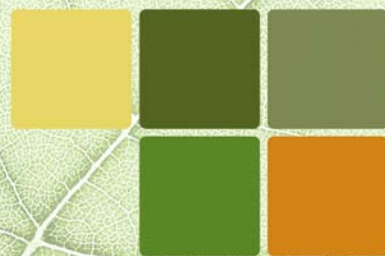


Review of the Native Vegetation Regulation



Fact Sheet 7: Managing private native forestry under the changes

The NSW Government has reviewed the Private Native Forestry Code of Practice (PNF Code), which supports the Native Vegetation Regulation 2005. A draft of the proposed revised PNF Code has been released for public comment: see www.environment.nsw.gov.au/vegetation/ReviewofNVRegulations.htm.

The draft Regulation and the PNF Code include a range of proposed changes that aim to cut red tape and remove inconsistencies, while still maintaining or improving environmental outcomes. The changes build on the existing framework established by the Regulation and the PNF Code and will affect only new approvals granted after the PNF Code is remade.

This fact sheet outlines significant proposed changes to the PNF Code and proposed changes to the Regulation that relate to PNF. It also outlines other issues related to PNF that the NSW Government is seeking community feedback on.

Would you like to have your say on the proposed changes?

To have your say on the proposed changes, send your comments to OEH by:

email: native.vegetation@environment.nsw.gov.au

post:

Native Vegetation Regulation Review
Level 12, PO Box A290 Sydney South NSW 1232.

fax: (02) 9995 6791 (attn: Native Vegetation Regulation Review)

Please send your comments by **midnight Friday 24 August 2012** so that they can be considered in the development of the final Regulation and supporting documents.

The Office of Environment and Heritage is managing the review of the native vegetation regulations, including the PNF Code. The Environment Protection Authority (EPA) manages PNF and the implementation of the PNF Code.

About private native forestry

Private native forestry (PNF) is the harvesting of native trees for commercial purposes on private land on a sustainable basis. PNF is regulated by the Environment Protection Authority (EPA).

PNF is regulated under the Native Vegetation Regulation 2005 through the PNF Code, which sets minimum standards to ensure forests are harvested in an ecologically sustainable way. The PNF Code has four parts, one for each of the four forestry landscapes: Northern NSW, Southern NSW, River Red Gum Forests, and Cypress and Western Hardwood Forests.

Approval to undertake PNF is given through a PNF property vegetation plan (PNF PVP), which is an agreement between the landholder and the government. It identifies which areas of the property can be harvested and which areas are protected. A PNF PVP can last for up to 15 years, and it can be registered or noted on the title of the land. This allows future property owners to continue PNF in accordance with the PVP and the PNF Code.



Summary of proposed changes

Making it clearer when a minor variation to the PNF Code can be sought

Currently, landholders can seek a minor variation to the PNF Code only if more than 10% of the area covered by the PNF PVP area is not allowed to be harvested because of environmental impact considerations. However, calculating the impact area is difficult and does not cover all situations where a minor variation could be appropriate. The proposed amendment will allow accredited experts to approve a minor variation to the PNF Code for a specific PNF PVP, regardless of whether the '10% impact rule' has been met. The variation must still improve or maintain environmental outcomes.

This change will give landholders greater flexibility to run their operations in the most efficient way, while still protecting native vegetation. It also removes difficulties in calculating the 10% impact.

Accredited experts will be required to provide a statement outlining their reasons for approving the minor variation. This statement will be made available on the EPA website.

The qualification standards that experts must meet to become accredited will also be made available on the EPA website.

For more information, see clause 22 of the proposed Regulation.

Providing more landowners with access to private native forestry

Some landholders have Crown leases over land that is not Crown-timber lands. This land is subject to the *Native Vegetation Act 2003*, yet these landholders are not able to obtain PNF PVPs; they can obtain only normal clearing PVPs. These Crown leases also do not fall under the *Forestry Act 1916*.

The proposed amendment will address this unintended gap by allowing these landholders to apply for a PNF PVP rather than a normal clearing PVP. This will give these Crown lease landholders better equity with other landholders and greater flexibility in how they manage their land.

For more detailed information, see the definitions in clause 3 of the proposed Regulation and the introduction to the relevant proposed PNF Code.

Protecting trees that have regrown after a PNF PVP has ended


Currently, once a PNF PVP ends, the trees that have regrown after harvesting may be considered to be regrowth and cleared without approval. The proposed changes to the Regulation will allow the Minister for the Environment to prepare a natural resource management plan identifying trees that have regrown following PNF as 'protected regrowth'.

For more detailed information, see clause 53 of the proposed Regulation and section 10 of the *Native Vegetation Act 2003*.

Obtaining more up-to-date information about the timing of forestry operations

The proposed change cuts red tape for landowners by removing the current requirement to provide the EPA with an annual report on logging operations. It will give the EPA more up-to-date information to help target compliance and regulatory activities.

Landowners will now be required to notify the EPA of the start and end of forestry operations. Notification will be possible up to 14 days before, or up to 3 days after, a forestry operation is due to take place and again within 2 weeks after a forestry operation is completed. If a landholder does not perform any forest operations in a given year, they will not need to notify the EPA at all.



Landowners will be given a range of flexible options for notification, including: phoning Environment Line; notifying in person at the local EPA office; or notifying by fax, email, or mail or on the web using a form that the EPA will develop.

The clause specifies the information a landholder will be required to provide at the time of notification, including the PNF PVP number, proposed dates of forestry operations, the type of operation, and contact details for any contractors. This is less than the information currently required to be provided in an annual report. Landholders and contractors shouldn't find this reporting onerous, as a number of landowners already routinely report their harvesting activities. The current requirement that Forestry Operation Plans be available for inspection by EPA officers during regulatory inspections will not change.

For more information, see section 2.2 of the relevant part of the draft PNF Code.

Protection of critically endangered, endangered and vulnerable ecological communities

There are three categories of threatened ecological communities: critically endangered, endangered and vulnerable. When the PNF Code was approved in 2007, only endangered ecological communities were listed.

The current PNF Code allows forestry operations in endangered ecological communities under an approved ecological harvesting plan. It does not allow forestry operations in vulnerable ecological communities and does not mention critically endangered ecological communities.

The proposed changes align the treatment of threatened ecological communities with the potential risk from forestry. Under the proposed changes:

- forestry operations will not be allowed in critically endangered ecological communities
- forestry operations will be allowed in endangered ecological communities under approved ecological harvesting plans that are in place (i.e. the requirements remain the same)
- forestry operations will be allowed in vulnerable ecological communities under a Forestry Operation Plan approved by an accredited expert.

These changes provide greater flexibility for landholders while still maintaining the existing standard of environmental protection and enhancing protection for the most endangered communities.

Accredited experts will be required to provide a statement outlining their reasons for approving each Forestry Operation Plan. This statement will be made available on the EPA website.

The qualification standards that experts must meet to become accredited will also be made available on the EPA website.

For more information, see Table C in the relevant part of the draft PNF Code.

Updating requirements for the protection of Aboriginal objects in line with changes under the National Parks and Wildlife Act 1974

The proposed amendment to the PNF Code requires landowners to exercise 'due diligence' to identify Aboriginal objects on their property. This due diligence must be exercised in accordance with the Due Diligence Code of Practice for the Protection of Aboriginal objects. This document can be found at www.environment.nsw.gov.au/resources/cultureheritage/ddcop/ddcop-DII.pdf. These changes are consistent with changes made to the protections for Aboriginal cultural heritage under the *National Parks and Wildlife Act 1974*.

For more detailed information, see section 4.1(3) of the relevant part of the draft PNF Code.



Changes to Routine Agricultural Management Activities (RAMAs)

There is a range of clearing activities that PNF landholders can do without needing approval under the current Regulation. These are known as Routine Agricultural Management Activities (RAMAs). The draft Regulation adds to the list of RAMAs and removes or changes some existing RAMAs that are permitted to be used on land subject to a PNF PVP. These changes will cut red tape and improve service delivery by reducing the number of clearing proposals that need to be assessed. The changes also remove ambiguity and make the RAMAs easier for landholders to understand.

Public infrastructure. Three RAMAs relating to public infrastructure have been maintained from the current Regulation. The RAMAs for management of infrastructure on Crown Land (clause 30 of the draft Regulation) and maintenance of public utilities – electricity transmission (clause 31 of the draft Regulation) have not changed. The RAMA for construction, operation and maintenance of telecommunications infrastructure has been extended to apply to all land, not just Crown land as in the current Regulation (see clause 32 of the draft Regulation).

Dwellings. Under clause 42 of the draft Regulation, if landholders need to clear native vegetation to build certain types of houses, they will need approval from only the local council. Under the draft Regulation, clearing for more types of dwellings will be allowed without approval from the CMA. This includes dual occupancy, a dwelling house, a secondary dwelling or a semi-detached dwelling. This will reduce red tape for landholders building these types of homes.

Conservation purposes. The draft Regulation will make it easier to look after native vegetation on land set aside for permanent conservation under an agreement with the government. If native vegetation needs to be cleared as part of management actions under the conservation agreement, under the draft Regulation the clearing will not need approval from the local CMA.

For more information see clause 43 of the draft Regulation.

Planted native vegetation. Clause 46 of the draft Regulation introduces a new RAMA allowing planted native vegetation to be cleared without approval. Native vegetation is often planted by landholders to provide shelter, protect soil and improve water quality. Under the current Regulation, landholders may need approval if they wish to clear this vegetation in the future. This is an unintended restriction and a disincentive for landholders to plant native vegetation. The new RAMA for planted native vegetation will give farmers greater flexibility to plant and then remove native vegetation, as needed, to best manage their properties.

The exception to this RAMA in the draft Regulation is if the native vegetation was planted with the help of funding granted to conserve biodiversity, improve water quality, address soil salinity, prevent land degradation or sequester carbon. In these cases, the planted native vegetation would be subject to the same rules as naturally grown native vegetation.


For more information, see clause 46 of the draft Regulation

Protecting habitat for wildlife in non-critical environmental areas when removing timber for rural infrastructure. The proposed amendment introduces minimum tree retention requirements when a RAMA is used to remove timber for the construction, operation or maintenance of rural infrastructure in non-critical environmental areas. Such rural infrastructure includes fences, roads, tracks, pipelines, dams and pumps.

The proposed amendment will ensure that removing timber for rural infrastructure does not harm trees that provide food, habitat and protection for native wildlife. These requirements are consistent with those required under the PNF Code when non-critical environmental areas are logged.

The proposed amendment does not apply to critical environmental areas such as old growth forests and rainforests, which are already protected under the PNF Code.

No other changes are proposed to the rural infrastructure RAMAs for PNF.



For more information, see clause 40 (4) of the draft Regulation.

Clearing you can do without approval as long as you follow a code of practice

The draft Regulation also introduces a new group of RAMAs that landholders can undertake without approval as long as they follow codes of practice (these are separate from the PNF Code of Practice). Previously, landholders would have needed to go through a sometimes lengthy PVP process to get approval for many of these types of clearing. These new RAMAs cut red tape and give landholders the trust they deserve to manage their properties. For PNF, the codes of practice RAMAs will allow clearing of feral native plants and clearing for environmental works. These types of clearing have a low risk to the environment.

Before they begin clearing, landholders will need to make sure that they understand what is required under the codes of practice. The codes of practice, called 'Ministerial Orders' in the Regulation, will be made by the Minister for the Environment and placed on the relevant CMA website. Before the Minister can make the order it must be released for public consultation to give the community the opportunity to comment.

Clearing for environmental works. Under clause 35 of the draft Regulation, landholders will be able to follow codes of practice to undertake environmental works, such as ecological burning, revegetation and rehabilitation, without needing CMA approval. This RAMA will make sure that the government isn't getting in the way of landholders who want to undertake works that benefit the environment.

Codes of practice for these environmental works will be developed following public consultation on the draft Regulation. These codes will be released for public comment before they are made by order of the Minister for the Environment.

Codes of practice that will not apply on land subject to a private native forestry PVP

Two other proposed codes of practice will not apply on land subject to PNF PVPs.

The proposed code of practice for thinning of dense vegetation (clause 36 of the draft Regulation) will not apply to PNF operations, because the PNF Code of Practice already set out the rules for thinning in PNF operations.

The proposed code of practice that will allow management of Invasive Native Species (clause 34 of the draft Regulation) will not apply to PNF operations, because invasive native species are not currently considered to be a management issue on PNF lands. The public are welcome to make submissions about where invasive native species might be an issue on PNF lands; the government will consider these submissions before it finalises the Regulation.


Working with the community and landholders to improve outcomes

As well as seeking feedback on the proposed changes to the Regulation and the PNF Code, the EPA is committed to working with the community and industry to resolve some issues related to the implementation of the PNF Code.

Logging in wet weather under the Northern PNF Code

The Northern PNF Code includes wet weather conditions that are intended to protect the environment and provide a sustainable basis for logging in the future by minimising the potential for erosion and sedimentation at the time of the highest (on average) intensity rainfall events, thus minimising water pollution risks.

The EPA understands that some landholders—particularly in the area west of Kempsey—have expressed concern about the arbitrary nature of the wet weather provisions. The EPA is committed to exploring alternative approaches to managing forestry operations in these areas. Such changes include the



possibility of using different conditions rather than the current blanket limitation under the Northern PNF Code. Community feedback is sought from all landholders affected by the wet weather conditions of the Code. This will give a better understanding of how the conditions are affecting their businesses and what can be done to improve the conditions.

Minimising the impact of private native forestry on koala populations

There are community concerns about the impact of forestry activities on local koala populations. Private Native Forestry Property Vegetation Plans (PNF PVPs, which are the landholders' logging licences) do not allow logging in core koala habitat. However, there are currently inconsistencies between local and state governments in regard to planning controls for koalas, and this has led to differences in views about what constitutes 'core koala habitat'.

Community feedback is sought on a range of options to resolve this issue. The discussion paper *Private Native Forestry and Koalas* contains more details of the proposed options.

More information

For more information, visit the Office of Environment and Heritage (OEH) website at www.environment.nsw.gov.au/vegetation/ReviewofNVRegulations.htm.

On this website, you can download the draft PNF Code of Practice, the draft Native Vegetation Regulation, and tables outlining the proposed changes to the Regulation and the PNF Code. A regulatory impact statement that examines the costs and benefits of the proposed changes is also available.

A range of fact sheets explaining the proposed changes, along with a 'frequently asked questions' page, is also available on the OEH website.

Published by:

Office of Environment and Heritage
59 Goulburn Street
PO Box A290
Sydney South 1232
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Phone: 131 555 (environment information and publications requests)
Fax: (02) 9995 5999
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Website: www.environment.nsw.gov.au
ISBN 978-1-74293-683-3
OEH 2012/0485
June 2012