

[Act 1997 No 139]



New South Wales

Visy Mill Facilitation Bill 1997

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to facilitate the establishment and operation of a kraft pulp and paper mill at or near Tumut in southern New South Wales by Visy Industries Holdings Pty Limited (the *Company*). The mill is to be the subject of a timber supply agreement (the *Agreement*) between the Forestry Commission (which trades as State Forests) and the Company.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 defines certain words and expressions used in the proposed Act.

Clause 4 states that the principal purpose of the proposed Act is to facilitate the establishment and operation of a kraft pulp and paper mill near Tumut, and provides that it is Parliament's intention that the State and its agencies will promote that purpose and use their best endeavours to assist the Company and other persons to obtain any necessary approvals and to ensure that (within the applicable legislative structures) any such approvals will be granted.

Clause 5 provides that the proposed Act binds the Crown.

Part 2 The Agreement

Clause 6 empowers the Forestry Commission to enter into the Agreement despite the restriction under section 27A (2) of the *Forestry Act 1916* on the duration of timber licences. That restriction would limit the maximum term of a timber licence to 20 years, and the clause enables the Agreement to provide that that restriction will not apply to timber licences issued to the Company.

Clause 7 provides that the Forestry Commission cannot be a party to an amendment of the Agreement without the approval of the Minister. It also provides a mechanism for the amendment of the Agreement in the event that the Forestry Commission is dissolved or its relevant functions are transferred to or devolve on another body or person.

Clause 8 enables the Agreement to contain provisions that prevent the termination of the Agreement because of external events occurring beyond the Forestry Commission's control.

Part 3 Guarantees and undertakings

Clause 9 enables the State to guarantee the performance of obligations and liabilities of the Forestry Commission under the Agreement.

Clause 10 enables the State to undertake to reimburse the Forestry Commission for liabilities under the Agreement arising because of external events occurring beyond the Commission's control.

Part 4 Miscellaneous

Clause 11 deals with the situation where the Forestry Commission is dissolved or its relevant functions are transferred to or devolve on another body or person.

Clause 12 makes it clear that the provisions of clause 4 will not give rise to legally enforceable rights or obligations.

Clause 13 provides that the Minister is the consent authority, for the purposes of the *Environmental Planning and Assessment Act 1979*, for development related to the Agreement. The Bill provides for this provision to cease to have effect from a gazetted date. The intention is that this would occur when appropriate amendments to that Act are in force.

Clause 14 enables uncommenced provisions of the Act, if enacted, resulting from the *Environmental Planning and Assessment Amendment Bill 1997*, to be brought into operation for the purposes of activities related to the Agreement. The Bill provides for this scheme to cease to have effect from a gazetted date. The intention is that this would occur when the uncommenced provisions are brought into operation.

Clause 15 provides that the *Timber Plantations (Harvest Guarantee) Act 1995* applies to certain timber plantations with the modifications set out in Schedule 1. The Bill provides for this provision to cease to have effect from a gazetted date. The intention is that this would occur when appropriate amendments to that Act are in force.

Clause 16 enables the making of regulations, including regulations containing provisions of a savings or transitional nature consequent on the making of orders under the proposed Act.

Clause 17 requires the proposed Act to be reviewed as soon as possible after the period of 5 years following assent.

Schedule 1 contains the modifications of the *Timber Plantations (Harvest Guarantee) Act 1995* referred to in clause 15. They are based on amendments contained in the *Timber Plantations (Harvest Guarantee) Amendment Bill 1997*.