

## Amendment of the Forest Practices Code

The Forest Practices Authority (FPA) in consultation with the Forest Practices Advisory Council has completed a review of the *Forest Practices Code*. The FPA has taken account of various thematic reviews and comments on the Code from various sources, including scientists and specialists of the FPA and other organisations, forest practices officers, nominees of stakeholders represented on the Advisory Council, the report of the independent expert panel for the 2009 Review of the Biodiversity Provisions of the Code<sup>1</sup> and a report by CSIRO on a review of the plantation provisions of the Code<sup>2</sup>.

The FPA's review of the Code has found that-

1. The technical provisions of the Code are very sound and no major revisions are needed.
2. Key elements of the Code (such as the management guidelines for threatened species) have recently been revised through updated planning tools, including the *Threatened Fauna Adviser*<sup>3</sup>, which was re-issued in 2014 following extensive scientific and operational review and revision.
3. Key policy issues have been addressed through the release of the FPA's *Guiding Policy for the operation of the Forest Practices Code*<sup>4</sup>, in particular the application of the duty of care provisions to Permanent Timber Production Zone Land<sup>5</sup>. However, this policy does not currently form part of the Code.
4. There are some out-of-date references to organisations, documents etc. that should be updated.
5. There are some sections of the Code that could be revised to better clarify or update particular technical provisions. However, none of these revisions are considered to be urgent and most can be addressed in the short to medium term through the various planning tools that support the implementation of the Code.

The FPA recognises that Tasmania's forestry sector and its operating environment are in transition following an unprecedented period of change and uncertainty. In this context, the FPA believes that the immediate priorities for the Code are as follows-

1. The overarching legislative and policy framework for the Code should be clarified through the incorporation into the Code of the *Guiding Policy for the operation of the Forest Practices Code*.
2. Minor updates should be made to references within the Code.
3. No other changes to the technical provisions of the Code are warranted at this time. However, improvements to the planning and implementation of forest practices will continue to be made through the comprehensive planning tools that support the Code.

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<sup>1</sup> The reports of the expert panel and the comments of the Forest Practices Advisory Council and the Board of the FPA on the recommendations of the panel are available at- [http://www.fpa.tas.gov.au/publications/document\\_list](http://www.fpa.tas.gov.au/publications/document_list)

<sup>2</sup> The CSIRO conducted a review of the codes of practice for all states and territories of Australia in 2011. The reports are available at [www.agriculture.gov.au/forestry/australias-forests/plantation-farm-forestry/principles](http://www.agriculture.gov.au/forestry/australias-forests/plantation-farm-forestry/principles). The CSIRO reported for Tasmania that '*The current code and its implementation, together with state legislation, are achieving environmental care outcomes, i.e. the national principles, at a high standard. The code is effective because it is part of a forest practices system that has good governance and a well-developed and effective system of implementation, compliance and continuous improvement.*'

<sup>3</sup> [www.fpa.tas.gov/fpa\\_services/planning\\_assistance/advisory\\_planning\\_tools](http://www.fpa.tas.gov/fpa_services/planning_assistance/advisory_planning_tools)

<sup>4</sup> Attached to this document

<sup>5</sup> within the meaning of the *Forest Management Act 2013*.

On the above basis and in accordance with s 32 of the *Forest Practices Act 1985*, the FPA intends to amend the Code as detailed in the following schedules-

- Schedule 1 – Amendments to incorporate a Guiding Policy into the Forest Practices Code
- Schedule 2 – Additional amendments to update references to organisations, terminology and documents.

The FPA welcomes comments from interested parties on the proposed amendments. Any comments should be provided in writing to [info@fpa.tas.gov.au](mailto:info@fpa.tas.gov.au) by 15 May 2015.

Section 33 of the Act provides that any person who wishes to object to the intended amendment of the Code may lodge with the FPA an objection in writing. Any objection must be lodged by 15 May 2015.

**Professor Gordon Duff**

**Chair, Forest Practices Authority**

**27 February 2015**

## **Schedule 1 - Amendments to incorporate a Guiding Policy into the Forest Practices Code**

### **Rationale**

The *Guiding Policy for the operation of the Forest Practices Code* provides an overarching set of principles to clarify the contribution of non-reserve forests<sup>6</sup> to the conservation of natural and cultural values under the forest practices system within the context of the legislative and policy framework that governs forest management in Tasmania. The policy was developed and released by the FPA in December 2013 after consulting with the Forest Practices Advisory Council.

The aim of the intended amendment is to give legal effect to the Guiding Policy by incorporating it into the Code.

### **(A) Proposed substantive amendments**

1. Insert the *Guiding Policy for the operation of the Forest Practices Code* after the table of contents and before 'A Introduction'.
2. *Section A1 Tasmania's Forest Practices System* – delete the third paragraph beginning 'The statutory objective of the forest practices system' and items (a) to (h) and replace with the following- 'The statutory objective of the forest practices system is prescribed in Schedule 7 of the *Forest Practices Act 1985* (as amended) (see the *Guiding Policy for the operation of the Forest Practices Code* (page (i) of this Code)'.
3. *Section A2 The Forest Practices Code* – insert the following after the first paragraph- 'The Code contributes to the conservation of natural and cultural values in forests where forest practices are being conducted through the application of the *Guiding Policy for the operation of the Forest Practices Code* (see page (i) of this Code).'
4. *Section D Conservation of Natural and Cultural values* – delete the entire fourth dot point from pp. 51-2 (beginning 'The sustainable management of natural and cultural values..') and replace with 'The Code will contribute to the sustainable management of natural and

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<sup>6</sup> The term 'non-reserve forests' in this context means privately-owned forests and Permanent Timber Production Zone Land.

cultural values through the application of the *Guiding Policy for the operation of the Forest Practices Code* (see page (i)).’

5. *Section G Glossary* – under the definition of ‘property’ include ‘ For Permanent Timber Production Zone Land ‘property’ means a management unit with a radius of approximately one kilometre as defined by the Landscape Context Planning System used by Forestry Tasmania or a larger forest management unit where this would deliver better management outcomes for socio-economic and environmental factors.’

## **(B) Consequential amendments**

6. Delete ‘2000’ from front cover and title page
7. Change reference from ‘Forest Practices Board’ to ‘Forest Practices Authority’ on title page and update contact details
8. Change suggested citation to ‘Forest Practices Authority (2015). *Forest Practices Code*, Forest Practices Authority, Hobart, Tasmania (title page).
9. Insert the title ‘Guiding Policy for the operation of the Forest Practices Code’ into the table of contents before ‘A Introduction’ as page numbers (i) to (viii) and maintain current page numbering for section A as from page 1

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## **Schedule 2 – Additional amendments to update references to organisations, terminology and documents**

### **Aim of amendments**

To update references to the name of organisations, terminology and documents that are no longer up to date and/or have been superseded by other documents.

### **Proposed amendments**

Change the following (and any other references to redundant names etc)-

1. Change all references to ‘Forest Practices Board’ or ‘Board’ to ‘Forest Practices Authority’
2. Change all references to ‘the Department of Infrastructure, Energy and Resources’ to the ‘Department of State Growth’
3. Change all references to ‘DPIWE’ to ‘DPIPWE’
4. Page 7, Fourth dot point – change ‘rare or inadequately reserved vegetation’ with ‘threatened species or threatened native vegetation communities’.
5. Page 48. Penultimate dot point. Change ‘local government authority’ to ‘water authority’
6. Page 52. Section D1, Soils, Sixth dot point. Replace text with: ‘Erodibility classes for commonly occurring Tasmanian soils are given in *Forest Soils of Tasmania*<sup>8</sup>, in *Forest Soil Fact Sheets*<sup>ref</sup>, and in detailed soil reports. A soils specialist should be consulted if the erodibility class cannot be determined from published information.’ [Delete sentence referring to *Forest Soil Conservation Manual* which is out of date and should no longer be used].

7. Page 54. Footnote 2 re-word as: 'Refer to *Basalt Talus Guidelines*<sup>ref</sup> and *Dolerite Talus Guidelines*<sup>ref</sup>'
8. Page 58. Flora Conservation- General principle. Replace the first dot point with 'The general requirements and guidelines for the conservation of flora values are outlined in the FPA's planning tools available on the FPA's website'.
9. Page 61, Page 63, Page 64 and page 102. Replace all references in the Code to the 'Threatened Fauna Manual for Production Forests in Tasmania' with the more up to date 'FPA biodiversity planning tools and databases'.
10. Page 64. Section D3.3. Replace all references to 'inadequately reserved plant communities' with 'threatened native vegetation communities'.
11. Page 71. Second dot point. Sources of information need updating and zoning maps are no longer used. Rewrite as: 'Sources of information include the *Forest Practices Forest Archaeology manual*<sup>17</sup>, the *Resource Guide for Managing Cultural Heritage in Wood Production Forests*<sup>ref</sup>, site records, predictive statements for high sensitivity zones, and specialist advice.'
12. Page 71, Fifth dot point. Replace reference with '*Resource Guide for Managing Cultural Heritage in Wood Production Forests*<sup>ref</sup>'.
13. Page 72. third dot point. Add 'and the *Resource Guide for Managing Cultural Heritage in Wood Production Forests*<sup>ref</sup>'
14. Page 72. Fourth dot point. Rewrite as: 'should be managed in accordance with the *Resource Guide for Managing Cultural Heritage in Wood Production Forests*<sup>ref</sup>, specialist advice and . . .'
15. Pages 72 and 73. References have been superseded by new publications. Replace the reference '*Some Operational Considerations in Sinkhole Management*' with '*The Sinkhole Guidelines*<sup>ref</sup> and the *Forest Sinkhole Manual*<sup>ref</sup> and specialist advice . . .'
16. Page 73. Second dot point. Change to 'listed in the Tasmanian Geoconservation Database or the *Geomorphology Manual*<sup>ref</sup>'.
17. Pages 102 and 103, References. Delete references 9, 10, 19, and add references to the Strahan Guidelines, Sinkhole Guidelines, Basalt Talus Guidelines, Dolerite Talus Guidelines, Guidelines for the Protection of Class 4 Streams, Guidelines for Cut Road Batters, and Forest Soil Fact Sheets.
18. Appendix 2. Update the town water and fish farm intake locations.

**A. Preamble - The role of the forest practices code as part of the broader framework for the delivery of sustainable forest management in Tasmania**

1. The objective of Tasmania's forest practices system is provided in Schedule 7 of the Forest Practices Act, as follows-

*The objective of the State's forest practices system is to achieve sustainable management of Crown and private forests with due care for the environment and taking into account social, economic and environmental outcomes while delivering, in a way that is as far as possible self-funding-*

- (a) an emphasis on self-regulation; and*
  - (b) planning before forest operations; and*
  - (c) delegated and decentralized approvals for forest practices plans and other forest practices matters; and*
  - (d) a forest practices code which provides practical standards for forest management, timber harvesting and other forest operations; and*
  - (e) an emphasis on consultation and education; and*
  - (ea) an emphasis on research, review and continuing improvement; and*
  - (eb) the conservation of threatened native vegetation communities; and*
  - (f) provision for the rehabilitation of land in cases where the forest practices code is contravened; and*
  - (g) an independent appeal process; and*
  - (h) through the declaration of private timber reserves- a means by which private land holders are able to ensure the security of their forest resources.*
2. The United Nations Food and Agriculture Organization has defined sustainable forest management as: *The stewardship and use of forests and forest lands in a way, and at a rate, that maintains their biodiversity, productivity, regeneration capacity, vitality and their potential to fulfill, now and in the future, relevant ecological, economic and social functions, at local, national, and global levels, and that does not cause damage to other ecosystems.*
3. Australia's National Forest Policy Statement (1992) provides a broad framework for the delivery of sustainable forest management, including three key objectives –
- 3.1. To maintain a permanent forest estate to retain the full suite of forest values over time
  - 3.2. To set aside parts of the forest estate in formal reserves to safeguard special environmental and social values according to the principles of comprehensiveness, adequacy and representativeness
  - 3.3. To manage forests outside reserves in a manner that contributes to sustainable environmental, social and economic outcomes.

#### **4. The maintenance of a permanent forest estate**

- 4.1. Tasmania's State Permanent Forest Estate Policy was developed in accordance with the Regional Forest Agreement made between the State and the Commonwealth on 8 November 1997 (as amended).
- 4.2. The policy is issued by the Minister responsible for the Forest Practices Act and it is updated from time to time.
- 4.3. The policy is implemented through the Forest Practices Act (s.4C).

#### **5. The formal reserve system**

- 5.1. Tasmania's reserve system comprises formal reserves declared by the Governor, informal reserves created through administrative instruments by public authorities, and private reserves created under legislation or through management agreements or certified management systems.
- 5.2. The forest practices system has no direct role in creating reserves, although the refusal of applications for private timber reserves (s.16 of the Forest Practices Act) and the refusal or amendment of forest practices plans (under s.19 of the Act) may, in certain circumstances, lead to land owners seeking to create conservation covenants over private land under the *Nature Conservation Act 2002*.

#### **6. The management of forests outside reserves**

- 6.1. The contribution of forests outside reserves to sustainable environmental, social and economic outcomes is achieved through both regulation and voluntary mechanisms.
  - 6.1.1. *Regulation* - Tasmania has a suite of legislation that contributes to the regulation of forest management (see Table 1). The Forest Practices Act regulates 'forest practices', which are defined as activities relating to the establishment of forests, the harvesting of timber, the clearing of trees and the clearance and conversion of threatened native vegetation.
  - 6.1.2. *Voluntary mechanisms* – Tasmania's forest owners have access to a variety of voluntary mechanisms that can contribute to improved outcomes for sustainable forest management. These include governmental incentives and programs and market-based devices, including forest certification schemes. The forest practices system has no direct role in the administration of voluntary mechanisms.
- 6.2. **Regulation under the forest practices system**
  - 6.2.1. All forest practices other than activities that are exempt under the Forest Practices Regulations 2007 (s.17 of the Act) must be carried out under a forest practices plan.
  - 6.2.2. Forest Practices Plans must be prepared and implemented in accordance with the Forest Practices Code (s.18 of the Act).
  - 6.2.3. The purpose of the Forest Practices Code is to 'prescribe the manner in which forest practices shall be conducted so as to provide reasonable protection to the environment' (s.31 of the Act)
  - 6.2.4. The application of the Forest Practices Code must take account of social, economic and environmental factors (s.4(B)(2)(c) of the Forest Practices Act) and the legislated wood supply obligations of the Forestry corporation (s.4DA of the Forest Practices Act).

## **B. The contribution of the forest practices code to sustainable forest management**

### **7. Scope**

- 7.1. The forest practices code applies to all land, including public Permanent Timber Production Zone Land, other public land and privately-owned land.
- 7.2. The forest practices system does not have jurisdiction over all components of sustainable forest management. It makes a contribution to sustainable forest management outcomes through the regulation of activities that relate to-
  - the establishment of forests
  - the harvesting of timber
  - the clearing of trees and the clearance and conversion of threatened native vegetation
  - the construction of a road or the operation of a quarry in connection with the above.

### **8. Guiding Principles for the application of the forest practices code**

- 8.1. The long term conservation of environmental and social values should be principally achieved through the maintenance of a permanent forest estate and a reserve system containing formal and informal reserves, with a contribution to the conservation of these values through management actions under both regulatory and voluntary mechanisms.
- 8.2. Individual forest owners have rights to manage and use their land and forests for their own social and economic purposes and society has an interest in sustainably managing a range of environmental, social and economic values for present and future generations.
- 8.3. Forest practices will be regulated to further the objective of the forest practices system in a manner that provides due care for the environment and contributes to the conservation of environmental and social values and the sustainable management of Tasmania's forests in accordance with a prescribed duty of care and the following principles.

#### **8.4. Duty of Care**

The contribution of forest owners to the conservation of environmental and social values and the sustainable management of Tasmania's forests is determined by-

1. All measures that are required under relevant legislation (Table 1); and
2. The prescribed duty of care under the forest practices code, which includes -
  - all measures that are required to protect soil and water values as detailed in the Forest Practices Code; and
  - the exclusion of forest practices from areas containing other significant environmental and social values at a level of up to an additional 5% of the existing and proposed forest on the property for areas totally excluded from operations or at a level of up to an additional 10% where partial harvesting of the reserve area is compatible with the protection of the values.

The conservation of values beyond the duty of care in the Forest Practices Code is deemed to be for the community benefit and beyond what can reasonably be required of landowners and should be achieved on a voluntary basis through relevant governmental and market-based programs and incentives.

#### **8.5. Maintenance of the permanent native forest estate**

The forest practices system will maintain a native forest estate in accordance with the State Permanent Forest Estate Policy and by ensuring that harvested forests within the permanent native forest estate are effectively regenerated.

#### **8.6. Harvest levels**

The forest practices system will operate in a manner that is consistent with the statutory wood supply obligations for public Permanent Timber Production Zone Land prescribed in the *Forest Management Act 2013* and in accordance with owner preferences for private land.

#### **8.7. Silviculture**

The forest practices system will apply harvesting and reforestation regimes that are appropriate for specific forest types and sites to ensure prompt re-stocking and the maintenance of local gene pools in native forests. Clearfelling will only be applied in plantations, in native forests approved for clearance and conversion under the State Permanent Forest Estate Policy, and in those native forest types, such as wet eucalypt forests, that cannot otherwise be safely and effectively regenerated through other silvicultural regimes.

#### **8.8. Biodiversity**

Forest practices will be conducted in a manner that recognises and complements the contribution of the reserve system to the maintenance of biological diversity, ecological function and evolutionary processes through the maintenance of viable breeding populations and habitat for all species.

#### **8.9. Water**

Forest practices will be conducted in a manner that does not cause significant deviations from natural ranges for water flow and quality, including natural disturbance events such as wildfires and storms, and meets statutory objectives for water management and water quality standards for human use by minimising the risk of sedimentation and pollution from forestry activities.

#### **8.10. Soils**

Forest practices will be conducted in a manner that maintains soil fertility and does not cause significant deviations from natural rates of erosion and landslides.

#### **8.11. Geoheritage**

Forest practices will not cause undue harm to important geological and geomorphologic features.

#### **8.12. Cultural heritage**

Forest practices will be conducted in a manner that respects and manages Aboriginal and historic cultural heritage through prescription or reservation in accordance with legislative requirements.

### **8.13. Visual landscape and amenity**

Forest practices will have regard to the sensitivity of visual landscapes and amenity values to alteration.

### **8.14. Air quality**

Prescribed burns under the forest practices system will be managed so as to minimise the risk of smoke concentration within populated areas and meet legislative air quality standards.

### **8.15. Forest carbon**

Forest practices will be conducted in a manner that enhances the sequestration and storage of carbon by avoiding unnecessary damage to forest growing stock and soils, by maintaining site productivity and by ensuring the prompt reforestation and growth of forests after harvesting.

### **8.16. Fire management**

Forest practices will be conducted in a manner that meets legislative requirements and actively manages forest fuels and forest access to maintain forest health, regeneration and ecological functions and reduce the risk and severity of damage from unplanned fires.

### **8.17. Control of weeds, pests and diseases**

Forest practices will be conducted in a manner that meets legislative requirements and minimises the risk of spread of weeds, pests and diseases through effective control measures that have the least risk of adverse environmental impact.

### **8.18. Climate change**

Forest practices will ensure that harvested native forests are regenerated using seed from local or similar provenances and in a manner that contributes to the maintenance of genetic diversity and the evolutionary potential of ecosystems and species to adapt to climate change.

### **8.19. Planning**

Forest practices will be planned to provide due care for the environment and to maintain forest productivity in accordance with the Forest Practices Code and associated planning tools issues issued by the Forest Practices Authority, as applied in accordance with the duty of care provisions of the Code.

### **8.20. Communication and consultation**

The users of the forest practices system will be encouraged to support effective consultation between forest managers, neighbours and other stakeholders and the provision of information about planned forest practices and the outcomes achieved to the public in a transparent manner.

### **8.21. Training**

The forest practices system will ensure that Forest Practices Officers and forest operators have the competencies and support, through training programs, planning tools and other resources, to achieve high standards of forest practices.

#### **8.22. Safety**

All forest practices will be conducted in accordance with Work Health and Safety legislation and the Forest Safety Code (Tasmania).

#### **8.23. Monitoring and reporting**

The implementation and effectiveness of forest practices will be assessed and publicly reported under the requirements of the Forest Practices Act, including compliance reports for the discrete operational phases of all forest practices plans, monitoring by the Forest Practices Authority, and through research and monitoring programs.

#### **8.24. Enforcement**

Compliance with the Forest Practices Act and Code will be enforced through the provisions of the Forest Practices Act, with an emphasis on fostering improved standards through improvements to management systems, training and education and through corrective actions backed up with penalties for serious cases of non-compliance.

#### **8.25. Research, review and continuing improvement**

The forest practices system will strive for continuing improvement through ongoing research and monitoring, regular evaluation and review, and regular revision and updating of information and guidelines.

*This policy has been prepared by the Forest Practices Authority as context for the application of the Forest Practices Code following changes made to the Forest Practices Act in 2013. It is intended that this policy will be implemented by the FPA pending amendment of the Code following consultation with the Forest Practices Advisory Council, the Forestry Corporation and Private Forests Tasmania pursuant to s 32 of the Act and noting requirements for public exposure and rights of objection to amendments under s 33 of the Act.*

**Endorsed by the Forest Practices Authority on 20 December 2013**

**(updated 27 Oct 2014 following the proclamation of the *Forestry (Rebuilding the Forest Industry) Act 2014*).**

TABLE 1 LEGISLATION RELEVANT TO THE CONDUCT OF FOREST PRACTICES IN TASMANIA

<b>Legislation</b>	<b>Agency</b>	<b>Purpose</b>	
<i>Aboriginal Relics Act 1975</i>	DPIPWE	Provides for the identification and protection of all Aboriginal relics (sites).	All tenures
<i>Crown Lands Act 1976</i>	DPIPWE	Makes provisions with respect to the management, sale, and disposal of the lands of the Crown.	Crown Lands
<i>Environmental Management and Pollution Control Act 1994</i>	Department of Primary Industries, Parks, Water and Environment (DPIPWE)	Establishes duty of care on everyone to prevent or minimise environmental harm. Defines potentially harmful activities requiring assessment and approval. Identifies notification requirements for environmental incidents.	All tenures
<i>Fire Service Act 1979</i>	Department of Police and Emergency Management (Tasmania Fire Service)	Provides for the control and use of fire in the urban and rural environment.	All tenures
<i>Forest Management Act 2013</i>	Forestry Tasmania	Empowers Forestry Tasmania with responsibility for exclusive control and management of forest products and forest operations for State forest.	Permanent Timber Production Zone Land
<i>Forest Practices Act 1985</i>	Forest Practices Authority	Establishes the <i>Forest Practices Code</i> and forest practices system to provide for the sustainable management of forests on any land subject to forest operations. Provides for the establishment of private timber reserves on private land to provide security of long term forestry use for land owners.	All tenures
<i>Forestry (Rebuilding the Forest Industry) Act 2014</i>	Department of State Growth	Provides for the invigoration of the forest industry	Crown Lands
<i>Forestry Rights Registration Act 1990</i>	DPIPWE	Provides for the registration on land title of certain forestry rights.	Any land with title
<i>Historic Cultural Heritage Act 1995</i>	DPIPWE	Identifies, assesses and protects historic (post settlement) cultural heritage.	All tenures

<i>Land Use Planning and Approvals Act 1993</i>	Department of Justice	Establishes the Resource Management and Planning System for Tasmania. Forest practices on State forest, and forest operations on private timber reserves are exempt from the Act.	All tenures
<i>National Parks and Reserves Management Act 2002</i>	DPIPWE	Provides for the management of reserves under the <i>National Parks and Reserves Management Act 2002</i> according to management objectives for each reserve class.	Reserves declared under the <i>Nature Conservation Act 2002</i>
<i>Nature Conservation Act 2002</i>	DPIPWE	Provides for the declaration of certain types of reserves and sets out the values and purposes of each reserve class.	All tenures
<i>Public Land (Administration and Forests) Act 1991 and Resource Planning and Development Commission Act 1997</i>	Department of Justice	Provides authority to conduct public land use inquiries, approve planning schemes and report on State policies.	Public land
<i>Threatened Species Protection Act 1995</i>	DPIPWE	Provides for the conservation management of scheduled threatened species of flora and fauna.	All tenures
<i>Water Management Act 1999</i>	DPIPWE	Provides for the management of groundwater and surface water.	All tenures
<i>Weed Management Act 1999</i>	DPIPWE	Provides for the management of weed control.	All tenures