



21 June 2017

Land Management and Biodiversity Conservation Reforms
Office of Environment and Heritage
PO Box A290
Sydney South NSW 1232

Dear Sir/Madam,

Re: Submission on ECOLOGICALLY SUSTAINABLE DEVELOPMENT

This submission has been prepared by Timber NSW in accordance with the Ecologically Sustainable Development Submission Guide - Part 2- Biodiversity Conservation Regulation and draft supporting products.

1. Proposed area threshold

Private native forestry (PNF) is the subject of a separate government review process. Timber NSW is therefore concerned to see that PNF will be directly impacted by the draft Vegetation SEPP and the draft BC Regulations which relate to the Biodiversity Offsets Scheme.

PNF operations are approved and regulated under the *Native Vegetation Act 2003*. Where this legislation has overlap with the LEPs under the *Environmental Planning & Assessment Act 1979*, PNF has been largely unaffected due to the existence of continuing use rights that predate the LEP zoning. There are many examples of PNF currently operating on land which has a non-rural zoning and continuing use rights.

The draft Vegetation SEPP and draft BC Regulations fail to acknowledge or accommodate PNF. Under these draft instruments PNF will well exceed the 'proposed area threshold' and be subject to a separate approval process by the 'Native Vegetation Panel'. The treatment of existing operations remains unclear.

The draft instruments create significant uncertainty around the future availability of timber sources on land with a non-rural zoning. On the NSW North Coast alone there are around 240,000 hectares of E-zoned forested land with a long history of timber harvesting.

The NSW Government has committed to a separate review of PNF. Timber NSW submits that any draft regulatory instruments affecting PNF be withheld pending the completion of that Review. To do otherwise will strongly prejudice the outcome of the PNF Review.

2. Sensitive Biodiversity Values Land Map

Timber NSW does not support the creation of the Sensitive Biodiversity Values Land Map for many reasons.

Firstly, the Sensitive Biodiversity Values Land Map has been embedded within the draft regulations without consultation or discussion or consideration of its socio-economic impact.

Secondly, the Map is inconsistent with findings of the Biodiversity Review Panel, which were to build trust with landholders and to do away with the 'command and control' approach.

Thirdly, the Map perpetuates the failed silo based approach to biodiversity conservation which fails to recognise that major threats (fire, pests and weeds) do not respect paper based boundaries. Please refer to the Timber NSW submission (28 June 2016) on the Biodiversity legislative reforms where urges the need for a more holistic approach.

Fourthly, Timber NSW has no confidence in the accuracy or reliability of the Map, as it is aware that many of the categories of land on which it is based are poorly defined. For example an audit of the old growth layer in northern NSW found it to be only 17% accurate. For further comments regarding this issue see Timber NSW's submission on the Regulatory Provisions for the NVR Map.

The Sensitive Biodiversity Values Land Map includes a long list of land categories all of which allegedly have 'sensitive biodiversity values'. Timber NSW objects to the use of the term 'sensitive' which is a non-scientific, value laden term. No evidence is provided to justify the grouping or explain the nature of the 'sensitivity'. Once amalgamated, the reason and basis for the inclusion of these categories will be lost, removing transparency and any genuine accountability. The release of the draft Map, without any breakup of the categories that the Map represents, reveals that accountability and transparency are not a priority.

Finally, it is clear that the Map will be added to in the future as new categories and reasons are conceived. As such the Map will provide a legislated mechanism for the progressive erosion of landholder and PNF rights. It is envisaged that this erosion will occur in a similar manner to that which has occurred on State forests. The Forestry Corporation reserves thousands of hectares every year (as new things are found that allegedly need new special protection) and now less than half of its estate remains available for timber harvesting. It is a major shortcoming of the Regulatory Impact Statement prepared by the Centre for International Economics that this issue has not been considered.

3. The Biodiversity Offsets Scheme Threshold in practice

No comment.

4. Impacts on biodiversity values other than clearing of native vegetation

Timber NSW has no comment on this section other than to register its strong objection to the following statement (from the Submission guide):

Although clearing of native vegetation is the most significant cause of biodiversity loss in NSW, biodiversity values are also impacted by processes such as turbine strike, noise and disruption, and vehicle strike.

There is no evidence to support this statement, OEH's own satellite based monitoring system shows that clearing in NSW impacts a tiny percentage of the State's native vegetation, with clearing approvals at an all-time low.

In contrast, the major threats to biodiversity - wildfire, pests and weeds - remain very poorly controlled. These threats are responsible for major biodiversity loss and are recognised as key threatening processes for the majority of the state's listed threatened species.

5. Impacts below the Biodiversity Offsets Scheme Threshold and 'test of significance'

No comment.

6. Serious and irreversible impacts

Timber NSW objects to the use of “extinction” when the draft should be using wording such as adverse impacts at best. Use of the word extinction is highly emotive and prejudicial

7. Offset Rules

No comment.

8. Proposed principles for determining serious and irreversible impacts

No comment

9. Offset Rules for proponents

Post mine rehabilitation, there is no possible way a better environmental outcome can be delivered than what was there originally

10. Biodiversity actions

No comment.

11. Mine site rehabilitation

See comment in No.9

12. Offset Rules for biodiversity certification

No comment.

13. Additional offset options for Strategic Biodiversity Certification

No comment.

14. Offset Rules for the Biodiversity Conservation Trust

No comment.

15. Like-for-like Offset Rules

There is no mention of the rations for like-for-like offsets and who/how this is determined.

16. Variation rules

No comment.

17. Biodiversity certification

No comment.

18. Scheme to accredit BAM assessors

What is the criteria to be defined for a potential assessor to be a “fit and proper” person?

19. Public registers for the Biodiversity Offsets Scheme

No comment.

20. Offsets payment calculator

Will risk loading be refunded if found to have been set too high after sufficient trades have occurred?

21. Transitional arrangements

Proponents are only given one year from BC Act commencing, to use transitional arrangements/old legislation. This seems a short period given that it commenced in late 2016 and the methodologies are still out for public comment in June 2017.

Thank you for the opportunity to comment.



Maree McCaskill
General Manager