



# Request for Comment

**Review of the *Plantations and Reafforestation Act 1999*  
& Plantations and Reafforestation (Code) Regulation  
2001**

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**Review of the Plantations and Reafforestation Act 1999 & Plantations and Reafforestation (Code) Regulation 2001- Request for Comment**

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**More information**

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[www.nsw.gov.au/regional-nsw](http://www.nsw.gov.au/regional-nsw)

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NSW Local Land Services

NSW Office of Environment and Heritage

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# An invitation to comment

In 2016 the NSW Government released the NSW Forestry Industry Roadmap (the Roadmap) which is a strategic action plan to build a stronger, more competitive and ecologically sustainable forestry industry. It outlines a triple bottom line approach to driving social, ecological and economic sustainability through four priority pillars:

1. Regulatory modernisation and environmental sustainability
2. Balancing supply and demand
3. Community understanding and confidence
4. Industry innovation and new markets

In accordance with commitments in the Roadmap and statutory requirements to modernise legislation the NSW Department of Primary Industries (DPI) has initiated a review of the *Plantations and Reafforestation Act 1999* (PR Act) and the *Plantations and Reafforestation (Code) Regulation 2001* (Code). This request for comment is the first step in the current review.

Background information for the request for comment was sourced from publicly available documents including the Assessment of Code of Practice for Plantation Forestry: New South Wales published by CSIRO in 2012.

The request for comment presents a number of key areas of interest and seeks options for addressing them, with a view to improving the effectiveness of the PR Act. Many of the issues presented were identified through discussions with stakeholders including other Government agencies, members of the plantations industry, local councils, and environmental groups. This approach was undertaken to capture a broad but not exhaustive range of possible issues on which to seek public comment.

We now need your help in the review process. We invite you to comment on the issues raised and to suggest how we can improve the PR Act and Code.

Questions are raised throughout the document and summarised in Appendix A1. If only certain sections of the document are relevant to you, your response to these sections would be appreciated. Similarly, if you have other suggestions for improving the PR Act or Code, your comments do not need to be limited to the matters raised in this document.

The closing date for submissions is Sunday 27 June 2021. Further details about the submission process are provided in section 5.0. All submissions will be considered and will help to shape the outcomes of the review.

Scott Hansen  
Director General  
NSW Department of Primary Industries

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# Acronyms and Abbreviations

BC Act	<i>Biodiversity Conservation Act 2016</i>
Code:	<i>Plantations and Reafforestation (Code) Regulation 2001</i>
DPI:	Department of Primary Industries
EP&A Act:	<i>Environmental Planning and Assessment Act 1979</i>
ESFM:	Ecologically sustainable Forest Management
LGA:	Local Government Area
NTC:	National Transport Commission
PR Act:	<i>Plantations and Reafforestation Act 1999</i>
RF Act :	<i>Rural Fires Act 1997</i>
RFS:	Rural Fire Service
SEPP:	State Environmental Planning Policy

# 1.0 Background

## 1.1 Plantation forestry

A timber plantation is an area where trees have been deliberately planted for the purpose of providing wood and fibre products or as an environmental planting. Once the trees have grown, the timber is generally harvested, and the area may be re-planted for the cycle to start again. The growth cycle for different plantations can vary depending on the types of trees, the desired end products and various local factors. Typically, this is between 15 and 35 years.

Plantations can provide a number of social, economic and environmental benefits, which vary throughout the plantation lifecycle. Once a plantation is established, the growing trees may then for several decades provide ecological benefits such as habitat for native fauna and improved soil and water quality, and also provide social and visual amenity to the area. Following harvest there is a period where the amenity is temporarily reduced while the plantation is re-established. In relation to the overall growth cycle, this period tends to be relatively short.

Plantations make an important contribution to the state's timber supply providing up to 97<sup>1</sup> percent of NSW softwood (typically pine varieties) and around seven<sup>2</sup> percent of the NSW hardwood supply (largely eucalypts). Overall, the NSW softwood plantation sector is valued at \$2.34 billion<sup>3</sup> annually and is a significant contributor to regional jobs and the overall NSW economy.

Softwood plantation timber can be used in applications such as house frames, decks, landscaping, fencing and furniture. Lower quality softwood is used in newsprint and cardboard, fibreboard, particleboard and reconstituted wood panels.

Hardwood plantation timber is commonly used for flooring, outdoor structures, power poles, wharves, sleepers, fencing and pallets.

## Historical background

The first commercial pine plantation in NSW was established at Tuncurry State Forest on the NSW mid-north coast in 1912. Eucalypt plantations followed in 1939-40 at Walaroo and Whian Whian State forests on the north coast. By 1971, 85,000 hectares of pine plantation had been established.

The plantation estate continued to develop, and in 1999 the NSW Premier established a Plantations Task Force to recommend initiatives to help increase private sector investment in forestry plantations in NSW. Among the recommendations subsequently adopted was new legislation to improve the regulatory framework for plantations. The desired outcome was to streamline plantation development approval processes without compromising environmental standards. The new PR Act and Code came into operation in December 2001.

Since that time, the PR Act and Code have been periodically updated, including a significant revision under the *Plantations and Reafforestation Amendment Act 2010*<sup>4</sup> following the last major review. The Code was also amended at that time by the *Plantations and Reafforestation (Code) Amendment Regulation 2010*<sup>5</sup>.

The 2016 NSW Forest Industry Roadmap endorsed the timely benefits of a further review of both the PR Act and the Code. This is an opportunity to consider the PR Act and Code in light of contemporary developments in silviculture, forestry management practices, and land use.

<sup>1</sup> <https://timbernsw.com.au/our-industry/>

<sup>2</sup> ABARES, Australia's forests at a glance 2017

<sup>3</sup> <https://www.dpi.nsw.gov.au/about-us/publications/pdi/2020/forestry>

<sup>4</sup> See appendix A4 for a summary of 2010 amendments to the Act.

<sup>5</sup> See appendix A5 for a summary of 2010 amendments to the Code.

## 1.2 NSW plantation estate

NSW has the largest softwood plantation estate in Australia, and the second largest overall plantation estate.

NSW plantations currently exceed 393,000 hectares, of which most (>307,000 hectares) are softwood plantations. About 66 per cent of the NSW plantation estate is publicly owned<sup>6</sup>.

The establishment of new plantations in NSW has declined significantly since 2006/07, and the estate area has remained static since 2015/16. In 2016/17 and 2018/19 no new plantations were established in NSW.

The NSW experience is consistent with national trends which saw a reduction in total plantation area of 40,000 hectares or two percent between 2015/16 and 2018/19<sup>7</sup>.

The key softwood growing areas are around Tumut and Albury in the South West Slopes and Riverina region and Oberon in the Central Tablelands (Figure 1). Other significant softwood areas include the North Coast and the Bombala district in the south-east of the State. Most hardwood plantations are located on the North Coast.

### NSW Bushfires 2019-20

The 2019-20 bushfires were some of the most devastating bushfires in the history of NSW, causing extensive damage to the NSW plantation industry with significant losses in the south west slopes, south east and north east regions.

Approximately 52,000 hectares (25%) of stocked public softwood plantations were affected, as well as around 5,200 hectares (16%) of public hardwood plantations and 51,000 hectares (23%) of private plantations.

Very few of the fires started in plantations, however, some landowners adjoining plantations, particularly in the south west slopes, suffered impacts on their properties from fire escaping plantations.

The Plantations and Reafforestation Act and Code provide for fire prevention buffers around dwellings, other buildings and key infrastructure, such as powerlines. The Code also requires roads, signage and water storage to assist with firefighting activities where plantations were authorised after 2011 or when second rotation establishment is carried out.

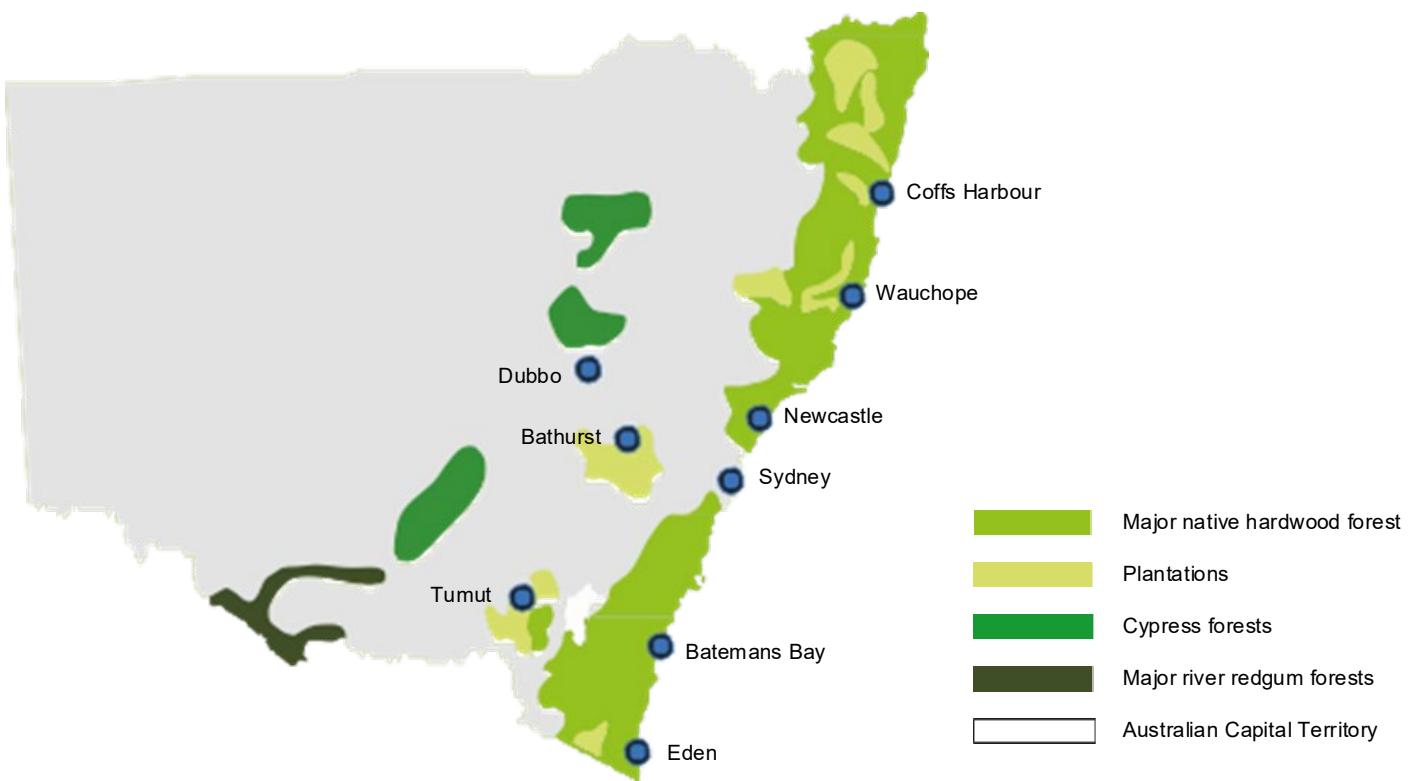
Importantly, the independent NSW Bushfire Inquiry did not identify any additional requirements for plantations.

Following the bushfires, timber has been able to be salvaged from burnt plantations in many parts of NSW, however, the impacts on the standing stock and timber supply will affect the industry and its customers for many years.

<sup>6</sup> ABARES, Australian plantation statistics 2020 update

<sup>7</sup> Ibid

Figure 1: NSW forest estate



## 1.3 The need for review

The NSW Forestry Industry Roadmap commits the NSW Government to periodic reviews of the PR Act and Code. Furthermore, the Code is a regulation under the PR Act and under the terms of that Act must be reviewed every five years.

The purpose of the current review is to determine whether the policy objectives<sup>8</sup> of the PR Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.

The review is also to determine whether the Code is fulfilling the objectives of the PR Act and appropriately dealing with the matters required under the Act. It will consider possible improvements to the Act and Code in light of current best practice and stakeholder input. The interdependence of the PR Act and Code means that it is appropriate that they are reviewed together.

### 1.3.1 Development of the Act

In accordance with the 1992 *National Forest Policy Statement*, in February 1995 the Ministerial Council on Forestry, Fisheries and Aquaculture, representing the states, territories and the Australian Government forestry authorities, prepared a statement of national principles<sup>9</sup> to be applied in the management of plantations.

These principles set the framework for a consistent and scientific basis for sound plantation management to which all Australian states and territories subscribe.

The principles are structured into several sections relating to different activities associated with plantation production, including establishment, management and harvesting. The principles apply to both public and private plantations.

<sup>8</sup> See Section 3.1 for the current list of objectives

<sup>9</sup> See Appendix A2

The NSW PR Act was established under these principles which are foundational to the legislation and outside the scope of the current review.

The development of the PR Act and Code resulted in vastly improved service delivery for the timber plantation industry. This review will consider the contemporary currency of the PR Act, seek ways to fine-tune the PR Act and Code, and identify further improvements designed to build on past successes. This approach is in line with continuous improvement and best practice principles for regulatory reform.

## 2.0 Scope

The first topic the PR Act and Code review will consider is the fundamental merits of having that legislation. Reasons for or against the continuation of the Act and/or the Code, and the suitability of the principles and objects of the Act are all within the scope of this part of the review (see list of issues below).

In that context, the review will consider other matters relevant to the legislation as appropriate.

### In Scope

- Streamlined process for plantation approvals
- Plantation establishment, management and harvesting
- Regulation and enforcement
- Regulatory impediments
- Alignment with other legislation
- Environmental management and outcomes
- Streams and watercourses
- Operational outcomes
- Harvesting practices
- Ecologically Sustainable Forest Management (ESFM)
- Plantation forestry best practice
- Other items relevant to the PR Act
- Other items relevant to the PR Code

### Out of Scope

- Taxation and tax incentives
- Rates and charges under the *Local Government Act 1993*
- Financial incentives
- Emissions reduction funding
- Unrateable land
- Wood supply agreements
- Public access
- Extension services
- Native forestry (both public and private)
- NSW Forestry Act (other than alignment)
- Other Acts (other than alignment)
- Integrated Forestry Operations Approvals (IFOAs)
- Regional Forest Agreements (RFAs)
- National principles for plantation management
- Timber exports and control

The detailed Terms of Reference of the review can be found in appendix A3.

# 3.0 Legislation

## 3.1 The Plantations and Reafforestation Act

### Policy objectives

Section 3 of the PR Act defines the objects of the Act as being:

- (a) To facilitate the reafforestation of land
- (b) to promote and facilitate development for timber plantations on essentially cleared land
- (c) to codify environmental standards, and provide a streamlined and integrated scheme, for the establishment, management and harvesting of timber and other forest plantations
- (d) to make provision relating to regional transport infrastructure expenditure in connection with timber plantations.

consistently with the principles of ecologically sustainable development (as described in section 6(2) of the *Protection of the Environment Administration Act 1991*).

### Structure

The PR Act is divided into eight parts to achieve various economic, environmental and social outcomes as shown in figure 2.

**Part 2 – Authorisations** ensures that proposed plantations meet environmental, planning and other requirements, and provides surety of operation and harvesting once plantations are approved.

**Part 4 – Unique and Special Wildlife** ensures that appropriate protection is provided to threatened native species within plantations and provides a balance where circumstances change and harvesting is prevented on environmental grounds. In these cases, compensation becomes available to the plantation owner in line with the harvest guarantee offered under the authorisation process.

Parts 2 and 4 work together to balance surety of operations and harvesting provisions with mechanisms to protect threatened and vulnerable species that were not present when the plantation was authorised.

**Parts 3 and 6 – The PR Code and Other Legislation** effectively set aside requirements for development approval that might exist under other legislation to create a consolidated approval regime under this Act.

These parts work together to transfer key areas of plantation oversight to the Code to streamline regulation.

**Part 5 – Transport Contributions** makes provision for plantation operators to be required to contribute to the upkeep of roads and bridges used during plantation operations.

**Parts 1, 7, and 8** include definitions, enforcement and miscellaneous provisions that support the operation of the Act.

## Plantations and Reafforestation Act 1999

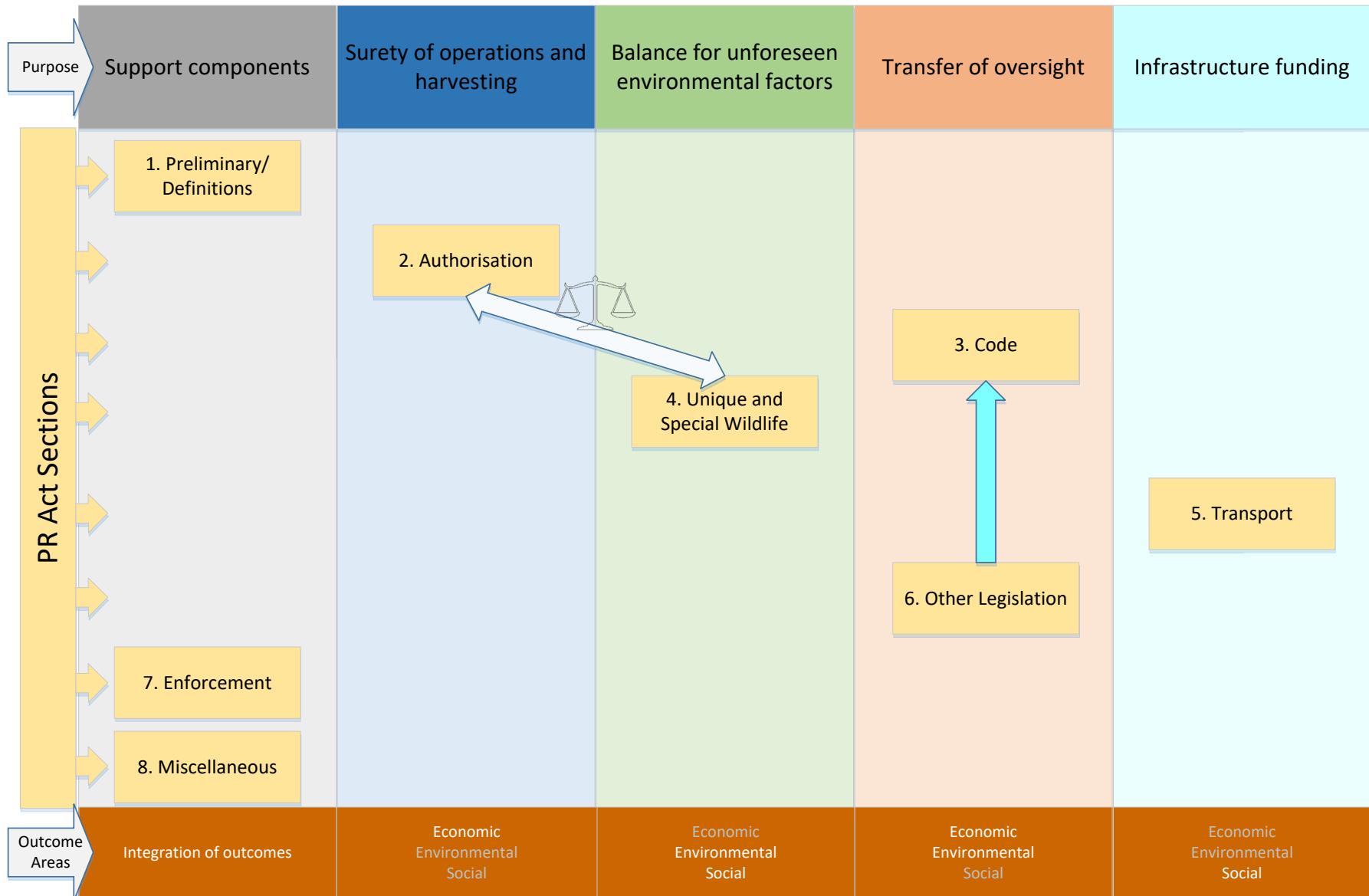


Figure 2 - Structure of the PR Act

## Main provisions

The PR Act establishes a number of requirements for timber plantations including that plantations greater than 30 hectares be authorised and a record of authorised plantation be kept on a public register. It sets rules for plantation design and management and provides an integrated framework for the assessment of applications for plantation development.

The PR Act supports the establishment of plantations on essentially cleared land, while safeguarding environmental values. It is stand-alone legislation, although permits are still required under some other legislation (such as the *National Parks and Wildlife Act 1974* for Aboriginal heritage items). Plantations are an allowable land use outside residential and commercial zones, in the same way as agricultural enterprises.

The Plantations Regulation Unit in DPI Forestry assesses plantation proposals to ensure they meet the requirements of the PR Act and Code.

The PR Act establishes 3 categories of plantation:

*Exempt farm forestry:*

Plantations of 30 ha or less do not require authorisation under the PR Act, provided that certain criteria are met. However, owners of small plantations may still seek authorisation, particularly in order to ensure harvest guarantee rights.

*Complying plantations:*

These comply with all the standards in the Code.

*Non-complying plantations:*

These do not comply with all the standards in the Code, but may still be authorised under the PR Act, with conditions attached.

Different assessment processes apply for complying and non-complying applications. Complying plantation applications undergo a streamlined assessment process, where compliance with the Code and threatened species legislation are the only considerations. Non-complying applications undergo detailed assessment of those aspects of the application that do not comply with the Code.

As already noted, the right to harvest authorised timber plantations is guaranteed, unless unique or special wildlife values are found to be present, in which case compensation may be payable in certain circumstances.

## 3.2 The PR Code

The PR Code contains comprehensive standards for plantation establishment, management and harvesting operations.

It includes requirements for:

- Planning and approval processes (including a pre-application site inspection)
- Establishment, management and harvesting operations
- Protection of soil, water, cultural heritage and biodiversity assets
- Construction and maintenance of roads, crossings and log dumps
- Bushfire hazard reduction measures.

The structure and functions of the PR Code are shown in figure 3.

## Plantations and Reafforestation (Code) Regulation 2001



The diagram illustrates the structure of the Plantations and Reafforestation (Code) Regulation 2001, showing how its parts apply to different forest management functions.

PR Code Parts	1. Preliminary	2. General	3. Authorisation	4. Development standards	5. Management regulation	6. Harvesting	7. Offences
Planning	✓	✓	✓	✓			
Establishment/ Planting	✓	✓		✓	✓		✓
Operations	✓	✓			✓	✓	✓
Harvesting	✓	✓				✓	✓
Protection of soil and water			✓		✓		✓
Items of heritage significance	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>
biodiversity			<input checked="" type="checkbox"/>				
Retained areas				<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>
Bushfire hazard reduction			<input checked="" type="checkbox"/>				
Progressive planting	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>
Record keeping		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Roads				<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Site Management				<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>

Figure 3- Functions of the PR Code

## 3.3 Alignment with other legislation

### National principles related to wood production in plantations

As outlined in section 1, the PR Act and Code embody nationally agreed ecologically sustainable forest management (ESFM) principles established in the 1992 National Forest Policy Statement.

NSW remains a signatory to the Statement and the NSW Forestry Industry Roadmap reaffirmed a commitment to the implementation of these principles.

By codifying the operation of timber plantations in NSW to meet national environmental requirements, NSW plantation timber products produced in regions covered by Regional Forest Agreements also become exempt from further approvals under the *Export Control Act 1982 (Cth)*.

### NSW regulatory framework

The PR Act and Code were developed around NSW Government commitments to not only require ESFM but also to provide a streamlined regulatory environment for plantations, with a view to increasing the local supply of timber products and supporting regional economies by facilitating investment in the State's plantation estate.

While the PR Act and Code provide a single regulatory process for the authorisation of plantations and reafforestation activities, they do not operate in isolation from other policy initiatives. The NSW Forest Management Framework covers all aspects of forest management within the State, including plantations.

Major policy areas that affect the plantations sector in conjunction with the PR Act and Code include:

- Biodiversity conservation management
- Sustainable land management
- Strategic and local land use planning

The NSW Government has initiated significant reforms in these areas, and it is important that the outcomes of this review ensure consistency in landscape management across all industry sectors.

**Do you think there is sufficient alignment of plantations regulation with these other policy/regulatory regimes? Are there any specific changes you would suggest?**

## 4.0 Review of issues

Industry, environmental groups and the community recognise the economic, environmental and social benefits of timber plantations. But while there is general support, different groups value different aspects of plantations, particularly plantations on public land. It is therefore important to periodically review the regulatory regime to ensure the correct balance is established and maintained between competing interests.

The current objects of the PR Act express a policy position at the time the legislation was enacted of actively seeking to encourage growth in the plantation sector within a defined framework of environment protection constraints through a simplified approval process.

**Comment is sought on whether the legislation should continue to reflect this as a key objective into the future or whether an alternative policy position would be more appropriate.** Suggestions to modify or retain provisions of the Act and Code will be considered in the context of the answer to this question.

A number of specific issues and questions raised by stakeholders are identified for comment in the following sections. Comments do not, however, need to be limited to the identified issues.

### 4.1 Timber plantations are a unique crop

Under existing legislation, plantations can only be established on already essentially cleared land. This means that the approved plantable area has been assessed for environmental value prior to the approval to establish a plantation and would be similar in status to land used for agricultural crops. Unlike other crops, however, the growth cycle for timber is relatively long, and at the final growth stage prior to harvest few people will accurately remember the state of the land prior to planting.

Although plantation timber is a renewable resource, in a given area, the number of growth cycles in a human lifetime are relatively few. In contrast to the slow changes during the establishment and growth phase, the effects of harvesting can initially be particularly noticeable and at times have attracted substantial public attention. However, where these areas are replanted, the visual impact of harvesting is ameliorated within a relatively short time.

The long cycle time also affects plantation owners and managers. Risk and cost factors such as fire and pests need to be managed over a very long period, with little income occurring until the final harvest. A guaranteed right to harvest, and ability to manage the land for maximum yield can therefore be important considerations in the decision to establish a plantation in the first place, or to replant a harvested area.

### 4.2 Economics

From a commercial perspective, the plantation business model needs to include sufficient return on investment to cover costs accumulated over an extended period, to allow for the many commercial risks and to provide profit on par with alternative investments. In the absence of this, plantations will simply not be established or replanted, thus forgoing both the economic opportunity and other perceived community and social benefits provided by plantations.

Facilitating the development of timber plantations has been a fundamental aim of the PR Act, and it follows that the commercial viability and investment attractiveness of plantations were key considerations in developing the legislation. Aspects of the PR Act and Code that facilitate plantation investment are:

- Reduced administration and compliance costs through a streamlined approval mechanism
- Reduced business risk through a harvest guarantee.

**A key question for this review is therefore whether plantation development and expansion should remain an aim of a revised Act, or would an alternative approach better serve the current and future needs of the NSW community?**

While the PR Act largely establishes a ‘one-stop-shop’ approval process, this is not entirely the case and as noted in section 1 other regulatory and policy regimes can directly impact on plantation development and compliance costs and/or influence the relative attractiveness of competing land uses.

While the scope of this review is limited to the PR Act and Code, comment is sought on whether settings in the PR Act or Code or other policy or regulatory instruments unnecessarily or excessively promote or impede plantation investment. **Are there opportunities to improve the alignment of the plantations legislation with other land management legislation?**

## 4.3 Environment

### Threatened species – surveys

Stakeholder groups have expressed differing opinions about the level of ecological survey that should be required before harvesting a plantation to ensure environmental values are properly recognised and protected.

Under the Code, surveys of threatened species may be required to ensure species and ecological communities are not adversely affected by plantation operations, including harvesting. Inadequate survey requirements may leave desirable environmental values under-protected, however the more rigorous the requirements for surveys are, the more costly they become for plantation businesses.

**Does the Code currently strike an appropriate balance between environmental protection and commercial interests in relation to threatened species surveys? What is the best way to balance these potentially competing requirements?**

### Weed management

Some stakeholders have queried whether the Plantations Code should include provisions in relation to weed management over and above the broader requirements that apply to all land holders.

**Should weed management provisions specifically relating to plantations be included in the code?**

### Riparian buffer zones

The PR Act and Code contain various provisions to prevent soil erosion and maintain water quality in streams by minimising soil disturbance in riparian zones. The establishment of riparian buffer zones helps reduce sediment loads during plantation operations and provides connectivity and other conservation values.

Land managers have noted that different types of land use on a holding are subject to differing rules, particularly in relation to riparian buffer zones.

**Should there be better alignment between the rules governing the protection of streams in timber plantations and the corresponding rules applied under other land uses?**

**Are the current provisions of the Act and Code the most effective and efficient arrangements for preventing soil erosion and ensuring appropriate management of vegetation and weeds in stream buffers and other exclusion zones in timber plantations?**

### Harvesting slope limits

The PR Code includes prescriptions for harvesting on sloped ground. The purpose is to ensure the integrity of the ground is not compromised by plantation operations, protecting both soil structure and water quality. The slope limits for harvesting operations are set according to erosion hazard, which is determined on a combined reading of rainfall erosivity and class of soil regolith stability as impacted by current operational approaches and technology. Currently, this makes slope limits prescriptive rather than outcomes focussed<sup>10</sup>. Some stakeholders have suggested that this approach does not adequately cater for specific local conditions.

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<sup>10</sup> Regulatory best practice is for standards that are outcomes focussed rather than prescriptive to accommodate new technology, methods, and materials.

**Should additional factors be taken into account when determining the harvest slope limits to better cater for local conditions?**

**Are there alternative approaches to defining and setting prescriptive slope limits that would allow adaptation to new technology into the future without compromising environmental protection?**

## **Slash management**

Harvesting slash, the residue left after harvest, is used for soil protection during harvesting operations, and is recognised in the Code for such purposes. The Code is silent, however, on slash retention after harvest. Slash may have economic value in terms of maintenance of site productivity or in a forestry residues market, but there is also the potential for the removal of slash to have environmental impacts.

**Are the current slash retention and slash management provisions in the Code adequate or should they be modified in some way?**

## **Climate Change**

The effects of major factors such as climate change are outside the scope of this review. Nonetheless, there may be areas where the PR Act and Code can be improved to become more adaptive to such issues. For example, the carbon capture value of both plantation and native forests is increasingly being recognised, and plantation cycles operating over a significant period could be susceptible to a changing environment.

**Are there any specific elements that should be considered in the review or captured in a revised PR Act or Code in relation to climate change?**

## **4.4 Social Issues**

### **Neighbours, public amenity and community attitudes**

Some stakeholders have raised concerns about negative impacts of plantation activities on neighbours and surrounding local communities, particularly around and after timber harvesting. This includes the potential for smoke and noise to affect neighbours, the possible impact of trucks on roads and bridges, and the visual impact of harvesting on local residents and tourists. These impacts may be increased close to higher traffic or visually prominent areas where some stakeholders have noted that clear felling is an issue for local communities. Residential development of adjacent areas over the relatively long cycle between planting and harvesting can be a factor in this regard.

**What alternatives should be considered in the review in relation to the interaction of plantation operations with neighbours and adjacent local communities?**

### **Authorisations - local characteristics and public consultation**

The PR Act allows for the establishment of plantations on already cleared land. This includes a streamlined authorisation process where plantations meet planning and environmental requirements established within and regulated through the purpose-specific PR Act and Code. Some stakeholders have suggested that new authorisations should also be subject to public consultation so that local planning and environmental characteristics can be better taken into account and protective conditions applied, or alternatively that local development prescriptions should be included in the Code.

**Does the current plantation approval process provide adequate consideration of local planning and environmental factors? If not, what changes would you recommend?**

### **Harvest guarantee vs loss of plantation accreditation status**

Under certain circumstances, it may be difficult for the casual observer to determine whether an area with authorised plantation status should still be considered a plantation. This can occur where:

- Genuine plantations have failed to establish
- Infill vegetation has developed suggesting that a plantation is abandoned
- The area is dominated by naturally propagated trees and it is not clear that this was an intended silvicultural practice
- Harvested areas have not been replanted.

In addition, community concern can be raised prior to harvest where authorised plantations do not “look like” plantations due to species mix, particularly native hardwood species, and silviculture methods. Harvesting can then be misinterpreted as “clear felling native forest” which can lead to community concern.

Conversely, the statutory right to harvest provides surety to plantation owners and managers and could be a determining factor in whether a plantation is replanted or indeed established in the first place.

Currently the Minister has power under the PR Act to cancel the authorisation of a plantation if it has been abandoned, to protect special wildlife values of the land<sup>11</sup>, or where it is significantly in breach of legal requirements.

#### **Are current powers to cancel authorised plantation status adequate under the Act?**

**Should changes be made to the PR Act and/or the Code to increase community confidence that authorised plantation status is not being unreasonably retained while striking a suitable balance with the security of investment provided by the harvest guarantee?**

## **4.5 Structural Issues**

The PR Act and Code need to strike the right balance between economic, environmental and social needs.

**Are there parts of the PR Act or Code that would be better addressed elsewhere (i.e. in other legislative instruments)? Conversely is there other legislation that could and should be brought under the PR Act to provide further streamlining of the regulatory regime impacting on plantation investment?**

### **Fire rules**

As for other land uses, fire prevention measures are a necessity in relation to plantations. Plantations need to be protected from fire, pests and diseases under the national principles to which NSW is a signatory. Neighbours and communities also need appropriate protection from fires emerging from plantations.

Fire rules were included in the PR Code for the first time as part of the 2010 amendments. Prior to this, plantations were subject to the same rules as other land holdings (e.g. under the *Rural Fires Act 1997*).

Following the 2019-20 bushfire season, much new information has emerged about best practice preparation for and management of bushfires across the community. The report of the NSW independent bushfire inquiry was on 31 July 2020. The report made 77 recommendations about improvements that could be made but did not make any recommendations in relation to plantations. Notwithstanding this, there may be opportunities to improve fire risk management practices and the legislative efficiency of how these are currently applied to plantations in NSW.

As an illustrative example, stakeholders have observed that the requirement in the PR Code for fire trails around the boundaries of plantations can lead to adjacent plantation areas with separate boundary roads divided only by a fence. While the ability to access the plantation perimeter in case of fire is obviously desirable, this duplication may result in costs to the landholders without any increase in fire protection. In contrast, the *Rural Fires Act 1997* is a more tenure neutral instrument.

Comment is sought on whether the current plantation fire requirements in the Code are appropriate or whether changes should be made.

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<sup>11</sup> Compensation may be payable if the approval is cancelled under special wildlife provisions

**Are the current plantation fire requirements in the Code appropriate or should changes be made?**

**Are there community concerns about increased risk of fire from plantations? What is the best way to address these concerns?**

## **Setbacks from power lines**

The 2010 amendment to the PR Code introduced a regime of variable setbacks from power lines and allowed for vegetation less than three metres high to be planted closer to power lines than was previously permissible. The aim of these amendments was to allow expansion of the economically productive area of the plantation without increasing fire risk.

To date, no plantations have taken advantage of this provision.

**Has this section of the Code effectively performed its intended purpose to date? Should this provision remain in its current form, or would change be appropriate?**

## **Haulage contribution**

The transport infrastructure contribution section of the PR Act establishes a mechanism to collect financial contributions toward the cost of road and bridge maintenance attributable to plantation forestry operations. In order to do this, the legislation requires contribution plans to be prepared by regional committees which include representatives of local councils.

Since the commencement of the PR Act in December 2001, no contribution plans have been approved and hence no contributions have ever been levied under this section of the Act.

**Are the existing mechanisms in the Act relating to transport infrastructure contributions adequate and appropriate? If not, what changes should be made?**

## **Regulation**

Interpretation of requirements is a recurring theme in relation to regulatory best practice. Clear definitions can make both compliance and enforcement easier, reducing the regulatory burden, and allowing for more targeted enforcement provisions.

It is also appropriate to review the regulatory and enforcement provisions for currency and alignment with contemporary community expectations in areas such as notice provisions, penalties and definitions.

**Are there areas where wording and expression in the PR Act or Code could be improved to clarify meaning and requirements, or to otherwise improve aspects of regulatory compliance and enforcement?**

**Are regulatory and enforcement provisions sufficiently current? If not, what changes should be made?**

## **Alignment with other legislation**

One of the current aims of the PR Act is to codify best practice environmental standards and provide a streamlined and integrated scheme for the establishment, management and harvesting of timber forest plantations. In order to evaluate whether this aim is being achieved, the regulatory scheme for plantations needs to be considered in relation to other relevant legislation.

**Are current requirements under the Act and Code suitably consistent with other legislative requirements, e.g., land use constraints and environment protection, which would be in force if the land were used for a different purpose? Is this true of plantations on both private and public land?**

**To the extent possible, do the Act and Code allow for consistent management practices across a single property?**

**Noting that all plantations are required to be established on essentially cleared land, are provisions in the Act and Code appropriate for plantations both on private and public land?**

## 4.6 Legislation specific issues

### Cross reference to other legislation

A 2012 CSIRO review of the PR Code<sup>12</sup> notes that several aspects of the National Forestry Principles<sup>13</sup> are not considered by the Code as they are regulated by other areas of legislation, e.g. weeds and other pests and diseases, water quality, worker safety, rubbish, and chemical use. It suggests that these aspects should be cross-referenced in the Code and audited to provide a more complete system.

**Are the current arrangements appropriate? If not, what additional level of cross reference and audit would be appropriate?**

### Update mapping references

Dictionary definitions in the Code refer to various features being determined with reference to *1:25,000 or 1:50,000 topographic map published by the Government*. Mapping technology has evolved significantly since the Code was introduced, and the existing wording does not allow for these advances.

**Are the current references adequate and appropriate, or could accuracy and clarity be improved by adopting more contemporary definitions? If changes are required, how should the Code be modified to be more technology neutral?**

## 4.7 Questions for the review

The following items are drawn directly from the terms of reference for the PR Act and Code review. Responses to these are invited from interested stakeholders.

**Do the policy objectives of the PR Act remain valid and do the terms of the Act remain appropriate for securing those objectives?**

**What improvements to the Act and Code would be appropriate in light of current best practice, and recent improvements in other forestry regulation frameworks?**

**How can the Act and/or the Code be modified to more efficiently and effectively achieve the objectives of the Act?**

**Comment is sought on the objectives, terms and content of the Act.**

**Comment is sought on the content and functions of the Code.**

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<sup>12</sup> Assessment of Code of Practice for Plantation Forestry: New South Wales, Smethurst, P.J. et al, Prepared for Australian Government Department of Agriculture, Fisheries and Forestry May 2012  
<http://www.agriculture.gov.au/SiteCollectionDocuments/forestry/australias-forest-policies/plant-code/plant-code-nsw.pdf>

<sup>13</sup> In accordance with the 1992 *National Forest Policy Statement*, in February 1995, the Ministerial Council on Forestry, Fisheries and Aquaculture prepared a statement of national principles for plantation management. See Section A1.

## 5.0 Submissions

All members of the community are encouraged to have their say about the way plantation forestry is regulated in NSW.

This *request for comment* is structured to stimulate stakeholder input on a range of issues related to plantation forestry in NSW, and in particular the PR Act and Code. The document contains various topic sections with questions throughout, to allow readers to focus on the parts most relevant to them.

Appendix A1 contains an indexed list of all the questions in the document for readers who want to respond to a range of issues. Readers are encouraged to respond to as many or as few topics as they wish.

Interested parties may also make submissions on other topics that they consider to be within the scope of the review, even though they are not explicitly mentioned in this *request for comment*.

Submissions should be made in writing to:

Plantations and Reafforestation Review

Locked Bag 5022

Parramatta NSW 2124

Or via email: <mailto:PRA.review@dpi.nsw.gov.au>

All submissions received will be listed in the review report and submissions not marked ‘confidential’ may be publicly released.

To support the formal submission process, the review team will also conduct a number of online forums (webinars) to provide information on the review. Forums will be held on the following times and will be advertised online and through other media channels.

- Wednesday 5 May 2021      3-4pm
- Monday 10 May 2021      3-4pm
- Thursday 13 May 2021      10-11am

To register for the forums, or for further information please go to [dpi.nsw.gov.au/forestry](http://dpi.nsw.gov.au/forestry)

**Submissions close 27 June 2021.**

# Appendices

## A1 List of questions

For convenience, questions appearing throughout the text in this *Request for Comment* are reproduced in the list below, along with section references for each.

Section	Question
3.3	Do you think there is sufficient alignment of plantations regulation with other NSW policy/regulatory] regimes? Are there any specific changes you would suggest?
4.0	Comment is sought on whether the legislation should continue to reflect [encouraging plantation sector growth within environmental constraints through a simplified approval process] as a key objective into the future or whether an alternative policy position would be more appropriate. Suggestions to modify or retain provisions of the Act and Code will be considered in the context of the answer to this question.
4.2	Should plantation development and expansion remain an aim of a revised Act, or would an alternative approach better serve the current and future needs of the NSW community?
4.2	Are there opportunities to improve the alignment of the plantations legislation with other land management legislation
4.3	Does the Code currently strike an appropriate balance between environmental protection and commercial interests in relation to threatened species surveys? What is the best way to balance these potentially competing requirements?
4.3	Should there be better alignment between the rules governing the protection of streams in timber plantations and the corresponding rules applied under other land uses?
4.3	Are the current provisions of the Act and Code effective and efficient for preventing soil erosion and ensuring appropriate management of vegetation and weeds in stream buffers and other exclusion zones in timber plantations?
4.3	Should weed management provisions specifically relating to plantations be included in the code?
4.3	Should additional factors be taken into account when determining the harvest slope limits to better cater for local geography?
4.3	Are there alternative approaches to defining and setting [harvest] slope limits that would allow adaptation to new technology into the future without compromising environmental protection?
4.3	Are the current slash retention and slash management provisions in the Code adequate or should they be modified in some way?
4.3	Are there any specific elements that should be considered in the review or captured in a revised PR Act or Code in relation to climate change?
4.4	What alternatives should be considered in the review to effectively manage the interaction of plantation operations with adjacent local communities?
4.4	Does the current plantation approval process provide adequate consideration of local planning and environmental factors? If not, what changes would you recommend?

4.4	<p>Are current powers to cancel authorised plantation status adequate under the Act?</p> <p>Should changes be made to the PR Act and/or the Code to increase community confidence that authorised plantation status is not being unreasonably retained while striking a suitable balance with the security of investment provided by the harvest guarantee?</p>
4.5	<p>Are there parts of the PR Act or Code that would be better addressed elsewhere (i.e. in other legislative instruments)? Conversely is there other legislation that could and should be brought under the PR Act to provide further streamlining of the regulatory regime impacting on plantation investment?</p>
4.5	<p>Are the current plantation fire requirements in the Code appropriate or should changes be made?</p> <p>Are there community concerns about increased risk of fire from plantations? What is the best way to address these concerns?</p>
4.5	<p>Has [the section of the Code dealing with Setbacks from power lines] effectively performed its intended purpose to date? Should this provision remain in its current form, or would change be appropriate?</p>
4.5	<p>Are the existing mechanisms in the Act relating to transport infrastructure contributions adequate and appropriate? If not, what changes should be made?</p>
4.5	<p>Are there areas where wording and expression in the PR Act or Code could be improved to clarify meaning and requirements, or to otherwise improve aspects of regulatory compliance and enforcement?</p> <p>Are regulatory and enforcement provisions sufficiently current? If not, what changes should be made?</p>
4.5	<p>Are current requirements under the Act and Code suitably consistent with other legislative requirements, e.g., land use constraints and environment protection, which would be in force if the land were used for a different purpose? Is this true of plantations on both private and public land?</p> <p>To the extent possible, do the Act and Code allow for consistent management practices across a single property?</p> <p>Noting that all plantations are required to be established on essentially cleared land, are provisions in the act appropriate for both plantations on private and public land?</p>
4.6	<p>Are the current arrangements [in relation to legislative cross referencing and audit] appropriate? If not, what additional level of cross reference and audit would be appropriate?</p>
4.6	<p>Are the current references adequate and appropriate, or could accuracy and clarity be improved by adopting more contemporary definitions? If changes are required, how should the Code be modified to be more technology neutral?</p>

The following items are drawn directly from the terms of reference for the PR Act and Code review. Responses to these are invited from interested stakeholders.

4.7	Do the policy objectives of the PR Act remain valid and do the terms of the Act remain appropriate for securing those objectives?
4.7	What improvements to the Act and Code would be appropriate in light of current best practice, and recent improvements in other forestry regulation frameworks?

4.7	How can the Act and/or the Code be modified to more efficiently and effectively achieve the objectives of the Act?
4.7	Comment is sought on the objectives, terms and content of the Act.
4.7	Comment is sought on the content and functions of the Code.

## A2 Forest Practices Related to Wood Production in Plantations: National Principles<sup>14</sup>

### Preamble

Wood production is an accepted major commercial use of Australia's forests and is the primary purpose for establishing and managing plantations. In addition, plantations can provide a range of commercial, environmental and aesthetic benefits to the community.

In pursuing a vision of ecologically sustainable management of Australia's forests, Australian Governments, through the National Forest Policy Statement, have enunciated a national goal for plantations:

"to expand Australia's commercial plantations of softwoods and hardwoods so as to provide an additional, economically viable, reliable and high-quality wood resource to industry".

In this context, the establishment of plantations for wood production should be determined on the basis of economic viability and international competitiveness, and market forces should determine the extent of resource use and the nature of industry operations. In essence, plantations established for wood production should be treated in the same way as any agricultural productions.

To achieve greater investment in plantations, it will be necessary to ensure that the impediments to plantation development are minimal, that clear and consistent policies for resource development are established across all levels of government and that there is security of access to established resources. Provided that social and environmental objectives are met, Governments will keep regulations to a minimum. For example, the Commonwealth will remove controls over the export of unprocessed public and private plantation wood subject to the application of codes of practice to protect environmental values. Furthermore, it is not intended that controls be imposed on the plantation industry that would not apply to other agricultural activities.

In accordance with the National Forest Policy Statement, the Ministerial Council on Forestry, Fisheries and Aquaculture, representing the States and the Commonwealth's forestry authorities, has prepared this statement of national principles to be applied in the management of plantations.

These principles set the framework for a consistent and scientific basis for sound plantation management to which all States and Territories subscribe. Codes of practice for plantations, conforming to the national principles, will be developed by the States and Territories taking into account the range of plantation types, conditions and situations applying due to natural and cultural variations. Several States and Territories already have such codes in place.

The principles have been structured into several sections relating to different activities associated with plantation production. The principles apply to both public and private plantations.

<sup>14</sup> Source: <http://www.agriculture.gov.au/forestry/australias-forests/plantation-farm-forestry/principles>.

## 1. Principles of Environmental Care

- 1.1 Native forest should not be cleared for plantation establishment where this would compromise regional conservation and catchment management objectives. In some circumstances it may be appropriate to clear forests that have been severely degraded by impacts such as disease, weed invasion, wind and fire so as to enable rehabilitation through replanting.
- 1.2 Values such as intensive recreation, high scenic quality, significant geomorphic, biological, or cultural heritage sites, should be recognised in the planning of plantation forest operations.
- 1.3 Plantation management should comply with State and regional conservation and catchment management objectives, relevant planning schemes and legislation.
- 1.4 Water quality (physical, chemical, or biological) should be protected by measures controlling change resulting from plantation activities
- 1.5 Water yield should be managed as required by careful planning of operations.
- 1.6 Soil stability should be protected by measures, which regulate site disturbance.
- 1.7 Soil, water catchment, cultural and landscape values should be protected by the careful location, construction, and maintenance of roads and tracks, and regulation of their use.
- 1.8 Fauna, floristic, and landscape values should be protected by the careful planning of plantation layout establishment operations and the reservation and protection of appropriate areas of native vegetation; such values should be recognised in subsequent plantation management.
- 1.9 Plantations and adjacent native forests should be protected from the adverse effects of fire and from the introduction and spread of plant, insect and animal pests and plant diseases.
- 1.10 Operators will be trained in the principles of environmental care.

## 2. Safety

- 2.1 All plantation establishment, management and utilisation activities will be conducted to comply with relevant occupational health and safety legislation and policy. In particular, all operators should be trained to designated standards in the safe and efficient use of equipment and machinery and be responsible for safe working practices.

## 3. Planning

- 3.1 State and Local Governments should, with appropriate public involvement, pursue planning policies that provide secure zoning for commercial planting with the objective that tree planting and subsequent harvesting for commercial wood production should be an "as of right" use.
- 3.2 State Governments will establish a sound legal basis for separating the forest asset component from the land asset for tree plantings. The Commonwealth Government will consider similar action re taxation, capital valuation etc.
- 3.3 Plantation strategic planning should be developed in conjunction with regional development plans.
- 3.4 The environmental, social and economic effects of all plantation operations envisaged for an area will be considered during the planning process.
- 3.5 Individual plantation operations will be conducted in accordance with relevant codes of practice.

## 4. Access

- 4.1 Planning of road systems in plantations will be based on both the economic principle of minimising the combined cost of roading and extraction and on the Principles of Environmental Care.
- 4.2 Road design will be to standards consistent with the purpose for which the road is to be used, and capable of carrying the anticipated traffic with reasonable safety.
- 4.3 Construction and maintenance of roads and associated works will be undertaken in a manner, which will ensure compliance with the Principles of Environmental Care.
- 4.4 Roads will be closed in wet conditions when unacceptable damage would occur or when such other conditions may warrant.

## 5. Establishment and Maintenance

- 5.1 Plantation establishment methods should be economically and environmentally appropriate for the particular requirements of the species to be planted and the specific site conditions.
- 5.2 Establishment of plantations may involve introduction of selected species, provenances or populations to increase productivity or value. However, management of these plantations should aim to constrain or prevent the introduction of these species into surrounding areas.
- 5.3 Intensive management practices, such as site preparation, fertilising, weed control, pest and disease control and other operations will be carried out in accordance with codes of practice, and consistent with the Principles of Environmental Care.

## 6. Timber Harvesting

- 6.1 Timber harvesting will be planned and carried out under codes of practice to meet the Principles of Environmental Care.
- 6.2 The harvesting plan will consider factors such as harvesting unit size, slope and location of harvesting units; design and location of landings and snig tracks; harvesting equipment; areas excluded from logging; and areas specified for protection and reforestation.
- 6.3 Harvesting operations should not be conducted in a manner which compromises the Principles of Environmental Care, or where the safety of workers is at unacceptable risk.
- 6.4 Soil and water values should be protected by progressive rehabilitation and drainage of snig tracks, temporary roads, log dumps and any other earthworks associated with harvesting operations.

## 7. Forest Protection

- 7.1 Fire protection planning should be undertaken on a regional basis in co-ordination with relevant land management agencies and with local bush fire control organisations.
- 7.2 Plantation health surveillance should be undertaken on a regular basis.
- 7.3 Where weeds, pests or diseases cause significant damage, decline, or deaths of trees, prompt specialist advice should be sought to address the problem.
- 7.4 Use of chemicals, such as herbicides and pesticides, and other pest control methods in plantation operations will be in accordance with State policies, procedures and approved usage.

## 8. Monitoring and Review

- 8.1 Where practicable, plantation operations should be supervised and monitored by qualified persons and be subject to audit.
- 8.2 The National Principles should be reviewed and evaluated after three years.

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## A3. Plantations in the physical and social environment

### A2.1 The physical environment

Plantations established primarily for the purpose of timber and fibre production have been shown to have a number of environmental benefits. These include the reduction of soil erosion and salinity, the creation of wildlife corridors, improvement of water quality and the creation of carbon sinks. Plantations also maintain hydrological systems and reduce peak run-off rates during flood-producing storms, thereby reducing flood damage, soil erosion and consequent siltation of waterways.

Benefits for biodiversity can occur in both hardwood and softwood plantations. Research by Lindenmayer (2002) around Tumut in south-east NSW has shown that retention of native vegetation remnants within radiata pine plantations improves biodiversity. Plantations can also connect forest remnants and allow some species to move between patches of native vegetation. Retention of remnant patches of native vegetation and existing vegetation along creek lines is a requirement of the PR Act and Code that promotes biodiversity values.

The extent of the NSW plantation estate has remained relatively static since 2015, although both the NSW and Commonwealth Governments have expressed their commitment to plantation expansion to meet future timber and wood product demand.

### A2.2 Social environment

Plantation forests represent one percent of Australia's forests, yet they supply more than 50 percent of our domestic timber needs. With reduced access native forests in recent years, the plantation sector is becoming more significant in providing raw materials for industry. Plantations provide a wide range of forest products that support a vibrant and growing timber-processing sector. The establishment and management of timber plantations and the ancillary services associated with the industry provide the economic basis for many regional communities in NSW.

The industry value of the NSW softwood plantation sector is \$1.92 billion<sup>15</sup>

The Bureau of Rural Science has found that plantations have a greater gross value per unit area than many forms of agriculture typical in the same locality. For instance, in the Green Triangle region (south-east South Australia and south-west Victoria), agriculture uses 10 times as much land as forestry and related industries, but the gross value of the agricultural production is \$1.9 billion, compared with \$1.5 billion for forestry and forest products (Keenan *et al.* 2004a).

Nationwide, plantations and related industries generate more than \$12 billion a year and employ more than 50,000 people (A3P 2004). With about 394 000 ha (20 percent of the total), NSW has the second largest plantation estate in Australia, and its plantations make a substantial contribution to this total.

The NSW forestry and forest products industry contributes \$2.4 billion annually and more than 22,000 jobs to the NSW economy.

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<sup>15</sup> NSW Forestry Industry Roadmap

## A4 Terms of Reference

### **NSW Government Review of the *NSW Plantations and Reafforestation Act 1999* and the *NSW Plantations and Reafforestation (Code) Regulation 2001***

## Background

The *Plantation and Reafforestation Act 1999* (PR Act) and the NSW Plantations and Reafforestation (Code) Regulation 2001 (the Code) streamline the establishment and management of plantation forests in NSW by providing a single source of plantation approvals and providing certainty of harvest rights to plantation owners, consistently with the principles of ecologically sustainable development.

The last major review of the PR Act and the Code was in 2010.

Review of the PR Act and the Code is a Government commitment under the NSW Forestry Industry Roadmap, and five yearly review of the Code is a statutory requirement.

## Review Objectives

The objectives of the current review are to:

1. Determine whether the policy objectives of the PR Act remain valid and whether the terms of the Act remain appropriate for securing those objectives
2. Consider possible improvements to the Act and Code in light of current best practice, and recent improvements in other forestry regulation frameworks
3. Modernise the Act and Code to more efficiently and effectively achieve the objectives of the Act
4. Fulfil commitments under the NSW Forestry Industry Roadmap to review the PR Act and Code
5. Meet statutory review requirements for the PR Code.

Specifically, the review will:

- a) Determine whether the policy objectives of the *Plantations and Reafforestation Act* remain valid and whether the terms of the Act remain appropriate for securing those objectives
- b) Seek public input into the review process in relation to:
  - Objectives, terms and content of the Act
  - Content and functions of the Code
- c) Consider possible improvements to the Act and Code in light of current best practice and stakeholder input
- d) Report on the outcomes of the review and provide recommendations to the NSW Government to modernise the *Plantations and Reafforestation Act* and the Plantations and Reafforestation (Code) Regulation to more efficiently and effectively achieve the objectives of the Act.

## Scope Development

### **Objectives of the Act**

The objects of the PR Act are:

- (a) to facilitate the reafforestation of land
- (b) to promote and facilitate development for timber plantations on essentially cleared land
- (c) to codify best practice environmental standards, and provide a streamlined and integrated scheme, for the establishment, management and harvesting of timber and other forest plantations
- (d) to make provision relating to regional transport infrastructure expenditure in connection with timber plantations.

[The above to be achieved] consistently with the principles of ecologically sustainable development (as described in section 6 (2) of the *Protection of the Environment Administration Act 1991*).

The PR Act legislates the development of the Code, by way of regulation, for furthering the objects of the Act.

The PR Act and Code were formally reviewed in 2010 and subsequently amended under the *Plantations and Reafforestation Amendment Act 2010* and the Plantations and Reafforestation (Code) Amendment Regulation 2010.

## Definition of plantations

In the Act, **plantation** means an area of land on which the predominant number of trees or shrubs forming, or expected to form, the canopy are trees or shrubs that have been planted (whether by sowing seed or otherwise):

- (a) for the purpose of timber production, or
- (b) for the protection of the environment (including for the purpose of reducing the salinity of the land or otherwise repairing or improving the land, for the purpose of biodiversity conservation or for the purpose of acquiring or trading in carbon sequestration rights), or
- (c) for any other purpose, but not principally for the purpose of the production of food or any other farm produce other than timber.

(2) To avoid doubt, a natural forest is not a plantation for the purposes of this Act. However, an area is not a natural forest merely because it contains some native trees or shrubs that have not been planted.

(3) The Code may specify the distance between planted trees or shrubs that constitute a single canopy and plantation for the purposes of this Act.

(4) A plantation can be a privately-owned area of land, or it can be a State forest or other Crown timber lands, or any other land.

(5) A plantation can comprise more than one area of land if those areas are under the same ownership or management and the Minister determines that those areas may comprise a single plantation for the purposes of this Act.

## A5 Plantations and Reafforestation Amendment Act Summary

The object of the *Plantations and Reafforestation Amendment Act 2010* were to amend the *Plantations and Reafforestation Act 1999* (the Act):

- (a) to clarify the authorisation and ownership provisions
- (b) to expand the powers of entry and inspection
- (c) to make minor and consequential amendments

According to parliamentary documents, the amendments were generally in accordance with proposals arising out of a statutory review of the Act.

The 2010 amendment Act made the following changes to the underlying Act:

1. Clarified that plantation operations must not exceed 30 hectares for the operations to be exempt farm forestry.
2. Shifted references to existing plantations to a savings and transitional provisions section.
3. Ensured that ancillary plantation operations covered ancillary operations to an approved project under Part 3A of the *Environmental Planning and Assessment Act 1979*.
4. Required written notice of the Minister's decision to authorise plantations on an unformed road to be given to the Minister for Lands.
5. Amended the requirement for the Minister to invite submissions on applications to authorise non-complying plantations, to limit submissions to non-complying aspects of the application.
6. Broadened conditions that can be attached to an authorisation to include any conditions, where these were previously limited to conditions on establishment operations only.
7. Removed the requirement for the public register of plantation authorisations to also include applications for authorisations.
8. Provided for the authorisations register to be accessed on the DPI website.
9. Established provisions for dealing with existing plantations to exempt them from authorisation as long as no replanting exceeds 30 hectares.  
(An existing plantation is a plantation established before 14 December 2001 under the *Environmental Planning and Assessment Act 1979*, and other relevant laws.)
10. Specified circumstances in which changes in ownership or management of an authorised plantation affect the authorisation of that plantation, (essentially when the changes split up the plantation). Previously these changes did not affect the authorisation.
11. Extended the ability to apply enforcement provisions (e.g. stop work orders) to any plantations covered under the act (rather than just authorised plantations). Note: This does not include existing plantations.
12. Detailed improved provisions for appointment, powers of entry, powers to require information, and limits of liability for authorised officers to conduct compliance investigations under the Act and Code.
13. Established offences relating to investigations and changed the time limits for commencement of proceedings following alleged breaches of the Act and/or Code. This became two years from uncovering evidence of the offence rather than two years from the date of the offence.
14. Amended the objects of the Act (to codify environmental standards, and provide a streamlined and integrated scheme, for the establishment, management and harvesting of timber and other forest plantations) so that it refers to "best practice" environmental standards.
15. Inserted definitions of *authorised officer*, *Department* and *Director-General*.
16. Removed outdated provisions dealing with native vegetation.
17. Made various consequential amendments.
18. Provided for the delegation of functions by the Director-General rather than the Minister
19. Enabled the making of regulations of a savings and transitional nature consequent on the enactment of the proposed Act.
20. Updated references to the repealed *Native Vegetation Conservation Act 1997*.
21. Removed an unnecessary provision relating to the cancellation of timber plantation authorisations.
22. Clarified that timber plantations accredited under the repealed *Timber Plantations (Harvest Guarantee) Act 1995* are authorised plantations under the Act and not existing plantations.

## A6 Plantations and Reafforestation (Code) Amendment Regulation 2010 Summary

The object of the Plantations and Reafforestation (Code) Amendment Regulation 2010 is to amend the Plantations and Reafforestation (Code) Regulation 2001 to:

- (a) Make provision in respect of fire roads and other bush fire hazard reduction measures on plantations
- (b) Make further provision for the regulation of plantation operations, including in respect of roads, soil, drainage, water, the preservation of vegetation and record keeping
- (c) Make other miscellaneous changes in respect of plantations.

The 2010 amendment regulation made the following changes to the 2001 Code:

1. Clarified the continuing status of authorised officers consequential to amendments to the Act
2. Clarifies how amendments to the Code apply to existing plantations
3. Adds a requirement to check for Aboriginal sites prior to certain soil disturbance activity
4. Adds procedural requirements for the identification of Aboriginal objects before authorisation
5. Adds the requirement to identify roads and water storage for firefighting in plantation plans
6. Clarifies wetland and river buffer zones wording
7. Adds line ripping as a cultivation method in buffer zones and tightens line cultivation requirements in these areas
8. Replaces *ploughing* with *spot cultivation* in relation to slope limits
9. Adds erosion prevention requirements in relation to site preparation on slopes
10. Updates terminology in relation to objects of heritage significance (including Aboriginal objects)
11. Removes the option to replace retained trees for future plantations
12. Adds bushfire hazard reduction requirements
13. Adds the need to provide operational plans seven days prior to harvest in certain circumstances
14. Adds a requirement to provide digital mapping to identify fire roads and water storage
15. Adds additional conditions for crossings over drainage features
16. Adds a requirement for the provision of fire roads, and provides corresponding specifications
17. Clarifies road drainage requirements
18. Tightens provisions in relation to blading-off roads for temporary access
19. Clarifies haulage, road damage, and extraction track provisions
20. Clarifies the inclusion of habitat trees in retained vegetation prescriptions
21. Adds additional restrictions to activity that may adversely affect retained areas
22. Corrects the term *skidding* to *snigging* in relation to harvesting on slopes and removes references to *forwarders*
23. Clarifies permissible locations and operational requirements for log dumps
24. Provides additional requirements for harvesting in buffer zones of drainage features
25. Adds requirements in relation to timber extraction at harvest
26. Adds requirements in relation to harvesting in wet weather
27. Reformats penalty tables in the Code to improve readability
28. Clarifies or adds definitions of various terms.