



14 February 2019

Private Native Forestry Review

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RE: Private Native Forestry Review Terms of Reference

We appreciate the opportunity to provide comment on the Private Native Forestry Review Terms of Reference. Many of our members have native timber on their properties and we support the legal harvest of this through Private Native Forestry (PNF). PNF is an important contributor to the supply of Australian timber, and NSW Farmers impresses the critical importance of Government delivering a policy which protects and promotes private native forestry operations. Accordingly, NSW Farmers generally supports the Private Native Forestry terms of reference as presented.

We commend Government for reassigning the regulatory responsibilities of PNF activities to the Local Land Services (LLS). This once again unites PNF with other native vegetation management on farm and separates the administrative oversight from the agency delivering compliance. The widespread increase in interest and uptake of PNF activities since these changes are testament to the necessity of such a shift.

NSW Farmers has been advocating for a review of the PNF Code of Practice (encompassing the various state regions) for years and are pleased that such a review is now underway. There are a number of deficiencies with the current Code which have deterred uptake and disengaged long term participants.

Timber is a renewable resource and provides an important additional income to our farmers especially in times of hardship, poor commodity prices or bad seasonal conditions, as well as providing local employment and environmental benefits and should be encouraged and promoted in our regions. NSW Farmers supports a triple bottom line approach which balances the social, economic and environmental values of our regional communities and supports sustainable forest management in perpetuity.

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Background

NSW Farmers does not advocate a complete rewrite of the Code, however there are key areas that require addressing.

The PNF Code of Practice was drafted after the inception of the *Native Vegetation Act 2003* and enacted in 2007. The *Native Vegetation Act 2003* was prepared following the release of the Sinclair Report. The Sinclair Report recommended that PNF would continue as an Exemption and also recommended the development of a Code of Practice. However the Act did not include PNF in the list of Routine Agricultural Activities, thus by default defining PNF as “*broadscale clearing of remnant native vegetation*”. This is the fundamental flaw of the Code and during the drafting of the Code this was used as the excuse for overly prescriptive regulations.

Recommendation 7 of the Independent Scientific Review rightly identified PNF as not being a clearing/land use change activity. NSW Farmers contend that the rules around PNF should reflect that PNF is not clearing. PNF is also vastly different to the intensity of State Forests harvesting and should not have State Forest IFOA prescriptions foisted upon it. The current PNF Code had some State Forests prescriptions imposed which were strongly objected to by landowner and timber industry representatives, particularly in relation to riparian exclusions, threatened species and landscape feature exclusions.

Furthermore NSW Farmers is of the strong belief that PNF activities should not be included in State clearing figures as it is misleading to repeatedly add the same area of land in clearing figures as each harvesting or associated event occurs.

1. What improvements should the NSW Government consider making to the existing Private Native Forestry Codes of Practice (Northern NSW, Southern NSW, River Red Gum Forests, and Cypress and Western Hardwood Forests)?

The existing Codes should remain as separate area specific codes but require simplification and streamlining, and be outcome rather than process focussed. The Codes should emphasise sound, active and adaptive land management best practice rather than excessive environmental prescriptions. Farmers are frustrated that many of these result in perverse environmental outcomes and adversely impact upon the very species they are purported to be protecting. This is particularly evident in relation to prescriptions around exclusion zones.

Silvicultural flexibility and support to engage in silviculture is required to avoid highgrading or creaming of the forest and to promote healthy forest growth of desirable species and form. Minimum basal areas for selective harvesting must be reduced to preferably 8m²/ha in dry and semi-moist forest types and reduced to 10m²/ha in moist forest types. Thinning should be removed from the definition of a regeneration event.

There is an opportunity to identify and resource productive use of silvicultural thinnings for agriculture as biochar, energy production or other potential uses. There is an impediment at Commonwealth level with regard to thinnings from native forests not being recognised as a renewable energy source in relation to carbon credits. State government advocacy to have this amended would make a significant difference to enabling cost competitive silvicultural undertakings and improve our forest health and vitality.

The various riparian or drainage feature exclusion prescriptions are excessive and need a complete overhaul to be acceptable to landowners. This is one of our major issues with the current codes.

Habitat retention tree numbers are not only excessive but also need better definition particularly with statements about a habitat tree being a tree with a visible hollow. There are many younger

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trees especially on the tablelands that exhibit small hollows from branch loss from storms, lightning or damage from other falling timber. Excessive habitat tree retention where the trees are not *true* hollow bearing trees results in loss of productive area. Discussion is also required on the need to retain habitat trees where there are less than the prescribed amount present. Current definitions and retention requirements need to better reflect the outcome of a healthy productive forest while maintaining environmental values.

Landowners should be compensated for providing conservation which reduce the harvesting area, particularly as they are mostly directed towards the better producing areas of the forest. These funds will enable landowners to protect threatened species and reduce risks from pest and weed incursions. At present the Codes do not adequately consider pest and weed control which is further exacerbated by large exclusion areas.

With regard to rocky outcrops, buffers currently exist around rocky outcrops that are not impacted by harvesting activities. The real issue with rocky outcrops is where there are rocky outcrops with shallow soils and a complete change in vegetation and often the presence of threatened or vulnerable flora and fauna species. The current definition includes rocky outcrops surrounded by deep soils that are not impacted by harvesting activities. The proper definition should be used.

Likewise, harvesting exclusions/buffers and activity exclusion such as grazing and burning are counter intuitive eg Hastings River mouse. In real life Hastings River mice are found in disturbed more open areas. If the prescriptions are followed the mouse either leaves or dies out. This is applicable to many other species detrimentally impacted by unmanaged areas of vegetation as prescribed in the Code. The various exclusion zones/buffers throughout the Codes need revisiting and alteration.

There has been a false assumption in discussions of natural resource management that all disturbance is threatening to environmental values. Protection by benign neglect has resulted in loss of biodiversity and ignores decades of prior aboriginal management techniques. The structure, composition and health of our public forested areas are vastly different to that even 30 years ago, let alone at the time of European settlement.

Actively managed private forested land is predominantly in better condition than much of the public estate reserved in either formal or informal reserves. As a consequence, the private land often has healthier populations of flora and fauna whose presence results in loss of productive area through exclusion zones. Most of the flora and fauna require some type of disturbance, and certainly require low intensity fuel reduction burns at reasonable intervals which provide protection from the impacts of infernos that occur in the vast areas of fuel laden public estate, as well as requiring pest and weed control. Landowners should not be burdened with excessive exclusion zones (including exclusion of fire) that will guarantee destruction of these populations simply because of public land management policies failure. Private land is not a pseudo national park.

Post-harvest controlled burning is a necessary tool in forest regeneration and removal of debris which impacts on desirability of form of regrowth, as well as reducing fuel loads from harvested tree remnants, and should be a necessary part of the harvesting plans.

Treatments for degraded forests should be catered for in the reviewed Codes to allow for regeneration and improved forest and ecosystem health.

High Conservation Value Old Growth (HCVOG) definition and identification has to be reviewed. It was originally 10ha but was changed to 5ha. The 10ha rule should be reinstated. Consideration of historical disturbance is imperative. We also note the irony that a recently harvested forest is more likely to be classed as old growth because of regrowth stocking percentages than one that is about to be harvested.

We are all aware much of the original RFA HCVOG and rainforest API work was lacking rigour (17% accuracy upon review by the Commonwealth). When requesting a redetermination of

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HCVOG a landowner should be able to identify which section of the property they wish to be redetermined and the OEH and LLS reassessment should be confined to this area. It should not be an excuse for government agencies to look at the rest of the property if it is not subject to PNF and the landowner does not wish it to be included in the reassessment. This also delays authorisations.

A major impediment to landowners wanting to continue PNF is the late inclusion of deeming all regrowth as protected. 95% of landowners who have traditionally conducted PNF have done it integrated with stock management. To have to protect all regrowth (when one routinely gets 300-600 seedlings per single tree removed) combined with the restrictions on access to the Routine Agricultural Activities resulted in many landowners deferring PNF in order to continue their livestock enterprises. This has made it particularly hard in the current drought as the normal income stream from PNF is currently lost to them. The RAMA restrictions have been addressed in the legislative amendments in 2018 but the protected regrowth remains and must be removed immediately.

2. Do you have any suggestions to ensure the Private Native Forestry regulatory settings are efficient, enforceable and effective?

Codes should be designed, as should any regulatory instrument, to have voluntarily uptake and adherence, not just through threat of prosecution, but need to encourage participation through a cooperative approach rather than one focussed on punitive enforcement regulation that might suit agencies such as EPA but don't suit landowners. Additionally the cost of the regulatory settings need to be considered. After all one cannot be green if one is in the red.

Alleged offences under the Codes should allow mediation or independent appeal/review to avoid unnecessary court hearings. EPA have at times pursued offences against Forests NSW and Forests NSW have been cleared of wrongdoing but the cost of such court hearings would destroy landowners who are obviously not supported by the public purse.

The current penalties for contravening a Code condition are excessive for what is arguably one of the most benign agricultural activities and are a major disincentive for participation. The penalty costs for all native vegetation offences should be the same as in the previous Act, as risk relating to native vegetation activities on a property is completely different to risk with an urban or mining development. NSW Farmers has been advocating this point, not only in relation to PNF but the entire suite of Codes.

Any future amendments to PNF regulations must only be done with full consultation and endorsement by landowners.

3. How can the NSW Government improve the authorisation and approval system for Private Native Forestry?

Dual consents should not be allowed. LLS should be the sole authorisation agency for PNF. The need for additional consent from Local Government should be overridden. This must be enshrined in legislation.

Where large areas of forest are involved and other Codes may be applicable there needs to be flexibility with the mapping to provide for the PNF Code to be upheld without having to mark off every tree on the map between the various Land Management Codes. PNF was much simpler and practical when it was conducted as part of integrated land management on the property prior to the development of the current Code. The Code is based on the idea that PNF occurs in a stand-alone area as a stand-alone activity on that area of land. This is not the case on most farms.

PNF approvals should be for the long term, even up to 100 years or in perpetuity. Termination of an approval should only occur in exceptional circumstances with due rights of appeal.

Approval thresholds need to be set so that low intensity activities do not require authorisation but operate as an “allowable”. PNF was always an exemption which worked perfectly well except when abused by developers on the coast. That is easily remedied by the basal area retention, which was first suggested by NSW Farmers. The fundamental aspect of PNF is not what is taken but what is left behind, so that a forest remains a forest.

4. What training and advice services would assist landholders, industry and the community?

Forestry has long been identified by regional development organisations as a huge potential for our regional areas, and sound forestry practices integrated with other farm management activities provides multiple-use opportunities as well as providing environmental benefits.

Government support and promotion of forestry can be achieved by LLS providing extension and education services on PNF. Such extension and education should include topics such as timber harvesting options, how to protect future best growth and seed tree selection, meeting regulatory requirements, pre-harvest surveys, post-harvest treatments, silviculture, best practice methods etc and can include handouts, field days, short courses, and demonstration sites.

NSW Farmers supports accreditation but not licensing. Any formal training of contractors, should such be required, should occur in local centres where the workers reside, not at a far away regional centre. Many landowners also do their own harvesting or some part of the process. Recognition of prior learning should be incorporated into any accreditation. Licensing is merely a revenue stream which ultimately costs more to government in administration as well as having the cost passed on to landowners. Landowners are already suffering due to freight costs following the contraction of the number of local sawmills. This was a direct result of over-reservation from the Carr National Park extensions/establishments and the RFA reservations or Forest Management Zonings influenced by mapping that lacks credibility and inadequate consideration of socio-economic impacts on our regional communities.

5. Do you have any other comments or feedback relevant to Private Native Forestry that you would like to share with us?

At the end of the day the forests on private property are owned by the landowners, and they require clear, sensible and practical rules that are outcomes focussed. Landowners want to protect their land as well as produce from it. PNF Codes should encourage new entrants as well as win back long term generational participants excluded by the current restrictions that inhibit proper land management. PNF should be an attractive option for landowners when assessing the vegetation Land Management Codes and making their business decisions.

Yours sincerely,



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