



14 April 2022

Ms Jacqueline Moore
a/Chief Executive Officer
NSW Environment Protection Authority
By email: POEOGenReg.review@epa.nsw.gov.au

Dear Ms Moore

Draft Protection of the Environment Operations (General) Regulation 2022

The Clarence Valley Conservation Coalition (CVCC) is a community group based in the Clarence Valley. Formed in 1988, the CVCC has been involved with environmental issues – both locally and beyond – since that time. It has had a long-term interest in water and its management and the maintenance of river health in our local area and further afield.

Over past 35 years, some of the CVCC's key campaigns have been prompted by a concern for the future of the Clarence Valley's private and public native forests, whether from pulp mills or from wood-fired power stations.

It is therefore with considerable concern that the proposed Protection of the Environment Operations (General) Regulation 2022 will continue to promote the destruction of our native forests for the purposes of electricity generation. This practice was recognised as unsustainable in a recent Parliamentary Inquiry and is in conflict with the objectives of the *Protection of the Environment Operations Act 1997*.

The CVCC therefore requests that our submission in opposition to the proposed regulation be considered. However, the CVCC holds grave reservations that they will be seriously considered. Closing public submissions at 5pm on the Thursday before the Easter long weekend indicates to us that the EPA is not genuine about public consultation. Certainly, if the EPA were serious about providing an appropriate timeframe for public comments, the closing date would have been midnight on Monday 18 April.

Chapter 9, Part 3 of the proposed regulation covers the burning of bio-material in electricity generating works. This is the section of key concern to the CVCC.

The CVCC applauds the statement in clause 135 that native forest bio-material must not be used to generate electricity.

However, the CVCC rejects the following exclusions from the definition of native forest bio-material in clause 134:

- pulp wood logs from native forests
 - the logs and other small timber removed from native forests during thinning operations
 - the heads and off-cuts of trees cut down in native forests during clearing operations.
- If obtained from native forests, these materials – inclusive of dead trees – must be included in the definition of “native forest bio-material”.

Likewise, the CVCC rejects the extensive list of exceptions in clause 136.

Creating the loopholes in clauses 134 and 136 will mean that millions of living trees that make up the fabric of our forests will be eligible to be burnt to generate electricity. The loophole will create an economic driver for logging operations to be much more destructive, to maximise damage to forests and to remove even more important biomass. Trees and other material, that would otherwise be kept as important wildlife habitat, carbon stores or even future saw logs in our native forests will be cleared, chipped and burned. Intensification of logging will compound and worsen impacts of habitat loss for threatened and vulnerable species, and increase stormwater run-off and erosion.

This level of exploitation is not consistent with the principles of ecologically sustainable development – the maintenance of which is the over-riding objective of the EPA under section 6(1)(a) of the *Protection of the Environment Administration Act 1991*.

Further, leaving this loophole in the regulation will provide an incentive for the development and operation of biomass power stations under the assumption that they will have access to a large quantity of material – including entire living trees – from NSW’s native forests for use as feedstock. Biomass power stations rely on an almost unlimited supply of native forest material to be viable.

The proposed Verdant/Redbank station in the Hunter Valley, for example, stated in its development modification how it planned to source 600,000 tonnes of material every year from native forestry operations. If this project is approved under the current draft regulation, it will lead to increased and more intensive native forest logging by creating a market demand for low value, high volume native forest products from forestry operations.

The CVCC reminds the EPA of the NSW Parliament’s Inquiry into “Sustainability of energy supply and resources in NSW”. This Inquiry reported to the NSW Government in August 2021, made the following statement: “Native forest biomass isn’t a renewable energy source. It reduces the ability of NSW forests to absorb atmospheric carbon, and produces carbon emissions.”

The Inquiry’s report included several recommendations that should have directed the EPA to remove this future exploitation of non-commercial timber harvested from our forests, including:

- That the NSW Government amends the definition of *native forest biomaterial* under the Protection of the Environment Operations (General) Regulation 2009 to prevent the burning of wood from native forests to generate energy [Recommendation 2].

- That the NSW Government works with other jurisdictions to exclude native forest biomass from being classed as renewable energy and ensure it is not eligible for renewable energy credits [Recommendation 3].

It is highly disappointing to see that these bipartisan recommendations from the NSW Legislative Assembly Committee on Environment and Planning have not been heeded in the remake of the Protection of the Environment Operations (General) Regulation 2022.

To ensure that any biomass power stations that are approved in the future in NSW do not use unsustainable timber logged from our native forests as feedstock, the CVCC recommends the following amendments to the POEO regulation:

1. amend clause 134 by removing subpoints (a)(vi) and (a)(vii) from the definition of native forest bio-material

2. amend clause 136(3) to read:

In this section—

higher value use includes the role of living trees and woody debris in native forest as habitat, for carbon storage, for its role in the hydrological system or as mulch or wood chips for the purposes of—

(a) erosion and sediment control, or

(b) landscaping the land from which the timber was obtained.”

With a Climate Emergency, our forests are the best technology we have for removing carbon from the atmosphere. This includes the ‘rubbish’ timber that has been excluded from the definition of ‘native forest bio-material’ in clause 134 of the proposed regulation.

We request better protection of important elements of our forests in this draft regulation.

Leonie Blain
Hon Secretary