

## Private Native Forestry Review Terms of Reference

### Background

The NSW Government is reforming the native forestry regulatory frameworks, including private native forestry (PNF), to modernise the regulation and ensure the long-term ecological sustainability of native forestry in NSW.

PNF is the sustainable management of native forests on private property. Private native forests represent a significant proportion of NSW's native forest estate, accounting for 39.7 percent of the 22 million hectares (ha) of native forest in NSW<sup>1</sup>. It is ecologically sustainable, an important source of income for landholders, and a key resource for the NSW Forestry Industry.

PNF is part of the broader land management framework and in 2014 the Government commissioned an independent review of biodiversity, native vegetation and threatened species legislation in NSW. The final report made 43 recommendations, including one relating specifically to PNF. The NSW Government accepted all recommendations, including Recommendation 7, which called for a review of regulatory arrangements for timber harvesting on private land as part of a separate process that:

- a) does not regulate the harvesting of native timber on private land as a form of land use change
- b) considers options for regulating sustainable forestry operations based on their scale and intensity rather than tenure, including options for permitting low-intensity operations on private land without the need for approval and a focus on outcomes rather than process
- c) considers a range of options for improving the environmental performance of haulage and harvest contractors operating on private and public land<sup>2</sup>.

In August 2016, the NSW Government released the NSW Forestry Industry Roadmap (the roadmap)<sup>3</sup>. The roadmap set out a triple bottom line approach to achieving social, ecological and economic sustainability (in line with existing government commitments to ecologically sustainable forest management) through four priority pillars:

1. Regulatory modernisation and environmental sustainability
2. Balancing supply and demand
3. Community understanding and confidence
4. Industry innovation and new markets.

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<sup>1</sup>P65. Commonwealth of Australia. 2017. *Australia's forests at a glance 2017: with data to 2015-16*. Department of Agriculture and Water Resources ABARES.

<sup>2</sup>P30. Byron, N., Craik, W., Keniry, J., and Possingham, H. 2014. *A review of biodiversity legislation in NSW*. State of NSW and the Office of Environment and Heritage, Sydney NSW.

<sup>3</sup>NSW Government 2016. *NSW Forestry Industry Roadmap*. NSW Government, Sydney NSW.

In November 2017, the Minister for Lands and Forestry and the Minister for the Environment announced that the extension and approval roles for PNF be established within Local Land Services and that the Environment Protection Authority would retain its compliance and enforcement roles. This arrangement commenced on 30 April 2018.

On 21 June 2018, the *Forestry Legislation Amendment Act 2018* (FLA Act) passed the NSW Parliament and commenced on 9 November 2018. The FLA Act transfers the relevant PNF provisions from the *Forestry Act 2012* to a new Part 5B of the *Local Land Services Act 2013* (LLS Act). This new part:

- Recognises the difference between private native forestry and native forestry operations in State Forests or other Crown-timber land, including in the application of protocols, codes, standards and other instruments
- Establishes that PNF will deliver Ecological Sustainable Forest Management and continue to protect biodiversity and water quality
- Gives the Minister for Lands and Forestry the responsibility for making the PNF Codes of Practice with the concurrence of the Minister for the Environment and the Minister for Primary Industries
- Sets out the requirements for what the PNF Codes of Practice must satisfy
- Stipulates a public consultation period of at least 4 weeks for changes to or the making of PNF Codes of Practice.

In introducing the FLA Act, Minister Toole indicated that the FLA Act ‘updates the Local Land Services Act to increase the level of consistency across the regulatory framework for native vegetation. Through active and adaptive management, the productivity and environmental performance of our private native forests can be improved. Effective forest management does not require a trade-off between economic and environmental outcomes. Rather, it can deliver benefits for farmers, for the community and for the environment.’

The NSW Government will commence a review of PNF in November 2018. Local Land Services will lead the PNF Review in collaboration with the Environment Protection Authority and the Department of Primary Industries. The first step in the consultation process is to seek public submissions on this Term of Reference.

## Objectives

The NSW Government’s vision is that NSW will have a sustainably managed forest estate that underpins a dynamic economically efficient forestry industry, which continues to support regional economies and delivers social and environmental benefits.

The PNF Review seeks to balance the sustainable development of the private native forestry and agricultural industries while recognising the environmental values of the private forest estate.

The objectives of the PNF Review, consistent with the *Forestry Legislation Amendment Act 2018* (including objects of Part 5B), the NSW Forestry Industry Roadmap and the spirit and intent of the recommendations of the Independent Biodiversity Legislation Review Panel, are to:

1. Support a socially, environmentally and economically sustainable forest industry in line with ecologically sustainable forest management.
2. Ensure the regulatory settings and requirements are efficient, outcomes focused, enforceable, risk-responsive, reduce unnecessary regulatory burden and reflect best practice.
3. Recognise key differences between forestry operations on public and private land, including in the application of protocols, codes, standards and other instruments.
4. Operate in a fair and consistent framework, addressing the Independent Biodiversity Legislation Review Panel recommendations including considering potential options for:
  - a. Regulating sustainable forestry operations based on their scale and intensity
  - b. Improving silviculture, forest management and environmental practices of PNF harvesting and haulage contractors.
5. Increase landholder engagement and community confidence in PNF, including enhancing landholder and PNF industry understanding of silviculture and forest management, contemporary business practices and the PNF regulatory framework.
6. Develop PNF Codes of Practice that are clear and easier to use and support social, environmental and economic sustainability in line with ecological sustainable forest management.

## Scope

The scope of the PNF Review is to:

1. Review the PNF Codes of Practice (Northern NSW, Southern NSW, River Red Gum forests and Cypress and western hardwood forests) in the context of:
  - a. *Forestry Legislation Amendment Act 2018* and subsequent amendments to the Local Land Services Act and Regulation (including objects of the new Part 5B)
  - b. NSW Forestry Industry Roadmap
  - c. Recommendations of the Independent Biodiversity Legislation Review Panel
  - d. National Forest Policy Statement
  - e. Regional Forest Agreements
  - f. Land Management (Native Vegetation) Code 2018 and Land Management framework.
2. Consider and develop options for:
  - a. Establishing efficient and effective regulatory settings that:
    - Reduce unnecessary regulatory burden and take a risk based approach to sustainable private native forestry operations with a focus on outcomes rather than process
    - Improves the PNF authorisation processes and systems
    - Ensure environmental values are recognised and appropriately managed during PNF operations

- Ensure Aboriginal cultural heritage and non-aboriginal cultural heritage values are recognised and appropriately managed during PNF operations.
  - b. Developing an effective training and accreditation program for PNF haulage and harvest contractors.
  - c. Enhancing landholder knowledge and community acceptance of the PNF industry, including
    - The value of sensitive and important environmental assets
    - The composition, size and value of the native timber industry and native timber products
    - Landholders and the PNF industry awareness of best practice silviculture and forest management, contemporary business practices and the PNF regulatory framework through an effective and consistent extension program.
3. Consistent with 1) and 2) above:
- a. Develop PNF Codes of Practice that are streamlined, clear and easier to use and enforce, support social, environmental and economic sustainability in line with ecological sustainable forest management
  - b. Make recommendation to NSW Government on options to improve the PNF system as outlined in 2) above.

## Consultation

PNF users (such as landholders, PNF contractors and processors and apiarists), industry, environmental, local government, Aboriginal and community stakeholder groups and the broader community will be consulted throughout the review process. The process will include:

- Targeted consultation with key PNF users and stakeholder groups to inform the review
- Public submissions on the PNF Review Terms of Reference for a period of 10 weeks
- Public submissions on the draft Codes of Practice for a period of 8 weeks.

## Deliverables and Proposed Timeline

Key deliverables and proposed timelines include:

- Seeking public submissions on PNF Review Terms of Reference for a period of 10 weeks – November 2018
- Public consultation on PNF Codes of Practice for a period of 8 weeks – proposed to commence May/June 2019
- Ministers making new PNF Codes of Practice – proposed September 2019.