



**Mid North Coast Joint Organisation  
Submission to the NSW Government  
Private Native Forestry Review  
11 February 2019**

At a Mid North Coast Joint Organisation (MNCJO) Board meeting held on Friday 1 February 2019, the Board resolved to lodge a submission to the NSW Government Private Native Forestry (PNF) Review. The MNCJO welcomes the opportunity to provide input to the PNF review, as it is an issue of high significance for local government and local communities in the mid north coast region.

Several key factors contribute to the significance of PNF in the region and the subsequent critical nature of addressing existing concerns with the scheme:

- PNF operations are most commonly located in areas of high local and regional ecological significance;
- There is an existing and ongoing increasing trend for lifestyle occupation and use of lands, as opposed to agricultural uses in the region;
- PNF operations can have a significant impact on local infrastructure and commonly occur in locations where the existing infrastructure is not suitable;
- Code assessable impact assessment does not satisfactorily address the significance attributed to ecological values through legislation and policy by local communities in the region;
- The burden of poor implementation of the scheme is placed on local government without a corresponding opportunity to have input to the assessment of proposals for PNF operations with reference to local planning and policy instruments and this covertness hampers a local government authority's ability to determine jurisdictional issues.
- The Environment Protection Authority (EPA) should be the Appropriate Regulatory Authority (ARA) for all Protection of the Environment Operations Act 1997 (POEO Act) and pollution matters emanating from PNF operations, particularly when local government has been provided with no opportunity to have any input into proposed operations. Some Councils have already experienced complaints from the community regarding soil erosion / water quality and noise generation from PNF operations and with the EPA already having a compliance function for PNF, it makes sense for these elements of compliance to be managed by the EPA also, not local government.
- Consideration also needs to be given to expressly prohibiting PNF of any scale or intensity in areas mapped as core koala habitat as detailed in relevant Koala Plans of Management.

The following comments are offered for detailed consideration in the review:

1. The discussion paper for the review makes the claim in paragraph 2 that PNF is ecologically sustainable. This is not supported by evidence and whether or not it can be



achieved is dependent on overhauling the existing arrangements, adequate resourcing in proactive monitoring and compliance and definitive action where required.

2. The premise of basing the review on recommendation 7 of the final report prepared by the Independent Biodiversity Legislation Review Panel (2014) is seen as flawed as:
  - a) It is presented and considered independently of other relevant recommendations;
  - b) It is inconsistent with other recommendations including recommendation 24, whereby a focus on threatened species action and outcome monitoring is proposed;
  - c) It does not consider local community interests, strategies or policies; nor impacts on community infrastructure, amenity, water quality or fauna species and vegetation communities of local significance;
  - d) In order to address the third point of the recommendation, the planning and regulatory framework requires significant overhaul as described in this submission and
  - e) Professor Hugh Possingham's open letter of resignation from the panel (30<sup>th</sup> October 2016) and the Wentworth Group of Concerned Scientists open letter (23<sup>rd</sup> May 2016) identify that the proposed approach to implementation of the review is not consistent with the panel's recommendations nor the science and principles associated with securing positive biodiversity and land management outcomes. Specifically, the use of codes to facilitate large scale clearing should not occur.
3. The basic premise of the Code, whereby broad scale clearing for the purpose of PNF is assessed as improving or maintaining environmental outcomes is flawed and ineffectual as contemporary experience demonstrates that complying with the requirements of the Code is unable to be definitively and objectively assessed. Further, there is no evidence that sufficient or appropriate monitoring or compliance is undertaken to ensure that regeneration after clearing occurs, as required by this fundamental premise of the Code.
4. The assessment of a PNF Property Vegetation Plan (PVP) by the NSW government without direct reference to local government is not supported. Forestry operations are a major impact on local infrastructure, can significantly impact local communities and are often inconsistent with local environmental planning, strategies and policy.
5. The current scheme does not provide sufficient information to the relevant local government authority to enable councils to address the inevitable community enquiries and concerns regarding PNF operations. Local government is not even provided with the Forest Operation Plan to enable identification of the relevant jurisdiction for consideration of any relevant issues that may be of relevance to a number of State and local government authorities.
6. The identified standards for determining known records or site evidence of threatened species are inadequate and inconsistent with the standards required of comparable land use proposals for other development proponents. The Bionet Threatened Species Atlas (Office of Environment and Heritage) is widely recognised as depauperate (imperfectly



developed) and is only one of numerous readily available relevant databases and should not be identified as the single source.

Significant training and experience is required to accurately identify site evidence therefore it is not reasonable or appropriate to rely on self-assessment without relevant minimum standards of training or experience for this critical information. This similarly applies to the requirement for significant experience and expertise to confirm the presence or absence of any of the listed species for which ecological prescriptions apply. In particular, identification of threatened flora requires specific botanical skills. It is not possible for people without such skills to be able to assess habitat suitability, climatic and seasonal activity pattern variations or species identification requirements and to accurately apply the prescriptions.

7. The basic requirements for a proposed Forest Operation Plan must include:
  - a) Identification of the linkages and integration with the existing local road network, including proposed haulage routes;
  - b) Land Use zoning in accordance with the relevant Local Environmental Plan (LEP) mapping component and identification and analysis of consistency with, and or any relevant approvals required by, the LEP written component;
  - c) Details (mapped and written components) of proposed management actions to avoid impact on values such as water quality, scenic amenity, retained vegetation and habitat features;
  - d) Details (mapped and written components) of proposed management actions to assist regeneration of harvested areas, including preventative and ongoing maintenance actions to be taken with regard to weed establishment.
  
8. Reporting requirements should include at a minimum:
  - a) Detail of the implementation of all relevant components of the Forest Operation Plan including flora and fauna management actions, activities to promote regeneration and any forest access construction or upgrades.
  - b) Evidence based assessment against the silvicultural operations provisions of Section 3.1, 3.2 and 3.3.
  
9. Protection of the environment:
  - a) PNF operations are not appropriate in endangered ecological communities and the enabling provisions of the Code should be removed;
  - b) 'Maintained' must be defined in such a way as to enable objective assessment of whether this condition is met;
  - c) 'Existing' must be defined in such a way as to enable objective assessment of whether this condition is met;
  - d) PNF operations should also be excluded from areas where Aboriginal objects or places are predicted to occur through a method such as, but not limited to, any relevant Aboriginal Cultural Heritage Management Plans or similar;



- e) Clause 4.3 (2) – debris should not be heaped around any tree, regardless of whether it meets the definition of protected tree.
- f) Section 4.2 of the PNF code requires retention of 10 hollow bearing trees per 2 hectares. Hollow bearing trees are a critical ecological component of a forest ecosystem and should not be removed under any circumstances for PNF purposes.

10. Construction and maintenance of forest infrastructure:

- a) Self-assessable, non-measurable allowances for clearing and construction such as 'minimum extent necessary', 'as far as practicable' and 'kept to a minimum' are not appropriate in relation to PNF operations. The provisions in relation to clearing of native vegetation and construction of roads and crossings must be defined in such a way as to enable objective assessment of whether this condition is met.
- b) Allowance for clearing greater than 3 metres from outside edges of batters and table drains is not required and should be removed from the Code. Establishment of a minimum of 70% groundcover in cleared areas is insufficient and should also be specified as requiring the use of locally occurring suitable species for this purpose.

If there are any questions with regard to the information included above, please contact the MNCJO Interim Executive Officer, Craig Swift-McNair on 02 6581 8020.