaceful assembly or protest to get your point across publicly.

We should all be able to respect the rights of people to organise and participate in peaceful protests. This gives everyone the opportunity to voice their opinion or concerns through a public assembly. The *Workplaces Amendment Bill 2021* will not stop people being able to undertake **TFPA represents forest growers, harvesters, and manufacturers of timber and paper products.**

peaceful protests, but it will impact on those that protest to physically obstruct access to or the operation of a business.

Further Amendments

There is further opportunity to improve on the *Workplaces Amendment Bill 2021* by considering what Victoria put in place in 2020 relating to forest protest management operations.

- Timber Harvest Safety Zones (THSZs) were established under Part 7A of the *Sustainable Forests (Timber) Act 2004* (SFTA) which provides for the declaration and regulation of coupes, nearby roads and State Forest areas as timber harvesting safety zones (THSZs).
- Schedule 2 of the SFTA provides a list of persons who are authorised to enter, or remain in, THSZs. These authorised persons include authorised officers, timber harvesting operators, licence and permit holders, police officers, and environmental auditors.
- It is, amongst other matters, not only dangerous but an offence for a non-authorised individual to enter an active THSZ. If found guilty in a Court this provides for a maximum fine of up to \$3,634 or 20 penalty points. Ordinarily an on-the-spot fine is issued for this offence (Penalty Infringement Notice) of \$545 and if the individual refuses to leave a fine of \$727. Multiple offences can attract multiple fines.
- From 1 January 2020 to date, Authorised Officers have issued 100 Penalty Infringement Notices to forest protestors, including 31 Penalty Infringement Notices issued since 1 January 2021. Since 1 January 2021, seven protestors have been charged with offences under the SFTA and are due to appear before a Court.

Since the introduction of Victorian Timber Harvest Safety Zones the data provided shows there has been an increase in infringement and charges to forest protestors disrupting forest operations.

The TFPA support a similar change to either the *Workplaces Amendment Bill 2021* or amendment to the *Forest Management Act 2013* to provide compliance and enforcement as a clear-cut affair for those who are not authorised to enter a harvest zone.

If you would like any further information, please don't hesitate to contact me.

Yours sincerely,



Nick Steel
Chief Executive Officer