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Which draft PNF Code are you providing a submission on? *	Northern NSW
Attach your submission	 pnf_submission_mncjo_may_2020.pdf 291.82 KB · PDF



19/5/2020

Dear Sir/Madam,

RE: Draft Private Native Forestry Code of Practice for Northern NSW

Thank you for the opportunity to comment on the draft Private Native Forestry Code of Practice reviews.

The Mid North Coast Joint Organisation is located on the Mid North Coast of NSW with the member Councils comprising Port Macquarie-Hastings Council, Kempsey Shire Council and Bellingen Shire Council. We seek to collaboratively address issues that impact our region, either socially, financially or ecologically. Private Native Forestry is one such industry that impacts all three of these focus areas. While the Mid North Coast Joint Organisation does not object to Private Native Forestry *per se*, we do object to the current lack of control that surrounds the industry (as evidenced by the draft Codes). We see that Private Native Forestry should be subject to the same development control and assessment conditions and contributions as per other natural-resource extraction industries or development that removes native vegetation.

The Mid North Coast Joint Organisation is home to a number of areas identified by DPIE as “Areas of Regional Koala Significance” and koalas have been estimated to be worth in excess of \$60 million to the local economy per annum. The Mid North Coast Joint Organisation therefore employs a full-time Koala Ecologist to improve koala conservation given the economic and social value of the koala to our region. Without the same level of oversight and control as such other activities, Private Native Forestry will continue to threaten koala conservation and the long-term maintenance of koalas and other threatened species populations within the Hastings-Macleay Region. We know of many areas of important contemporary koala habitat, including in areas declared by the Department of Planning Industry and Environment as “Areas of Regional Koala Significance”, which have been subject to ongoing private native forestry activities, seemingly with no ecologically meaningful controls or parity of control similar to other activities, such as development, that remove native vegetation. Without Private Native Forestry being subject to the same level of rigor and development conditions as other development and natural-resource extraction activities, the financial burden of rehabilitating roads and rural bridges used for heavy vehicle forestry operations falls to the local council, redirecting precious rates income and creating social inequity.

Our submission focuses on the draft Private Native Forestry Code of Practice for Northern NSW with a specific focus on threatened species, notably koalas. Our key points are:

1. The Need for Surveys before PNF operations by Accredited Ecologists for Koalas and Other Species
2. The Need for Consideration of the Impacts of Operations to Threatened Species Using the Site
3. The Need for an Ecologically-Meaningful Review of the Ecological Prescriptions for Koalas
4. The Need for Tighter Land Management Actions following Private Native Forestry Operations
5. The Need for Wider Buffers to Environmentally-Sensitive Areas
6. The Need for Immediate Pre-Harvesting Surveys by Qualified Ecologists to Check for Koala Presence
7. The Need for Greater Retention of Hollow-bearing Trees and Recruitment Tree Identification
8. Other Matters

1. The Need for Threatened Species Surveys by Accredited Ecologists Prior to PNF Plans

Private Native Forestry has the potential to greatly impact local populations of threatened species. Currently the system relies on either 1. Demonstration of presence using BioNet records or 2. Demonstration of presence using on-site signs. This is unsatisfactory for the following reasons.

BioNet Records

BioNet records are almost entirely absent for private properties where no previous ecological surveys have been undertaken and where access to BioNet contributors is not possible. Where landholders are aware of threatened species on their property, such records have often never been entered into BioNet due to 1. An unwillingness to do so for fear of 'green tape'; 2. The complexities of entering data into BioNet and 3. A lack of interest or desire to do so. We know of instances where surveys have been undertaken on private properties under the condition from landholders NOT to enter data into public collection systems.

Demonstration of Presence Using On-site Signs

There is an assumption that a non-qualified ecologist (ie the landholder- with a vested interest) has a perfect knowledge of the >1000 species listed in NSW as threatened species in order to appropriately survey, record and document their presence or that a landholder is aware of all the threatened ecological communities in NSW (many of which require a trained professional to identify- and some of which even require soil surveys to verify). Many of the 1000 species listed in NSW are not even detectable using on-site 'signs'. This may be because they are nocturnal, ground-dwelling, cryptic, difficult to identify, extremely small, have extremely low detection rates, or only seasonally-present (e.g. winter-flowering nectarivores, such as the Swift Parrot or many threatened orchid species). Hundreds of threatened species across multiple taxa (amphibians, flora, mammals, birds, reptiles, invertebrates) are not possible to detect using 'on-site' signs- including many of the species listed in Appendix A. Relying on 'signs' of threatened species presence is therefore highly flawed. Furthermore, relying on maps to determine the presence of threatened ecological communities is also flawed as they are imperfect.

Recommendations:

- Full threatened species surveys, using methods outlined in the Biodiversity Assessment Methodology, (including methods, survey effort and timing) MUST be undertaken by a qualified ecologist (external to the logging contractor) to formulate a Private Native Forestry Plan (or other associated PNF document).

Legal Considerations:

- Local Land Services staff approving Private Native Forestry Plans are aware, using the Threatened Species Profiles and the associations between Plant Community Types/Classes/Formations and Threatened Species that there is a strong potential for one, or more, threatened species to occupy any particular Plant Community Type proposed for Private Native Forestry operations. Failure to actively rule out presence of that species, using ecological surveys, is assumed to be a breach of the Chapter 1, Part 1, Section 3A of the Environment Protection and Biodiversity Conservation (EPBC) Act 1999 notably, "*if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation*".
- Please ensure that the new Codes cover all aspects of the Commonwealth's Bilateral Agreements (Regional Forest Agreements) so that damage to threatened species, migratory species or matters of national environmental significance as outlined under the Environmental Protection and Biodiversity Conservation (EPBC) Act 1999 are legal. It is currently noted that the Provisions from the EPBC Act listed in Appendix A are not met as PNF in its current form does not promote the survival and/or enhance the conservation status of each species or community to which the provision related.

2. The Need for Consideration of the Impacts of Operations to Threatened Species On Site

It is assumed that Private Native Forestry is a sustainable activity- the operation of which will not cause an irreversible impact to a threatened species. However, this cannot be known with certainty when no surveys by a qualified ecologist are undertaken. Many species, particularly threatened flora or hollow-obligate species (denning or nesting), could be put at risk of extinction from Private Native Forestry activities. Threatened Species Tests of Significance, following on-site surveys, as outlined under the Biodiversity Conservation Act 2016, must be completed by a qualified ecologist to determine if a significant impact from PNF being conducted at that site is likely. The Ecological Prescriptions in their current form do not cover all threatened species, including several critically endangered species and no invertebrates, and hence for many species, there are absolutely no controls to minimise damage. This is inconsistent with the requirements for other activities including Part 4 and 5 activities under the Environmental Planning and Assessment (EP&A) Act 1979. Conducting Five Part Tests is recommended to ensure the ecological impact assessment is consistent with the those prescribed for Part 4 and 5 of the EP&A Act. Similarly, Five Part Tests are required under Section 7.3 of the Biodiversity Conservation Act 2016 Test for determining whether proposed development or activity likely to significantly affect threatened species or ecological communities, or their habitats. Private Native Forestry could well be determined an 'activity' under both pieces of legislation.

Recommendations:

- A Threatened Species Test of Significance must be done for each PNF operation.
- Ecological Prescriptions must then be prepared by an ecologist for each threatened species present on site (not just the few outlined in Appendix A). These prescriptions must be designed appropriately for each site to protect the abundance/ configuration/ nature of threatened species present and these prescriptions then captured in the various PNF Operational Plans.

Legal Considerations:

- As outlined for Point 1 above.

3. The Need for an Ecologically-Meaningful Review of the Ecological Prescriptions for Koalas

The current ecological prescriptions for koalas are unsatisfactory and will not contribute to the long-term conservation of koala populations on a site for the following reasons:

- Table D "Feed Trees" does not list Tallowwoods (*Eucalyptus microcorys*). These are a principal koala feed tree, and in many areas of koala habitat on the North Coast, the only koala feed tree present, and the tree eaten most consistently temporally and spatially. They must be listed. Similarly, Red Mahogany (*E. resinifera*) is another important koala food tree absent from this list.
- Prescription A notes "Forest operations are not permitted within any area identified as 'core koala habitat' within the meaning of State Environmental Planning Policy No. 44 – Koala Habitat Protection." Please note that SEPP 44 has been repealed and replaced with State Environmental Planning Policy (Koala Habitat Protection) 2019. Please reword this section to say "Forest operations are not permitted within any area identified as 'core koala habitat' within the meaning of State Environmental Planning Policy No. 44 – Koala Habitat Protection."
- Similarly, Table D should be refined to include feed trees listed (as appropriate to each region covered by the Codes) in Schedule 2 of the new Koala Habitat Protection SEPP.
- Prescription B notes "Any tree containing a koala, or any tree beneath which 20 or more koala scats are found (or one or more koala scats in Koala Management Area 5), or where the presence of a koala is clearly identifiable by recent scratches must be retained, and an exclusion zone of 20 metres (50 metres in Koala Management Area 5) must be implemented around each retained tree." This is not ecologically-meaningful. Even in extremely high-quality koala habitat it is difficult to find 20 koala scats under one tree, particularly where leaf litter is dense or where it has recently rained. DPIE have recently conducted in excess of 170 koala surveys across the North Coast region, and failed to find greater than 20 scats at any site. We know from multiple studies of radio-collared

koalas that they undertake spatio-temporal partitioning of their home range- such that not all areas are occupied simultaneously. On the North Coast, scats degrade within 3 months, meaning that important seasonal areas may be discounted as koala habitat when searching asynchronous to that season. Koalas are notoriously difficult to spot- it can take in excess of 20 minutes searching one tree in which we know a radio-collared koala is present to sight it. Therefore, using either scats, or sightings of koalas, as the measure by which to identify koala habitat is flawed. Furthermore, even trained koala ecologists find it difficult/impossible to distinguish between koala scratches and goanna scratches. The prescription to retain only koala food trees with this feature fails to identify that koala habitat is much more than just food trees. Koala habitat is a mixture of food and shelter trees and factors such as canopy connectivity and thermal properties of the habitat are important factors. Removing canopy connectivity, important shelter trees and opening up the habitat rapidly degrades koala habitat values- even where important koala food trees are retained.

- Prescription C states “Where there is a record of a koala within an area of forest operations the following must apply: (i) A minimum of 10 primary koala food trees and 5 secondary koala food trees must be retained per hectare in the harvestable area (not including other exclusion or buffer zones), where available. (ii) These trees should preferably be spread evenly across the net harvestable area, have leafy, broad crowns and be in a range of size classes with a minimum of 30 centimetres diameter at breast height over bark. (iii) Damage to retained trees must be minimised by directional felling techniques.”. Further to the above, that koala habitat is more than just feed trees, these ratios of koala food trees are arbitrary and not underpinned by good science. The number of koala feed trees required in a landscape varies in accordance with a number of factors, most notably the size of the resident koala population and soil fertility. In areas of poor soil fertility, koalas require a greater source of ‘pick’ to meet nutritional requirements. The size of 30 cm DBH is also arbitrary- in many areas, trees between 15-30 DBH are actively used by koalas, no doubt because these trees are actively growing and producing much tip. Spreading these trees across the area is not advisable- this results in the loss of canopy connectivity meaning that koalas need to come to the ground to travel between feed trees- thus leaving them vulnerable to dog attack. Finally, the prescription states “Post-harvest burns must minimise damage to the trunks and foliage of retained trees”. Any fires that burn the canopy of eucalypt trees pose a real threat to koala conservation. This should be worded to state “Post-harvest burns must not result in canopy burn or scorch of retained trees”.
- Table H requires review following the document “A review of koala tree use across New South Wales” (OEH, 2018). For example, in our North Coast region *Eucalypts racemosa/ Eucalypts signata* are important koala feed trees but are not listed in Table H.

Recommendations:

- Add Tallowwood (*Eucalyptus microcorys*) and Red Mahogany (*E. resinifera*) to Table D “Feed Trees”.
- Reword Prescription A to reflect the new legislation.
- Use qualified experts to search for koala presence (see Part 1 of this submission)
- Where koalas are deemed to be present, protect an entire area of habitat (not just a few trees). For instance, where koalas are detected, an area of X must be protected (in its entirety) and must contain not fewer than X primary feed trees and Y secondary trees. The area to be protected should be scaled according to the area of private native forestry being conducted, the predicted density of the local koala population (as estimated by a qualified ecologist) and also the region in which the activities are being undertaken (poor soils will require a larger area of trees retained).
- Make it mandatory that post-fire burns avoid canopy scorch or burn.
- Revise Table H in line with the OEH koala Feed Tree Review and include *E. racemosa* and *E. signata*.

Legal Considerations:

- Under the State Environmental Planning Policy (Koala Habitat Protection) 2019, only qualified koala experts can undertake scat detection surveys. Using unqualified landholders (or logging contractors) to undertake this task is not consistent with the requirements of the SEPP. Core koala

habitat needs to therefore be defined by a qualified ecologist. Where a Koala Plan of Management has not been prepared for that area, surveys are required to be consistent with the SEPP.

4. The Need for Tighter Land Management following PNF Operations

It is well known that forest disturbance, particularly forestry operations that open up the canopy, thus increasing light penetration and causing soil disturbance, can lead to large weed infestations. Such weed incursions can be novel to an area, brought in on the various machinery used. It is also well documented that pest animals can travel more readily into previously undisturbed forest areas along established trails and cause damage to remnant populations of native wildlife. Such wildlife is particularly vulnerable following logging as many animals will have become displaced and no longer have appropriate canopy connectivity or shelter. Finally, forestry operations result in a large amount of woody debris, particularly fine fuels, from discarded tree canopies. This waste represents a real fire risk when left heaped on site, particularly as the local forest becomes more xeric as a result of increased light and wind penetration. This waste can also cause damage when heaped around remnant trees and such slash piles can also present opportunities for feral animal harbour. We see that the current PNF Codes are not worded strongly enough to deal with these land management issues following operations. Finally, the whole premise of PNF is that it is a 'sustainable operation'. We do not see that the current management requirements post operations meet this requirement. The periods for regeneration are insufficient for proper recovery and result in incremental losses of biodiversity. We have also seen PNF used ahead of development applications. We strongly request that a legally-binding Conservation Agreement is put over areas of land subject to PNF for at least 50 years to better ensure full regeneration and to reduce the practice of 'pre-emptive clearing'.

Recommendations:

- Change the Code in Section 4 from "The landholder may manage pest plants and animals on land to which a PNF Plan applies" to "The landholder MUST manage pest plants and animals on land to which a PNF Plan applies". The PNF Plan should identify how this post-operations management will be conducted and set management targets (e.g. <10% of the operations area will be influenced by weeds after 1 year). The PNF Plan must also outline how management of pest species will ensure compliance with the NSW Biosecurity Act 2015, including specific species listed under that Act.
- Change the Code in Section 5 from "The landholder may carry out burning activities, fire management, bush fire hazard reduction and bush fire recovery and response activities on land to which a PNF Plan applies" to "The landholder MUST carry out burning activities, fire management, bush fire hazard reduction and bush fire recovery and response activities on land to which a PNF Plan applies". This must be outlined in the PNF Plan with management targets (e.g. <5% of the site will be covered by fine fuels as a result of operations within 1 year. No heaps will be present". The recent paper by Lindenmayer *et al.* (2020) shows that logging increases fire risk through the accumulation of fuel materials and opening up (drying out) forest ecosystems.
- Change the Code in Section 6.3 from "As far as practicable, forestry operations must not damage or heap debris around protected trees" to "Forestry operations must not damage or heap debris around protected trees". This should be outlined in the PNF Plan.
- Inspections must be undertaken by a qualified expert at regular intervals following PNF Operations to ensure that these, and any other, management requirements have been met.
- Place a legally-binding Conservation Agreement over any area of land subject to PNF for 50 years, with management prescriptions, to ensure full recovery of the ecosystem.

Legal Considerations:

- The premise of PNF is that it is a sustainable operation. If proper management and controls are not followed after logging operations, the ecosystem will not experience proper recovery and the premise of this industry being 'sustainable' is therefore inconsistent with Regional Forestry Agreements and the requirements of the EPBC Act (e.g. preventing damage to threatened species).

5. The Need for Wider Buffers to Environmentally-Sensitive Areas

The Koala Recovery Partnership considers that buffers to environmentally-sensitive areas are insufficient. They are not enough to counteract the increased heat and light penetration effects that is experienced as a result of the opening up of the forest canopy and are insufficient to reduce the noise/dust effects that are experienced during logging operations, particularly for cave-dwelling bats, many of which are highly-endangered. Assessments must be done (by a qualified ecologist) on any such colonies to determine if they are significant maternal roosting sites, in which case, forestry should be impermissible within the area.

We are also concerned about the minimum buffer that is required to wetland areas. Forestry operations result in significant changes to local hydrology and cause erosion and sedimentation (even with controls). Wider buffers are required to wetland areas, together with tighter controls, to reduce these impacts.

The Koala Recovery Partnership believes that 5 m buffer to riparian areas, together with the ability to snig logs from within riparian zones, undertake logging and retrieval operations within buffers and create tracks is entirely inappropriate. Much research has now demonstrated the importance of riparian areas to koalas as 'mesic refuges'. These areas are important thermal refuge sites, can maintain populations during fire events, and have the best leaf moisture and nutrient content. Any riparian zone disturbance represents a significant impact to koala habitat and must be avoided.

Recommendations:

- All 'environmentally sensitive areas', as outlined in Table B of the Draft Code Protection of Landscape Features of Environmental and Cultural Significance, including bat habitat (cliffs, caves, tunnels or disused mineshafts), riparian areas (of any order stream), rocky outcrops, heathlands and wetlands must have a 100 m buffer applied. No logging operations (roads, retrieval, managed logging) are to be allowed within these zones or their buffers. These areas should be taped-off to ensure they are "No Go" zones.
- Assessments should be undertaken of whether any caves, tunnels or disused mineshafts on site are likely to be maternal roosting sites for cave dwelling bats. If so, logging should be impermissible.
- Exclusion zones should not include national parks as this does not contribute to appropriate habitat retention. Full 100 m buffers should be established along the edges of national parks or Forest Corp land zoned for conservation. No logging operations should be allowed in these buffer areas.
- Where the NSW Biodiversity Assessment Methodology under the Biodiversity Conservation Act 2016 nominates a required buffer distance, this should become the default for that feature.

6. The Need for Immediate Pre-Harvesting Surveys by Ecologists to Check for Koala Presence

Currently there is absolutely no requirement for any logging contractor to undertake pre-harvesting checks for koala presence. As noted above, koalas are highly cryptic, and even trained professionals may, at times, struggle to detect them. The difficulties of sighting koalas, and the very real risk of koalas being present in felled trees, has recently received international media attention following the photos of koalas being crushed and injured during logging operations in Victoria's blue gum forests. The Koala Hospital similarly had a radio-collared koala which was present in a felled tree in the North Coast region.

Recommendations:

- Immediate pre-harvesting surveys of koalas MUST be undertaken by a qualified ecologist.
- Management plans must be put in place to deal with injured wildlife and form part of the Code.

Legal Considerations:

- Part 2 , Section 5 of the Prevention of Cruelty to Animals Act 1979 No 200 states that (1) A person shall not commit an act of cruelty upon an animal., (2) A person in charge of an animal shall not authorise the commission of an act of cruelty upon the animal., (3) A person in charge of an animal shall not fail at any time: (a) **to exercise reasonable care, control or supervision of an animal to prevent the commission of an act of cruelty** upon the animal, (b) where pain is being inflicted upon the animal, to take such reasonable steps as are necessary to alleviate the pain, or (c) where it is necessary for the animal to be provided with veterinary treatment, whether or not over a

period of time, to provide it with that treatment. The Koala Recovery Partnership believe that failure to undertake pre-harvesting surveys for koalas, and other wildlife, particularly hollow-obligate species, is a failure to exercise reasonable care or caution to prevent an act of cruelty as is the current system which does not consider how injured or displaced animals are dealt with.

7. The Need for Greater Retention of Hollow-bearing Trees and Recruitment Trees

Hollow-bearing (habitat) trees are a fundamental, keystone resource in the forests of the North Coast. Most arboreal marsupials, and large forest owls, that rely on these resources are already threatened. The removal of hollow-bearing trees is a key threatening process for multiple species. Animals require large numbers of hollow-bearing trees within their home ranges as they regularly swap between hollows (to escape parasite build-up and for predator avoidance), have different hollows for different purposes (denning or nesting) and undertake spatio-temporal partitioning of their home range (e.g. occupying cooler areas in summer months and areas that capture more sunlight and avoid cold air drainage in cooler months). Furthermore, many threatened species occupy different hollow types and sizes and hence a wide diversity of hollow types and sizes are required on a site for multiple species conservation.

Recommendations:

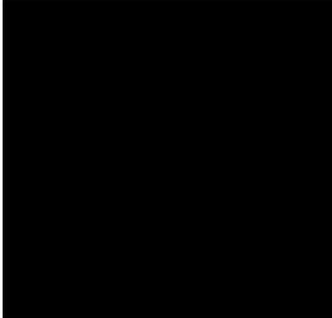
- The Code currently states that "...if there are more than the minimum required number of habitat trees, preference must be given to the largest (measured at DBHOB). Trees that pose a health or safety risk may be removed and substituted with other hollow bearing trees if available, and if not available, by recruitment trees". We believe that NO hollow-bearing trees should be removed as this is a contributing immediately to a key threatening process. Where such trees pose a safety risk, a "No Go" zone should be established around them, instead of felling them. Often these 'dead and dangerous trees' are those with the largest, most well-developed, hollows and are of vital importance to large forest owls and larger arboreal marsupials, such as Yellow-bellied Gliders.
- Consolidating remnant hollow-bearing trees in riparian buffers is inappropriate. As mentioned above, such areas may not be favoured by many species during cooler months. A diversity of hollow-bearing trees are required across the site to ensure appropriate thermal opportunities.
- Recruitment trees is a misnomer when many species do not develop hollows or will not do so over the timeframes required for species persistence. No hollow-bearing trees must be lost.

8. Other Matters that Require Attention

- Procedures for identifying Areas of Outstanding Biodiversity Value, Coastal Wetland, Threatened Ecological Communities and Heathlands (in which PNF is not permitted) are not articulated.
- Restrictions must be placed on when PNF operations can be undertaken. During the major fire events of 2019/2020, it was a common sight to see and hear PNF operations in full swing, with many loaded log trucks leaving private premises ahead of fire fronts.
- Table B: The Code states "Threatened populations listed in the Biodiversity Conservation Act 2016". Threatened populations were made defunct under the Biodiversity Conservation Act. This should be reworded to species to avoid any ambiguity. It should read "Forestry operations must not result in any harm to an animal that is part of a threatened *species* or result in the picking of any plant that is part of a threatened *species*, except that existing roads may be maintained."
- We trust that that Habitat Tree Retention Measurement document will be made available for public consultation. Such measures will be fundamental to protecting wildlife habitat.
- Feeding Scars: All trees with feeding scars, whether or not they have closed, should be retained. Animals, particularly Yellow-bellied Gliders with large home ranges, exhibit spatio-temporal partitioning of their habitat and hence their use varies seasonally. We know of many important, and regularly-used, Yellow-bellied Glider feed trees that do not exhibit traditional "V scars" on the North Coast, and hence request that all trees with feeding scars (active or inactive) be retained.
- The reduction in basal area from 18 ha to 10 ha is a massive increase in timber extraction, further exacerbating all of the impacts outlined above and placing further impacts on rural roads.
- The Code only mentions compliance once on Page 55. The relationships between the Code, the role of Local Land Services and the NSW Environment Protection Authority should be made clearer.

We thank you for your time in reading our submission. We reiterate that Private Native Forestry should be subject to the same development control and assessment conditions and contributions as per other natural-resource extraction industries or development that removes native vegetation to prevent the current social, ecological and financial impacts and inequities that the current lack of regulation causes.

Yours faithfully,



Craig Swift-McNair
Executive Officer
Mid North Coast Joint Organisation