

**ALBANY HARDWOOD  
PLANTATION AGREEMENT  
ACT 1993**

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**No. 43 of 1993**

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**AN ACT to ratify, and authorize the implementation of, an agreement between the State and Albany Plantation Forest Company of Australia Pty. Limited in relation to the establishment of commercial hardwood plantations in the Albany region of the State.**

*[Assented to 20 December 1993.]*

The Parliament of Western Australia enacts as follows:

**Short title**

- 1.** This Act may be cited as the *Albany Hardwood Plantation Agreement Act 1993*.

### **Commencement**

2. This Act comes into operation on the day on which it receives the Royal Assent.

### **Interpretation**

3. In this Act, unless the contrary intention appears —

“the Agreement” means the Albany Hardwood Plantation Agreement, a copy of which is set out in Schedule 1, and includes that Agreement as varied from time to time in accordance with its provisions.

### **Agreement ratified and implementation authorized**

4. (1) The Agreement is ratified.

(2) The implementation of the Agreement is authorized.

(3) Without limiting or otherwise affecting the application of the *Government Agreements Act 1979*, the Agreement operates and takes effect despite any other Act or law.

**SCHEDULE 1**

[section 3]

**ALBANY HARDWOOD PLANTATION AGREEMENT**

**THIS AGREEMENT** is made this 25th day of November 1993

**B E T W E E N:**

**THE HONOURABLE RICHARD FAIRFAX COURT** B. Com., M.L.A., Premier of the State of Western Australia, acting for and on behalf of the said State and its instrumentalities from time to time (hereinafter called "the State") of the one part

**AND**

**ALBANY PLANTATION FOREST COMPANY OF AUSTRALIA PTY. LIMITED** ACN 060 980 261 a company incorporated in the State of Western Australia and having its registered office at 22nd Floor 221 St George's Terrace, Perth in the said State (hereinafter called "the Company") of the other part

**WHEREAS:**

- (a) The Company is desirous of establishing in the Albany region of Western Australia large scale commercial hardwood plantations for the purpose of producing wood chips for export;
- (b) To this end timber sharefarming agreements as described in section 34B of the Conservation and Land Management Act 1984 may be acquired by or will be entered into by the Executive Director of the Department of Conservation and Land Management ("the Executive Director") as agent of the Company ("the Company's timber sharefarming agreements") pursuant to a deed of agency and indemnity entered into by the Executive Director and the Company ("the Deed of Agency and Indemnity");
- (c) The State for the purposes of promoting development in the Albany region and of promoting Western Australian exports agrees to assist the Company upon and subject to the terms of this Agreement.

NOW THIS AGREEMENT WITNESSES:

Introduction of Bill

1. The State shall introduce and sponsor a Bill in the Parliament of Western Australia to ratify this Agreement and endeavour to secure its passage as an Act prior to 31st December 1993 or such later date as the parties hereto may agree.

Commencement and operation of agreement

2. The provisions of this Agreement other than this clause 2 shall not commence to operate until the Bill referred to in clause 1 has been passed by the Parliament of Western Australia and comes into operation as an Act.

Company operations

3. The Company in its operations in Western Australia shall comply with and observe the laws for the time being in force in Western Australia.

Undertakings by the State

4. During the term of this Agreement —
  - (a) The State shall not expropriate or confiscate from the Company timber standing or felled produced by or on behalf of the Company under the Company's timber sharefarming agreements or wood chips made from that timber;
  - (b) The State shall not impose, nor shall it permit or authorise any of its agencies or instrumentalities or any local or other authority of the State to impose discriminatory taxes rates or charges of any nature whatsoever on or in respect of the Company's timber sharefarming agreements the timber standing or felled produced thereunder or wood chips made from that timber;
  - (c) The State shall not discriminate against the Company in processing the Company's applications made in respect of its activities relating to the production of timber by or on

behalf of the Company under the Company's timber sharefarming agreements or made in respect of the processing thereof into wood chips;

- (d) The State shall not impose restrictions which prevent the export by the Company of wood chips made from timber which has been produced under the Company's timber sharefarming agreements;
- (e) Subject to relevant safety considerations the State shall not materially obstruct, nor shall it permit or authorise any of its agencies or instrumentalities or any local or other authority of the State materially to obstruct, the Company's operations in respect of the Company's timber sharefarming agreements or the transportation of the timber produced therefrom or processing for export or transportation of wood chips made from that timber; and
- (f) On request by the Company the State shall make representations to the Commonwealth or to the Commonwealth constituted agency authority or instrumentality concerned for the grant to the Company of any licence or consent under the laws of the Commonwealth necessary to enable or to permit the Company to export wood chips made from timber which has been produced under the Company's timber sharefarming agreements.
- (g) The State shall not cause the Executive Director to breach either the Deed of Agency and Indemnity or the Company's timber sharefarming agreements.

### Variation

- 5. (1) The parties hereto may from time to time by agreement in writing add to substitute for cancel or vary all or any of the provisions of this Agreement for the purposes of more efficiently or satisfactorily implementing or facilitating any of the objects of this Agreement.
- (2) The Minister shall cause any agreement made pursuant to subclause (1) to be laid on the Table of each House of Parliament within twelve sitting days next following its execution.

- (3) Either House may, within twelve sitting days after the agreement has been laid before it, pass a resolution disallowing the agreement, but if after the last day on which the agreement might have been disallowed neither House has passed such a resolution, then the agreement shall have effect from and after that last day.

Term of Agreement

- 6. This Agreement shall expire at such time as the Company ceases to have any rights or obligations under any of the Company's timber sharefarming agreements, or on 30 June 2030, whichever is earlier.

Applicable law

- 7. This Agreement shall be interpreted according to the law for the time being in force in the State of Western Australia and the parties hereto irrevocably submit to the exclusive jurisdiction of the courts of Western Australia and to courts hearing appeals from those courts.

EXECUTED by the parties.

SIGNED for and on behalf of the )  
State of Western Australia by )  
**THE HONOURABLE RICHARD FAIRFAX** ) R. F. COURT  
**COURT M.L.A.**, Premier in the )  
presence of: )

COLIN BARNETT

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Witness

22 SAMSON ST. MOSMAN PARK W.A.

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Address

MEMBER OF PARLIAMENT

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Occupation

*Albany Hardwood Plantation Agreement  
Act 1993*

[No. 43  
Sch. 1

THE COMMON SEAL of ALBANY )  
PLANTATION FOREST COMPANY OF )  
AUSTRALIA PTY. LIMITED )  
ACN 060 980 261 was hereunto )  
affixed by authority of the )  
Directors in the presence of: )

K. KANDA

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Director

Y. M. KOWATA

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Director/Secretary