



**THE
SAWMILLS
LICENSING
ACT 1936**

DRAFT

A PUBLIC BENEFIT TEST ASSESSMENT
FOR NATIONAL COMPETITION POLICY
LEGISLATIVE REVIEW PURPOSES

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**Queensland
Government**
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Primary Industries

TABLE OF CONTENTS

EXECUTIVE SUMMARY	1
1.0 INTRODUCTION	2
1.1 Background	2
1.2 National Competition Policy	3
1.3 The Review Process	4
1.4 Consultation	4
2.0 THE PRIMARY TIMBER PROCESSING INDUSTRY IN QUEENSLAND	4
3.0 THE <i>SAWMILL LICENSING ACT 1936</i>	6
3.1 The Purpose	6
3.2 Objectives of the legislation	7
3.3 Other objectives and related regulation	8
3.4 Other jurisdictions	9
4.0 RESTRICTIVE PROVISIONS OF THE LEGISLATION	11
4.1 Restrictions on competition	11
5.0 POSSIBLE OPTIONS FOR REFORM	13
5.1 The Current Position	13
5.2 Identification of Options	16
5.4 Option 2: Deregulated State	18
5.5 Option 3: Regulated but not restrictive State	18
6.0 IMPACTS OF MOVING TO REFORM OPTIONS	19
6.1 Impacts of moving to a more restrictive environment	19
6.2 Impacts of moving to a deregulated environment	21
6.3 Impacts of moving to a regulated, but not restrictive, environment	26
7.0 PUBLIC BENEFIT TEST	28
7.1 Public Benefit Test of moving to a more restrictive environment	29

EXECUTIVE SUMMARY

The *Sawmill Licensing Act 1936* (SLA) has been previously identified as containing a number of restrictive, anti-competitive elements. As a consequence the Queensland Government is undertaking this review of the SLA and subordinate legislation to meet its commitments under the Competition Principles Agreement (CPA). The CPA specifies two criteria for assessing whether anti-competitive legislation is in the public interest. Clause 5(1) of the CPA contains the guiding principle that legislation should not restrict competition unless it can be demonstrated that the benefits of the restriction to the community as a whole outweigh the costs, and the objectives of the legislation can only be achieved by restricting competition.

The Public Benefit Test (PBT) has analysed the restrictions identified within the SLA, its subordinate legislation and associated administrative arrangements.

The first conclusion from the PBT is ***that the current sawmill licensing system no longer meets the objectives of the Act***, that is, the stabilisation of the timber industry. As a consequence the viable options are:

- to strengthen the Act so as to have some impact upon industry stability;
- to replace the system with a registration system; or
- to repeal the Act completely.

The PBT indicates ***that there is no public benefit in moving to a more restrictive legislative licensing system***, and that an alternative means of collecting any required resource information should be pursued. This implies that there is no public benefit derived from the maintenance of the Act and its subordinate legislation. There is a range of alternative legislation or advanced policy proposals that seek to accomplish the original intentions of the SLA.

However, the assessment indicates that there is some benefit in moving to a system of mill registration rather than total deregulation. A mill registration system would provide a mechanism for improved collection of reliable and accurate resource information that can be used to assist in the management of forest resources, especially private forest resources. This information would also provide significant input into industry development programs for both Crown and private forest growers and owners. The precise nature of a registration system will need to be considered and discussed by resource managers, industry and the system administrators as a separate project.

The SLA is not the most appropriate means by which to implement a registration system. It would be more efficient and effective to use other forestry legislation administered by DPI such as the *Timber Utilisation and Marketing Act 1987*. This legislation could be widened to include sawmill registration and promoted as the prime legislation governing the processing and marketing of timber in Queensland.

In assessing the costs and benefits of a particular restriction the Agreement provides that the following matters, where relevant, may be taken into account:

- Government legislation and policies relating to ecologically sustainable development;
- social welfare and equity considerations, including community service obligations;
- Government legislation and policies relating to matters such as occupational health and safety, industrial relations and access and equity;
- economic and regional development, including employment and investment growth;
- the interests of consumers generally or of a class of consumers;
- the competitiveness of Australian businesses; and
- the efficient allocation of resources.

Consequently, a PBT on the retention of any existing restriction(s) or introduction of any new or amended restriction(s) is required. This paper reports on the findings of the PBT carried out on the legislative options that include restrictive elements. The approach used to assess the impacts of restrictions on competition is as set out in the Queensland Treasury's *Public Benefit Test Guidelines* for legislative reviews and Trade Practices Act (TPA) exemptions

1.2 National Competition Policy

The National Competition Policy (NCP) was agreed to by all Australian Governments in April 1995. Underlying the policy is the recognition that competition is the 'engine room' of economic growth, employment and higher living standards. Given the globalisation of markets and the ever-increasing competitiveness of the international economy, there is a need for Australia to 'break' through domestic barriers to competition if living standards are to be sustained and, indeed, improved. To achieve this, the NCP consists of a number of separate reforms which, in aggregate, seek to deliver a widespread competitive revitalisation of the national economy over the next decade.

National competition reform since the tabling of the Report of the Independent Commission of Inquiry into a National Competition Policy, the so-called Hilmer Report in 1993, has culminated in:

1. Queensland (along with other States and the Commonwealth) signing the Conduct Code Agreement and the Competition Principles Agreement at the Council of Australian Government meeting on 11 April 1995; and
2. Enactment of the *Competition Policy Reform Act 1995 (Qld)*, which will (or may) result in the application of the competition provisions of the *Trade Practices Act 1974 (Cth)* to government business enterprises including statutory authorities.

The Competition Principles Agreement provides that legislation should not restrict competition unless it can be demonstrated that:

- the benefits of the restriction to the community as a whole outweigh the costs to the community; and,

Outputs from the primary timber processing industry include structural timbers, panelling, flooring, plywood, particle board, MDF and fibre for paper production. In Queensland these plants collectively process approximately two million cubic metres of log input each year.

Numbers

As at 1 September 2000 there were 348 licensed primary timber processing plants operating in Queensland¹. Most of these (sixty-seven per cent) comprised traditional fixed location sawmills. Mobile (portable) sawmills accounted for a further thirty per cent of licensed operations and plants producing reconstituted timber products accounted for the balance of operations. There are also a large number of mobile mills that are exempt from the provisions of the SLA and therefore currently do not need to be licensed. The number of unlicensed mills is difficult to ascertain, although some estimates suggest that there may be as many as 200 currently operating in Queensland.

Locations

As primary timber processing plants need to be in close proximity to their timber and log resources to minimise transport costs, most are located close to the State's various harvestable forest resources. Due to this, plants are spread across nine of the 11 statistical divisions (regions) of the State, highlighting the regional importance of this industry.

The most concentrated area for primary timber processing plants is in the Darling Downs area with about 70 (20 per cent) being located in this area. The Wide-Bay Burnett and Moreton areas have the second highest concentrations of plants with 55 and 41 respectively. Other important primary timber processing regions include; South West (20), Fitzroy (28), Far North (22), Mackay (14), and Northern (7). The Brisbane area only maintains 28 (7 per cent) of Queensland's mills and primary timber processing plants. Licensed mobile sawmills are not included in these data as they do not operate in one definitive area.

Employment

Approximately 3 200 people are employed in Queensland's licensed primary timber processing plants. Employment figures are not reflective of the above plant locations with approximately two-thirds of all employment being concentrated in the Wide-Bay Burnett and Brisbane regions, indicating that most of the larger plants operate in these regions. The Darling Downs and Moreton regions are also significant employers, contributing a combined 650 jobs (twenty per cent).

Output

Licensed primary timber processing plants recorded gross output for the industry in 1993 – 94 of \$327 million (latest available estimate). This amount is dominated by the Wide-Bay Burnett region which accounted for forty per cent of this total. The second largest processing region was Brisbane, accounting for a further twenty per cent of gross output.

¹ There are also 56 licensed primary timber processing plants in Queensland that produce timber for on-farm use and not for commercial sale that are not included in this figure.

Therefore these types of primary timber processing operations are not covered under the Act for the purposes of registration, fees or the collection of statistical data. It should also be noted that those operations producing roundwood products such as poles, girders or fencing timber are not required to be licensed under the SLA. Timber destroyed to provide for other land uses is also beyond the scope of the Act.

3.2 Objectives of the legislation

The objectives of the licensing system, as they were initially applied in 1936, relate to the stabilisation of the timber processing industry by the licensing of sawmills and veneer and plywood mills.

There are no specific objectives stated within the SLA, the legislation is simply described as:

'An Act to make provision for the stabilisation of the timber industry by the licensing of sawmills and veneer and plywood mills and for other purposes.'

To meet its objectives, the SLA requires that:

- unless exempted or outside the scope of the SLA, all sawmills in Queensland must be licensed;
- the site of the sawmill should be endorsed on the licence;
- the volume of logs processed by a sawmill will be restricted to a defined maximum;
- the actual volume of logs processed by a sawmill must be reported to the Chief Executive of DPI every three months; and
- licences will expire on 30 September each year, and are to be renewed, if appropriate, prior to that date.

When the legislation was introduced there was concern about diminishing timber resources, together with the perception that timber on private lands had been virtually exhausted and that the available resource was largely confined to State controlled or owned lands. The primary timber processing industry was also considered by the State Government at the time to be poorly organised. The clearest signal of this was the existence of twice as many sawmills in Queensland than were required to meet the demand for sawn timber, or were warranted by the log timber available.

It was envisaged that licensing would bring existing sawmills under 'orderly control', that is, to limit the number of sawmills in any area, to conserve the timber resource adjacent to these mills, and prevent unjustified over capitalisation in the industry.

- The *Environmental Protection Act 1994* – this Act defines primary timber processing plants with a design production capacity of 500 tonnes or more as environmentally relevant activities (ERAs). All ERAs are required to be licensed by the Environmental Protection Agency (EPA).
- Local Governments require approval to be obtained by sawmillers as part of their development approval processes under the *Integrated Planning Act 1997* (IPA). Therefore sawmillers must obtain approval for the erection and operation of their sawmill from the relevant Local Authority.
- Parts of a number of other Acts such as the *Timber Utilisation and Marketing Act 1987* and the *Diseases in Timber Act 1975* can also impact on primary timber processors in Queensland.

All of the above mentioned requirements would be expected to continue to exist without the existence of the SLA.

3.4 Other jurisdictions

Table 1 summarises the systems in place in other jurisdictions. Most other States maintain some type of sawmill registration system. There are a number of justifications for this, including safety and industrial award reasons, as well as for fire protection and statistical collection purposes. It should be noted that all of these systems have legislative backing.

At one end of the spectrum, New South Wales still requires sawmills to be licensed and imposes strict conditions on their operations. By contrast, Western Australia has recently deregulated their registration system. Sawmills in Western Australia no longer have to be registered or provide statistical information to the State Government. However, they do have to abide by a code of practice developed under the auspices of the *Occupational Safety and Health Act 1984*. It is interesting to note that those jurisdictions with limited (or no) native timber resources on private lands (ACT, South Australia and to a lesser extent, Western Australia) have no specific sawmill registration systems or data collection mechanisms.

4.0 RESTRICTIVE PROVISIONS OF THE LEGISLATION

4.1 Restrictions on competition

The anti-competitive elements contained in the SLA pertain to the licensing of sawmills. As the Act requires all sawmills to be licensed, except for some plants specifically exempted such as some portable sawmills (see discussion in Section 3.1), the provisions relating to this may be considered to be anti-competitive. Licensing can be considered anti-competitive if it only affects one section of the community. Sometimes the licence fee itself represents an onerous and unnecessary requirement on licensees and as such restricts their ability to compete fairly in the market.

The *PBT Guidelines* stipulate that a PBT must be undertaken to retain legislation that contains licences that allow the holder access to natural resources. In itself the SLA does not provide access to natural resources. Whilst the policy principles require applicants for new sawmill licences to secure five years of private timber supply rights, their access to these resources is determined by their ability to secure those timber supplies from their own properties, or by entering into agreements with other landowners.

Access to native Crown timber resources is controlled by the *Forestry Act 1959* through the Crown Native Sawlog Allocation System, although this system will be phased out over the next twenty-five years in South East Queensland. Access to Crown plantation resources on the other hand, is also controlled by the *Forestry Act 1959* using a competitive-based tendering system.

The definition of a sawmill in the SLA includes most primary timber processing plants that produce sawn timber or a variety of other wood products such as veneers, particle board and fibre. However, not all primary timber processing operations are captured, as discussed in earlier sections. The need to obtain a licence under the Act is not influenced by the type or source of log input of the plant (for example, Crown or private lands, plantations or native forests). The Act does not apply to secondary timber processors, manufacturers or retailers unless they are involved in primary sawmilling activities.

However, it should be noted that the requirement to determine if an application for a new licence will adversely affect established sawmills in an area under s1(b) is largely a non issue due to past administration practices. Traditionally this issue has been given a low priority in the application approval process, although reports from some DPI Forestry inspecting officers on new licence applications include the likely effect of a new sawmill on established licensed mills. However, the DPI Sawmills Regulations Officer cannot recall an occasion where it has been used to prevent a new sawmill from being licensed, or when it has caused a reduction in the proposed capacity of a new sawmill. However, stricter administration of this policy would have a more significant impact on new entrants.

There are also some potential anti-competitive restrictions imposed on business under Section 14 of the Act. This requires each licensee to keep books and records and furnish returns to the DPI as may be prescribed from time to time. The subordinate legislation, *Sawmills Licensing Regulation 1965*, prescribes details relating to licence applications and transfers, the keeping of log books and records, forms to be used and fees payable. It should however, be noted that alternative methods to record timber input volumes and the amount of sawn and processed output have long been accepted. DPI sales of Log and Tally Books have dropped over recent years with only a small number of sawmills now regularly purchasing these books. On this evidence, the requirement to keep input/output data in a specific form appears to be unnecessary.

The obligations outlined above are unlikely to prevent potential new sawmill operators from entering the industry. However, they can be viewed as anti-competitive because they do not apply to all businesses operating a sawmill in Queensland. The requirements for a licence only apply to specific types of sawmill operations. As a consequence, those operations outside the scope of the SLA face a possible advantage over their competitors. The nature and type of sawmills that must be licensed are further described in the Section below 'The Current Position'.

5.0 POSSIBLE OPTIONS FOR REFORM

5.1 The Current Position

As previously mentioned, the SLA in its current form has deficiencies in scope and data collection capacity. It clearly does not achieve its objectives and its retention is not considered a viable option. The reasons for this conclusion are set out below.

The Act applies to plants processing both native forest and plantation grown timbers whether publicly or privately owned. By controlling the location of sawmills, together with the source and quantity of their log input, it endeavours to regulate the rate of utilisation of the available log resource. In this way it attempts to provide a mechanism for equating the volume of logs processed in any region of the State to the productive capacity of that region and, through this, stabilisation of the timber processing industry.

As stated earlier, the *Forestry Act 1959* is used to control the rate of utilisation of Crown native forests and plantations. The ability of the SLA to provide similar control over privately owned forests is substantially reduced due to the limited scope of the Act and the facts that (a) licensed capacity now far exceeds available timber resources: and (b) the definition of a sawmill is limited.

A review of the licensed capacity limits of plants currently sourcing timber from private lands is provided for in Section 7.8 of the policy principles. It was to have occurred at five yearly intervals from 1 January 1991 (the first review was to have been 1 January 1996). The review was to have been based on average performances over the five-year period to that date. Section 3 of the policy principles states that no new licence will be renewed after five years from the date of issue until a review based on performance has been conducted.

In March 1995 draft procedures to implement the above review were prepared and distributed to all licensed sawmills, the Queensland Timber Board (QTB) and Regional and District Managers in DPI Forestry for comment. The draft procedures identified the **private timber component** of all sawmill licences that would be reviewed and proposed scenarios for each variation of capacity types attached to licences.

This review was subsequently put on hold because of the policy review of the SLA undertaken in 1995. However, it should be noted that if the requirement to initially provide five years private timber supply is anti-competitive, then the requirement to provide rights for a further five years must also be anti-competitive.

The effectiveness of the Act in controlling forest resource use is further reduced through its application. In practice many of the policy principles are not enforced. The application for a licence has to demonstrate that a plant is attached to that licence. A licence has no monetary value, as it cannot be purchased on its own. The licence application is noted against documentation for access to timber rights, however, as noted earlier, any assessment of the potential harm to surrounding mills is not currently used to prevent issue of a new licence. No applications have been refused in recent years for this reason.

In fact, there have been very few new sawmill licences issued in recent years and the total number has been declining. For example, in the twelve months to the end of June 2000, only two new licences were issued, both for new portable sawmill operations.

The State Government has also recently taken measures to remedy industry based levies where there was some doubt as to their constitutional validity through the *Primary Industry Bodies Reform Act 1999*. Moreover, strategies have been developed to address concerns about other primary industry funding arrangements. For example, the existing sawmill licensing fee structure based on the capacity of an operation will revert to a flat fee-based system on 1 October 2000. This will have a significant impact on the revenue from the SLA licensing system received by the State Government.

In conclusion, the current SLA licensing system is not considered to be a viable option given the declining revenue situation and because the Act provides only minimal impact on the industry due to the current administration policy.

However, the acquisition of a sawmill licence alone would not be sufficient for a new participant to process log timber. Obligations under the *Workplace Health and Safety Act 1995*, the *Environmental Protection Act 1994* and local Government planning laws would also need to be satisfied. Also, the granting of a licence to process timber would not guarantee a sawmill access to log timber. The miller would still need to reach an agreement with a private grower to access private logs, or would need to access Crown logs through the mechanisms administered by DPI Forestry.

All obligations under the subordinate legislation, *Sawmills Licensing Regulation 1965*, would be maintained. This requires the completion of sawmill returns and payment of licence fees. However, there would be some expanded scope for the collection of more appropriate and reliable resource management information. Although this initiative would certainly improve the quality of information on timber utilisation rates, it should be noted that it would not shed any additional light on the potential volume of private timber *available* for harvesting. Furthermore, no information would be collected on the amount of potential commercial resources that are destroyed in the pursuit of alternative land uses or for other commercial activities.

The structure of the sawmill – log supply market would remain similar to that which currently exists. However, any review of maximum productive capacity may have the effect of redistributing a proportion of processing activity. The SLA and the sawmill licensing system have little practical impact upon either the market for sawlogs, or the final market for sawn timber products.

The granting of licensed capacity to any operator that can demonstrate that they have acquired timber rights (through appropriate commercial markets) ensures that the volumes and prices of sawlogs and final products are not distorted by the licensing system. The market is defined by such factors as the Crown native sawlog allocation system, the tendering system for Crown plantation timber, private land owners, supply restrictions on available harvest levels and the level of imports. All of these factors are outside the scope of the SLA. However, the need to demonstrate that the granting of a licence will not adversely impact upon other operators will create an additional and **potentially** high barrier to entry to the industry.

The expansion and stricter administration of licensing would be more effective in meeting the objective of stabilising the timber industry. However, full stabilisation of the timber industry still could not be achieved under the fully regulated or restricted situation because there are many other relevant factors that are still beyond the scope of the revamped SLA.

Whilst the supply of logs is not expected to differ from the current state, the effective expansion of the licensing system would require the State Government to incur greater inspection and enforcement costs. The 1995 Policy Options Paper estimated that implementation of an expanded licensing system would cost between \$500 000 and \$1 million per annum, depending on the level of enforcement (the current scheme costs approximately \$130,000 per annum to administer). The cost of the scheme would continue to be funded by licence fees consistent with the Government's current position on funding arrangements and therefore would have a direct impact on sawmill operators.

6.0 IMPACTS OF MOVING TO REFORM OPTIONS

The main groups that will be affected by any of the potential options examined in this review include:

- existing licence holders and existing unlicensed operators;
- potential timber processors and marketers;
- forest growers;
- environmentalists;
- Government; and
- rural and regional communities.

6.1 Impacts of moving to a more restrictive environment

The following impact matrix shows the potential impacts on these groups following a move from the existing restricted sawmill-licensing environment to a more restricted environment. In effect this would involve more strict administration of the existing SLA and its subordinate legislation/policy principles, as well as widening the Act to include all plants involved in the primary processing of timber in Queensland.

Existing unlicensed operations are likely to be impacted in the same way as existing licence holders under a move to a more regulated environment. Nevertheless, the magnitude of the impacts will be greater as they adapt from an unregulated to highly regulated operating environment. Although the expansion of licensing to include all operators may create a perception of providing increased stability in the industry, the major impacts upon primary timber processing operators are likely to be negative.

Key Affected Groups	Potential Positive Impacts (Benefits)	Potential Negative Impacts (Costs)
Existing Licence Holders & existing unlicensed operators	<ul style="list-style-type: none"> • Expansion of licensing may be perceived as providing increased stability in the commercial operating environment. 	<ul style="list-style-type: none"> • Expansion of licensing may compromise long-term processor efficiency, especially from enforcement and review of maximum productive capacity. • Increase in fees to cover increased administration costs. • More stringent administration and expansion of existing licensing system, combined with a review of capacity, may result in reduced licence capacity of some existing plants.
New/Potential timber processors or marketers		<ul style="list-style-type: none"> • Expansion of licensing would impose additional barriers to entry to the primary timber processing industry.
Forest owners/growers	<ul style="list-style-type: none"> • May provide better information on local primary timber processing options. 	<ul style="list-style-type: none"> • Expansion of licensing may compromise long-term grower efficiency by preventing growers from processing their own timber.

Existing licence holders

The most evident impact upon existing licence holders will be the removal of the licence fee currently charged. As stated earlier the annual licence fee currently ranges from \$110 for the smallest mills up to \$1639 for the largest mills. However, this will change to a flat fee of \$112.50 on 1 October 2000. Therefore the removal of the licence fee will have a negligible impact on the overall cost of operating and maintaining a small primary timber processing operation, although there will be some savings for larger operations.

Repealing the SLA will also remove the requirement for operations to demonstrate access to sufficient timber rights for five years. In practice this will have minimal, if any impact on mill profitability and the structure of the sawlog and final timber product markets. The ability of sawmills to expand production is mostly determined by access to additional timber supplies. Any sawmill that has successfully negotiated to purchase additional timber (from Crown or private sources) has always had their licensed capacity increased accordingly. The removal of the SLA will not affect an operation's ability to purchase additional timber.

The overall profitability of mills is also not likely to be affected by the repeal of the SLA. As stated above, more efficient mills have always been able to bid for additional timber (either private timber or Crown plantation timber) in the knowledge that increased licensed capacity was readily approved by DPI. In addition, prices for Crown native timber are generally determined by an administrative pricing system associated with the Crown native sawlog allocation system. Consequently the removal of licensing requirements will have minimal or no impact upon log prices.

Finally, the potential for unsustainable timber harvesting practices to occur on private land due to the removal of restrictions on sawmill capacity is **not a serious consideration**. Sawmill capacity has in reality only been restricted by the availability of timber. Increases in licensed capacity have been granted upon receipt of evidence of access rights to timber.

The sustainable management of the State's private forest resources has never been effectively achieved through the SLA. The sustainable management of Crown timber is achieved through the *Forestry Act 1959*, but there remains little or no State legislation to effectively regulate the removal of trees from private land for timber production.

However, the Queensland Government is currently working to develop a legislative framework to provide harvest security to private forest growers within a framework of ecologically sustainable forest management (ESFM). The proposed QFPS will have four main features: a code of practice to underpin environmental standards, self-regulation with Government oversight, a private forest registration system and the provision of support to existing local government planning mechanisms. The QFPS will deal with timber sustainability issues on private land in a much more targeted and effective manner than the SLA by targeting the growing sector rather than primary processors.

Government

The Government is likely to be the most affected group as a consequence of the removal of the sawmill licensing system. The Government would benefit from no longer having to administer the licensing system. Whilst current licence fees partially offset the cost of the system, it does not operate on a full cost recovery basis. Hence the removal of the licensing system would reduce the cost to Government. The estimated cost saving compared to a fully regulated system is anywhere between \$500,000 and \$1 million per annum, whereas the immediate cost saving would be the current running costs of \$130 000 per year³.

However, there would also be a negative impact for the State Government from the removal of the licensing system and the associated statistical return system. Sawmill returns provide information through the collection of data on log resource usage by licensed sawmills. There will be a continuing need for data to support Government ESFM and industry development initiatives, although the precise data requirements and the most appropriate collection mechanisms are unclear at this stage. Hence the removal of the licensing system would result in the loss of this information.

Environmentalists

Environmental considerations are important due to the perceived environmental benefits derived from the SLA. There is a perception amongst the wider community, and particularly within environment groups, that the presence of a licensing requirement for sawmills provides enhanced environmental protection for privately owned native forests. For similar reasons discussed above in relation to the ability of the Act to protect future sawlog supplies, environmental matters are not well, if at all, addressed through the SLA. Consequently the removal of the licensing system will have little, if any environmental impact.

Nonetheless, the removal of the SLA may be seen by some as an indication that the importance of environmental considerations in private native forests has been reduced, particularly given the limited direct State Government controls that currently apply to the management of these resources. Nevertheless, this perception may be offset by other policy developments such as the introduction of the proposed QFPS and the State Government's vegetation management initiative.

Rural/Regional Communities

The removal of the sawmill licensing system is unlikely to have any significant impact upon rural and regional communities. For reasons discussed above, the ability of sawmills to adjust to changing commercial and environmental conditions has not been reduced through the current administration of the licensing system.

³ The SLA currently generates revenue of about \$95,000 per year. However this is expected to fall to about \$42,000 when the flat-fee based system is introduced on 1 October 2000 (see earlier discussion).

Key Affected Groups	Potential Positive Impacts (Benefits)	Potential Negative Impacts (Costs)
	contribute to improved prices for growers. <ul style="list-style-type: none"> • Removal of perception of barriers to on-farm timber processing. 	
Government	<ul style="list-style-type: none"> • Removal of the need for intervention in regulating the size and location of individual processing facilities. • <i>Potential</i> to collect more appropriate and reliable data for resource management and industry development programs. • Forest management issues could be handled by proposed QFPS and vegetation management initiative. 	<ul style="list-style-type: none"> • No direct assistance provided in enforcement of workplace health and safety requirements and local government requirements.
Environmentalists	<ul style="list-style-type: none"> • Potential to collect more appropriate and reliable resource management information if SLA replaced with a registration system. 	<ul style="list-style-type: none"> • In the absence of other legislative instruments, greater competition <i>may</i> contribute to greater utilisation of forest resources (minimal if any).
Rural/Regional Communities	<ul style="list-style-type: none"> • Greater competition and improved efficiency would contribute to longer-term regional employment stability (minimal if any). 	

The impacts of moving to a system of mill registration are very similar to those described above for a move to a completely deregulated environment. There would be only minor changes to impacts on some groups.

Existing licence holders would be required to pay a registration fee under this system; although there would be little difference from the current cost of the licensing system. However, industry-wide data collected by the registration system could be reported back to industry on annual basis. This would allow existing licence holders (and new entrants) to benchmark their operations against industry-wide performance indicators. This information would also assist the Government to develop well-targeted industry development strategies.

7.1 Public Benefit Test of moving to a more restrictive environment

Key Affected Groups	Impact Description	Impact Sign ie Positive (Benefit) or Negative (Cost)	Nature of Impact ie Efficiency effect or Income transfer	Extent of impact ie. No. of Units affected
Existing Licence Holders & existing unlicensed operators	<ul style="list-style-type: none"> Increased stability in commercial operating environment through restriction Increased regulation may compromise long term efficiency Need to obtain licensed processing capacity provides an unnecessary regulatory imposition Restrictions constrain production and marketing decisions Higher fees 	Positive	Efficiency effect	Small (controlled by other legislation)
		Negative	Efficiency effect	May be significant if maximum capacity changes
		Negative	Efficiency effect	May be significant if maximum capacity changes
		Negative	Efficiency effect	May be significant if maximum capacity changes
		Negative	Efficiency effect	Unclear
Potential processors	<ul style="list-style-type: none"> Imposition of additional barriers to entry and compromise long-term efficiency Restrictions constrain production and marketing decisions 	Negative	Efficiency effect	Minimal, greater barriers elsewhere
		Negative	Efficiency effect	May be significant if capacity affected
Forest owners	<ul style="list-style-type: none"> Restrictions constrain production and marketing decisions 	Negative	Efficiency effect	Minimal, may limit sales opportunities
Government	<ul style="list-style-type: none"> Collection of more appropriate and reliable resource management and industry development information Additional assistance in enforcement of workplace health and safety requirements Difficulty in coordinating databases lead to inefficiencies Difficulty in regulating the private forest component More stringent licensing of capacity may prove both inefficient and ineffective in context of ESFM High inspection and enforcement costs 	Positive	Efficiency effect	May be significant if capture unlicensed operators
		Positive	Efficiency effect	May be significant if capture unlicensed operators
		Negative	Efficiency effect	Minimal
		Negative	Efficiency effect	Minimal, controlled elsewhere (QFPS)
		Negative	Efficiency effect	Minimal, controlled elsewhere
		Negative	Efficiency effect	Unclear

7.2 Public Benefit Test of moving to a deregulated environment

Key Affected Groups	Impact Description	Impact Sign ie. Positive (Benefit) or Negative (Cost)	Nature of Impact ie. Efficiency effect or income transfer	Extent of impact ie. No. of Units affected
Existing Licence Holders	• Reduced cost due to no licence fee	Positive	Income transfer	Small annual impact.
	• Improved profitability from greater efficiency from ability to access greater resource	Positive	Efficiency effect	Minimal, if any
Potential processors	• Increased profitability through improved access to timber supplies	Positive	Efficiency effect	Minimal, if any
Forest owners	• Increased profitability from greater ability to market sawlogs	Positive	Efficiency effect	Minimal, if any
Government	• Reduced administration cost	Positive	Income transfer	Significant. Anywhere from \$130 000 to \$1 million per annum
	• Loss of income from licence fees	Negative	Income transfer	Significant, but less than total reduction in administration cost.
	• Loss of information for resource management on private land and industry development strategies.	Negative	Efficiency effect	Significant – no information collected for policy/monitoring purposes.
Environmentalists	• Increase in environmental pressure arising from perceived removal of restrictions on capacity	Negative	Efficiency effect	Minimal, if any – controlled elsewhere (QFPS)
Rural Communities	• Greater employment stability from long term efficiency of forest production and timber processing industries	Positive	Efficiency effect	Minimal, if any

The assessment of a move to a regulated, but not restrictive, environment is similar to that for a move to a deregulated environment. If it is assumed that the cost of a registration system is similar to that of the current licensing system, then the income transfers in the deregulated case are eliminated. This means that all the impacts are efficiency effects and, as shown in the table, virtually all are positive. Nevertheless, the size of these impacts is very small, if they exist at all.

The significant difference from the assessment of the deregulated case is that there is no longer a negative efficiency effect to Government from a loss of industry information. Given that the assessment is based on a move from a fully restrictive state, the level of information collected under a regulated, but not restrictive, environment is expected to be similar. This level of information is significantly better than that currently collected, as it would apply to all primary timber processors. The removal of the negative efficiency results in the move to a regulated, but not restrictive, State generating a greater net benefit to the community than the move to a totally deregulated environment.

7.4 Completely deregulated option v. sawmill registration system (regulated, but not restrictive environment)

The completely deregulated model requires the repeal of the SLA without the introduction of any new legislation. Any residual regulatory requirements such as workplace and health and safety requirements, timber diseases and timber quality and environmental standards would continue to be enforced by alternative legislation. The *1995 Policy Options Paper* identified the main advantages and disadvantages of a completely deregulated model.

The main advantages are that:

- the perception of controls on new entrants, the size, location and record keeping practices of sawmills in Queensland would be removed;
- existing licensed sawmills would no longer have to pay licence fees and the Government would no longer have to partially fund the administration of the licence system;
- greater competition and efficiency *could* be created within the primary timber processing segment in accordance with the objectives of the National Competition Policy as the perception of government impediments to the operation of market forces is removed; and
- repeal of the SLA represents the removal of another impediment to the development of private forestry in Queensland.

The main disadvantages are that:

- some licensed sawmills *may* be negatively impacted by the perception of a less regulated environment. This could create some *short-term* commercial instability and employment loss;
- there may be negative *regional* employment impacts if the affected mills are important regional employers;

The annual report is highly valued by the aquaculture industry. It allows both industry-wide and segment performance to be benchmarked over time, as well as providing information for the calculation of key indicators like labour productivity and average prices. The production of a similar publication for the primary timber processing industry could be an important outcome of a sawmill registration system

Moreover, the current SLA licensing database, despite its shortcomings outlined earlier, is regularly interrogated in response to inquiries from secondary processors, timber wholesalers, hardware stores and timber exporters seeking contact details for timber processors in Queensland. DPI Forestry also use the data collected under the auspices of the SLA to publicly report the amount of timber being processed from private land in their yearbook.

Therefore a registration system could enable the production of an accurate directory of the Queensland primary timber processing industry and help direct inquiries to Government about industry capability. It may also assist the development of a 'green tick' labelling and certification system that could assist Queensland producers gain a premium price for their timber and achieve future growth in export markets with an increasing focus on environmental standards.

Considerable information has also been derived from the existing SLA database to assist the development of various Government policies and planning exercises. For example, the database was extensively used to help develop aspects of the State Government's South East Queensland Forest Agreement. Also, given that the State Government is now committed to establishing a vibrant and expanding private forestry industry in Queensland and that vegetation management generally on private lands remains an important policy issue, there will be a continuing, and even increasing need for data on timber utilisation.

The current licensing system also assists the administration of other State Government legislation and local government laws. The SLA requires applicants for new licences to provide proof of local government approval to operate a sawmill at a particular location, as well as evidence of registration under the *Workplace Health and Safety Act 1989*.

The Australian Bureau of Agriculture and Resource Economics (ABARE) also uses SLA data to compile the Queensland component of the national statistics on forest production. These are reported quarterly in the ABARE *Australian Forest Products Statistics* publication. This publication is a major source of national forestry statistics on consumption, production and trade in forest products in Australia. Federal and State Government Departments, industry organisations, private companies, consultants, universities and researchers make extensive use of these statistics. It should also be noted that ABARE also uses the SLA data to respond to two key international surveys.

Moreover, statutory obligations from the regulations for the Forest and Wood Products Research and Development Corporation require ABARE to calculate and publish statistics on the gross value of wood products by log class for Australia. The SLA data are used to compile the Queensland component of the Australian gross value of production.

An alternative to retaining specific legislation is to include a registration system in other legislation that already exists, or is being proposed. Possible legislation that could be used to provide legislative support for a sawmill registration system include:

- *The Forestry Act 1959* – Primary timber processor registration provisions could be included in this legislation. If this option is adopted, discussions will need to be held with DNR to progress and clarify this issue. However, a proposal to comprehensively re-draft this legislation is currently being considered and there is a danger of amendments to support a registration system being captured (and delayed) by this process.
- *Statistical Returns Act 1896* – informal discussions with Queensland Treasury indicate that it may be possible to provide legislative support for the collection of statistical information from sawmills under this Act. Under Section 4(1)(o) of the Act, 'the Government statistician may collect and publish statistics in relation to – forestry' in addition to a number of other industries. It is not clear whether this power can be devolved to another Government agency, or whether some type of service agreement could need to be negotiated between DPI and Treasury. Furthermore, at this stage it is not clear whether the Treasury would even be willing to take on this role because the State Government has not collected statistics using these legislative powers for a number of years.
- Other forestry legislation administered by DPI such as the *Timber Utilisation and Marketing Act 1987*. This legislation could be widened to include a registration system and marketed as the prime legislation governing the processing and marketing of timber in Queensland.
- Commonwealth statistical collections legislation. Informal discussions with the Australian Bureau of Statistics (ABS) indicate that ABS does not have the resources to collect data on primary timber processors in Queensland, although they do have the legislative powers to do so. However, it should be noted that the ABS does currently collect sawn timber information in Tasmania and South Australia, but both these surveys are currently under review. ABS intends to dispense with their residual State-based surveys and is moving towards national collections. However, DPI may be able to enter into a service agreement with the ABS to collect these data, although this would remove direct State control over the collection. In addition, strict confidentiality provisions contained in the ABS legislation may prevent a full disclosure of all of the data collected under these arrangements.
- Proposed Queensland Forest Practices System – As indicated earlier in this report, the Queensland Government is working towards the introduction of a comprehensive legislative framework for forestry activities on private land. A sawmill/primary timber processing operation registration system could be introduced as part of this process. However, much more work needs to be done before the proposed QFPS is finalised and therefore legislative changes are still some way off. Further, it would be unwise to attempt to expand the QFPS into the processing sector given the already complicated nature of the proposal. Nevertheless, this does not preclude the option of combining the primary timber processor registration system with the QFPS at a later date.

ATTACHMENT 1: SAWMILL LICENSING POLICY PRINCIPLES

The following policy guidelines have been to used in the administration of the *Sawmills Licensing Act 1936*.

The basic policy was negotiated by a joint Sub-Committee of AusTIS comprising of Industry and DPI Forestry representatives and has applied since 1 April 1991. Amendments since that time are highlighted in italics. Section 1(c), 1(d), part 1(f) and 1(g) were included in November 1992. Section 1(h) was included in December 1994. Section (c)(ii) was included in June 1999.

1. APPLICATION FOR A NEW LICENCE

Applications for a new private timber only licence will receive consideration where:

- (a) Applicants have established rights to cut timber in such quantity as will sustain a sawmill at the capacity sought for a period of five (5) years.

Applications are to be supported by a Contract of Timber Rights (in a standard format or any other style acceptable to the Corporation).

- (b) Granting of such a licence would in the opinion of the Corporation not be significantly detrimental to existing licensed sawmills in the general area.

- (c)(i) *Compliance with the Workplace Health and Safety Act 1995. In accordance with Part 2 of the Workplace Health and Safety Regulations associated with the Act, a Certificate of Registration of a Registrable Workplace is to be issued by the Workplace Health and safety section of the Department of Employment, Training and Industrial Relations. The applicant should make application for this certificate at the local office of the above mentioned Department or otherwise contact the Brisbane office of the Department on telephone (07) 3227 4711 for further information.*

Documentary evidence showing that a workplace registration number has been allocated is required ie. copy of invoice.

The following procedure is followed by Department of Employment, Training and Industrial Relations when issuing a Certificate of Registration of an Industrial Workplace:

- *Application for certificate received;*
- *Invoice and Workplace Registration Number issued;*
- *Payment to Department of Employment, Training and Industrial Relations submitted by applicant;*
- *Certificate issued.*

The licences will be required to be renewed annually (30 September) and will remain in force for a maximum period of five (5) years. It will be necessary for the applicant to provide documentary evidence of registration under the Workplace Health and Safety Act, such as a copy of an invoice, in support of the licence application. A Licensee will be required to re-apply for a new licence at the expiration of the five (5) year period. Sawmills may transfer from site to site without reference to DPI subject to meeting the requirements of the relevant authorities (Policy Principal 1.1(d) in the operation of the machinery on the site). The licence is non-transferable.

(h) Woodchipping Plants

- *Under the Sawmills Licensing Act 1936 a sawmill is described as any unit of machinery used, amongst other things, for the processing of logs into wood wool, chip board, wood pulp or any other form of product whatsoever. Woodchipping plants utilised in the production of wood products have traditionally been regarded as 'sawmills' and licensing has been required.*
- *It was never the intent of the Act to capture woodchipping plants used for mulching purposes under the definition of 'sawmills'. Therefore:*
 - *Woodchipping plants which produce mulch from trees and tree waste resulting from land clearing and/or tree lopping operations are not required to be licensed.*
 - *Woodchipping plants which produce woodchips for commercial processing into wood products or for export are required to be licensed. Normal sawmill licence application procedures apply.*

2. LOCATION OF SAWMILL (NEW LICENCES)

No restriction will be placed on the location of a sawmill but its location must be nominated on the application. (The source of supply is restricted to the areas endorsed on the Sawmill Licence).

3. TERMS OF LICENCE (NEW LICENCES)

In terms of the *Sawmills Licensing Act 1936*, licences are renewed at 30 September each year.

No new licence will be renewed after five (5) years from date of issue, until a review based on performance, as outlined in 7.8, has been conducted.

4. PROVISION FOR INCREASE IN MAXIMUM PRODUCTIVE CAPACITY (NEW LICENCES)

Increase in capacity will be granted only for the remaining period of the licence, ie. the term of the licence will not be extended beyond the initial five (5) year period.

7.7 Endorsement of Licence Capacity

Licensees who operate Crown allocation or entitlement under an unrestricted capacity will have licences endorsed to indicate Crown capacity, unrestricted capacity and private timber capacity.

The calculation of Crown capacity will be based on Crown allocations plus 15% flexibility, plus 20% contingency.

The capacity required to operate the Crown component will be taken from the unrestricted capacity of the licence.

Crown allocations and entitlements and the licence capacity attached to the allocation/entitlement, will be permitted to be detached from a licence and transferred.

Unrestricted or private timber only capacity will not be permitted to be detached from a licence. (Refer 7.3)

7.8 Existing Private Timber Only Licences - Capacity Review

(a) Capacity Review

All existing private timber only licence capacities will be reviewed five yearly from 1 January 1991 (ie. the first review will be on 1 January 1996) based on average performances (as per 7.6 Sawmill Returns) over the five year period from that date plus 20% contingency.

(b) Increase in Private Timber Only Capacity - Existing Licences

Existing private timber only licensees will be required to provide evidence of sufficient log supplies 1(a) and (b) to justify the total capacity sought. Grant of capacity sought will take into consideration past performance.

Capacity granted will be subject to five yearly performance reviews. For purposes of review an existing licence with approved increase in capacity will be treated as for a new licence (Refer 3).

