

Submission
No 47

INQUIRY INTO PROVISIONS OF THE FORESTRY LEGISLATION AMENDMENT BILL 2018

Organisation: Casino Environment Centre

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Inquiry into the Provisions of the Forestry Legislation Amendment Bill 2018

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Recommendations from Casino Environment Centre

Regulation of private native forestry

We ask the question, is it appropriate that the Minister for Lands and Forestry prepare Codes of Practice for private property given that his priority is to obtain timber from private land to make up for public shortfalls. *Clause 60ZT 'Responsibility for preparation and making of code' should identify the Minister administering the Biodiversity Conservation Act 2016 responsible for preparing and making private native forestry codes of practice.*

Requirements that Codes of practice include provisions relating to "biodiversity conservation" is not a sufficiently adequate basis to ensure the vital protection of our threatened species and ecosystems. In order to increase the chances of any resultant Code of Practice providing meaningful protection for threatened species it is proposed that 60ZT (3) be expanded to include provisions relating to:

- (b) biodiversity conservation that maintains the diversity and quality of ecosystems and enhance their capacity to adapt to change and provide for the needs of future generations,
- (b2) threatening processes, threatened species, populations and ecological communities under Part 4 of the *Biodiversity Conservation Act 2016*:
- (b3) Commonwealth recovery plans and conservation advices under the Environment Protection and Biodiversity Conservation Act 1999

We would expect to see the intent identify important and necessary prescriptions to minimise impacts on threatened species and ecosystems and to require adequate surveys to identify all those requiring species specific protection.

Section 60ZR needs to expand the objects to separate out and expand "protect biodiversity" to a separate clause:

(c) to protect biodiversity (including threatened species, populations and ecological communities under Part 4 of the *Biodiversity Conservation Act 2016*)

Clause 60ZU (1) sets a minimum consultation period on draft Codes of Practice of 4 weeks, given that Codes of Practice are complex documents that are infrequently reviewed, we suggest that the timeframe for exhibition should be extended to 8 weeks to allow for the necessary meaningful consultation process.

Clause 60ZU (5) allows that there is no requirement to comply with the basic requirements for the draft Codes of Practice to be made publicly available for a period of at least 4 weeks and for the minister to consider any submissions, do not have to be complied with. This clause must be removed.

The current secrecy surrounding PNF approvals are contrary to one of the basic principles of ESFM supposedly underpinning the bill: *(b) ensuring public participation, provision of information, accountability and transparency in relation to the carrying out of forestry operations.* Clause 60ZY should be amended to include:

(2) In determining whether to approve a draft plan (with or without modification), Local Land Services is to have regard to the following:

...

(c) The advices of any other agency or local government authority with specific responsibility for the subject lands.

...

(6) Before approving a private native forestry plan Local Land Services must inform neighbours and publicly exhibit the proposed plan for a period of at least 4 weeks.

(7) Approved private native forestry plans will be publicly available.

Schedule 2 Amendment of Forestry Act 2012 No 96

Conditions 69D and 69F are to be amended to remove the need for advertising in newspapers of proposed Forest Agreements. This will reduce opportunities for people to be informed in a timely manner of such proposals. 69G 4a reduces giving 6 months' notice in a newspaper down to 28 days. 69NA also requires only 28 days exhibition for an Integrated Forestry Operations Approval. The exhibition period of 4 weeks specified in 69D 2b and 69 2b is already inadequate for what are complex and long lasting documents with significant consequences for public lands, and should be increased to 8 weeks. 69G 4a should certainly not be reduced below 2 months and 69NA should be at least 8 weeks.

The new bill seeks to remove grazing from the ambit of the IFOA by deleting clause 69K(3), while limiting its consideration to a regulation under 92(2p) . This is strongly opposed. Grazing on State forests in north-east NSW has supposedly been regulated in accordance with Forest Agreements since 1999. Because of the significant impacts of grazing on threatened species, wetlands and streams the intent of the IFOA was to not allow any expansion of grazing, to exclude grazing from "informal reserves" and "exclusion zones", and for the Forestry Corporation to prepare grazing management plans within 2 years. The removal of grazing from the ambit of the IFOA will allow for a significant increase in environmental impacts.

It is proposed to amend Section 69ZA 'Application of statutory provisions relating to proceedings by third parties' to tighten the current limitation on 3rd party enforcement. Given the ineffective enforcement by the EPA to date, it is essential that 3rd party rights to enforce the IFOA be reinstated. At a minimum Section 69ZA should be deleted, though it should be replaced with the well tested Section 9.45 'Restraint etc of breaches of this Act' from the Environmental Planning and Assessment Act 1979. Community groups cannot afford to take frivolous cases so it is hard to fathom why the NSW Government is so adverse to allowing civil enforcement of the IFOA.

There is concern that the transitional provisions of "17 Existing IFOAs" may have the effect of making the 5 outstanding complaints of breaches made by the North East Forest Alliance to the EPA regarding logging operations in Sugarloaf, Gibberagee and Gladstone State Forests irrelevant. We seek assurances that the EPA's delays in dealing with our significant complaints will not invalidate them or the ability of the EPA to later prosecute them.