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Office in Charge
Private Native Forestry Review
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Dear Sir

Private Native Forestry Review

The following submission is made under the auspices of the Northern Rivers Joint Organisation (NRJO) Natural Resource Managers' Group. Membership comprises officers from Ballina Shire, Byron Shire, Tweed Shire, Lismore City, Richmond Valley, Rous County, Kyogle and Clarence Valley Shires. This group was established by the NRJO General Managers' Group to provide high level technical advice and support. The members of this group have a wealth of expertise in natural resource management in the region and have been actively collaborating at the regional scale to increase the efficiency and effectiveness of their achievements for more than 10 years.

Private Native Forestry (PNF) is a significant issue for local government and local communities in the Northern Rivers 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 often falls to 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.

The following comments are offered for 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 problematic as:
 - It is presented and considered independently of other relevant recommendations.
 - It is inconsistent with other recommendations including recommendation 24, whereby a focus on threatened species action and outcome monitoring is proposed.
 - 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.
 - In order to address the third point of the recommendation, the planning and regulatory framework requires significant overhaul as described herein.
 - Professor Hugh Possingham's open letter of resignation from the panel (30 October 2016) and the Wentworth Group of Concerned Scientists open letter (23 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 broadscale clearing for the purpose of PNF is assessed as improving or maintaining environmental outcomes is questionable. Contemporary experience demonstrates that complying with the requirements of the Code is unable to be definitively and objectively assessed. The Code is a one-size fits all approach to an issue that requires site specific consideration. This contrasts strongly with site-based quantitative assessments carried out for other forms of clearing that are required to be assessed under the Biodiversity Assessment Method (BAM). 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. The Code review should address the requirement for site specific assessment, monitoring and compliance.
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. Consultation with and referral to local government is required during the PVP assessment stage to address these concerns and the terms of reference for the review should be amended to include the requirement to address the deficiencies with the current system with respect to local government.

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. Subject to the recommended consultation and referral, the full details of any resulting PVPs and Forest Operation Plans should be provided to the relevant local government authority.
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 NSW Wildlife Atlas is widely recognised as depauperate 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. 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. It is not possible for people without such skills to be able to assess habitat suitability, climatic and seasonal activity patterns variations or species identification requirements and to accurately apply the prescriptions. Ecological assessment by a suitably qualified ecologist is essential to inform the preparation of any proposed PNF PVPs.
7. The current PNF Code of Practice for Northern NSW (Code) and its application is inconsistent with the aim of both *State Environmental Planning Policy No. 44 – Koala Habitat Protection* (SEPP44; s. 3) (SEPP 44) and the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and actively circumvents assessment processes detailed in CKPoMs for individual local government areas (LGAs) and those required under the EPBC Act. It is an imperative that the revised PNF Code of Practice for Northern NSW (Code) is consistent with the aims and intent of both *State Environmental Planning Policy No. 44 – Koala Habitat Protection* (SEPP 44; s. 3) and the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).
8. Identification of koala food tree species and areas of significant koala habitat for the purposes of informing PNF PVP assessments should be made with reference to contemporary data and literature. This may include approved Comprehensive Koala Plan of Managements, local government strategies and other available research or literature. This will enable the critical consideration of contemporary knowledge of koala habitat requirements, inclusive of the essential requirement for ‘secondary’ food tree species and local or regional variation amongst preferences and/or detailed studies.
9. The basic requirements for a proposed Forest Operation Plan must include:
 - identification of the linkages and integration with the existing local road network, including proposed haulage routes;
 - land use zoning in accordance with the relevant Local Environmental Plan (map component) and identification and analysis of consistency with, and or any relevant approvals required by, the Plan (written component);

- 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;
 - 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.
10. Reporting requirements should include at a minimum:
- 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.
 - evidence based assessment against the silvicultural operations provisions of Section 3.1, 3.2 and 3.3.
11. Protection of the environment:
- PNF operations are not appropriate in endangered ecological communities and the enabling provisions of the Code should be removed.
 - ‘Maintained’ must be defined in such a way as to enable objective assessment of whether this condition is met.
 - ‘Existing’ must be defined in such a way as to enable objective assessment of whether this condition is met.
 - 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, that applied in the Tweed Aboriginal Cultural Heritage Management Plan (2018).
 - Clause 4.3 (2) – debris should not be heaped around any tree, regardless of whether it meets the definition of protected tree.
12. Construction and maintenance of forest infrastructure:
- 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.
 - 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 you require any further information in relation to this submission, please contact Phillip Rudd, General Manager, Rous County Council (02 6623 3800 / phillip.rudd@rous.nsw.gov.au) or Scott Hetherington, Senior Program Leader Biodiversity, Tweed Shire Council (02 6670 2400 / shetherington@tweed.nsw.gov.au).

Yours faithfully



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General Manager