

**BACKGROUND DOCUMENT 1**

**Legislative and Policy Context for Review of Biodiversity Provisions of Tasmania's Forest Practices System**



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for the  
Biodiversity Expert Review Panel**

**25 May 2007**

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The document was commissioned by the Biodiversity Expert Review Panel (BERP), with the consultant's brief outlined as at Appendix A.

*Disclaimers*

The information presented is a broad overview of information considered relevant (by the author) to the brief.

Analysis and discussion of information has been undertaken to different levels of detail.

Coverage of material related to all aspects of the brief may not be complete.

The opinions and interpretations of legislation and policy expressed in this document are made by the author and do not necessarily reflect those of the BERP.

## SUMMARY

The forest practices system in Tasmania is affected by a myriad of legislative and policy instruments. These instruments have affect at various levels from international obligations through to national and local obligations.

The key legislative instrument controlling forest practices in Tasmania is the Tasmanian *Forest Practices Act 1985* and associated *Forest Practices Regulations*. The Act and regulations provide broad definitions of terms such as forest, tree, clearing and conversion such that the management of virtually all native woody vegetation, commercially grown trees and threatened native non-forest vegetation are encompassed within the forest practices system.

There are close links between the *Forest Practices Act 1985* and the Tasmanian *Nature Conservation Act 2002*, through mechanisms to manage threatened species and vegetation types.

There are numerous State acts and policies that have some bearing on the operation of the forest practices system. The key act includes the Tasmanian *Threatened Species Protection Act 1995*.

Commonwealth legislation, policies and agreements have direct bearing on the operation of the forest practices system. The main agreement affecting forestry activities is the *Regional Forest Agreement* (and associated amendments to this agreement such as the *Community Forest Agreement*). Other legislation affects forestry and non-forestry activities, and includes the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.

This document is hierarchical providing information in a “top down” format from international through to national and local scales. Key points are made beneath each cited policy instrument. A list of policy instruments is provided in an appendix.

The following pages are a summary of the key points made throughout the document. Headings have been made to ensure maintenance of context of the key point statements.

## KEY POINTS

### International context

#### Convention on Biological Diversity 1993

##### KEY POINT:

Australia, and therefore Tasmania, has international obligations in relation to managing biodiversity.

### National context

#### National Forest Policy Statement 1992 (NFPS)

##### KEY POINT:

The NFPS has direct relevance to the management of biodiversity values in the State's forest. It provides guiding objectives and definitions (including a definition of biodiversity) but not management prescriptions.

**The NFPS was used in the RFA and several of the goals of the NFPS were recognised, especially those related to ecologically sustainable forest management, establishing a CAR reserve system and promoting conservation and management of the private forest estate.**

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#### National Objectives and Targets for Biodiversity Conservation 2001-2005

#### National Strategy for Ecologically Sustainable Development

##### KEY POINT:

Tasmania has national obligations in relation to managing biodiversity.

### State context

#### Tasmanian Resource Management and Planning System (RMPS)

#### Tasmanian Nature Conservation Strategy 2002-2006

##### KEY POINTS:

Tasmania has developed a broad strategy in relation to natural diversity management, which includes specific reference to the management of biodiversity values captured by the provisions of the forest practices system.

Some recommendations and actions identified in the Strategy have already been addressed within the forest practices system.

#### Tasmanian Natural Resource Management Act 2002

##### KEY POINTS:

Tasmania has an overarching piece of legislation that defines and promotes natural resource management in the State.

Tasmania has developed and implemented the concept of a “resource management and planning system” designed to promote the sustainable development of natural and physical resources, etc.

A key part of the resource management and planning system is the concept of “sustainable development”.

Tasmanian Land Use Planning and Approvals Act 1993 (LUPAA)

Tasmanian Forest Practices Act 1985 (FPA)

KEY POINTS:

The forest practices system applies to both public and private land.

The forest practices system is intended to be a practical planning system with an emphasis on consultation, education and ongoing review and improvement.

KEY POINT:

The forest practices system has a very broad definition of the concept of “clearing” and what constitutes a “forest”.

KEY POINT:

The Act establishes the concept of “reasonable protection to the environment”.

Tasmanian Forest Practices Regulations 1997 (FPR)

KEY POINT:

The forest practices system applies to virtually all situations in which native or commercially grown woody vegetation will be “cleared”, excluding only specific situations or minor maintenance-type activities.

KEY POINTS:

The broader definitions now include virtually all activities associated with wood production.

The broader definitions now include reference to threatened native vegetation, not just forest and clarifies the definition of “clearance and conversion”.

These amendments provide the link between the forest practices system and other legislation related to the management of biodiversity values in the State.

The Forest Practices Code 2000 (FPC)

KEY POINTS:

The forest practices system is based on the concepts of wood production in the context of reasonable protection to the environment.

The forest practices system forms part of a broader legislative and policy framework in Tasmania.

The Code provides a set of guiding principles and basic approaches. It does not, on the whole and especially in relation to biodiversity values, provide detailed prescriptions on how to manage particular values.

The Code is intended as a practical document for off-reserve management of environmental values.

The Code outlines the basic biodiversity values that will be considered as part of planning forestry activities.

The Code refers the planner to supporting documents.

The Code outlines the essential elements of the planning system (e.g. an outline of the agreed procedures) but does not necessarily include all details of all policies.

#### Agreed procedures

##### KEY POINT:

The Code includes a set of agreed procedures for the management of threatened species, intended to provide a stream-lined assessment process to facilitate management of threatened species in the context of wood production.

#### Tasmanian Nature Conservation Act 2002 (NCA)

##### KEY POINTS:

The Act is part of the State's resource management and planning system.

The Act allows for compensation to be paid to landowners if they are affected by the presence of threatened species or threatened vegetation types because of provisions of the forest practices system.

The Act lists threatened vegetation communities. This provides a direct link to the Forest Practices Act and Regulations.

The Act defines biodiversity.

The Code, through the "agreed procedures" (see Appendix C) provides the link between the *Forest Practices Act* and the *Nature Conservation Act*.

Compensation mechanisms, over and above the "duty of care" provisions of the Code, now include both threatened species and threatened vegetation types.

Threatened native vegetation community (as well as threatened species) are now legally defined.

Threatened forest and non forest native vegetation communities are now covered.

#### Tasmanian Threatened Species Protection Act 1995 (TSPA)

##### KEY POINTS:

In addition to the "resource management and planning system", Tasmania has a "threatened species protection system".

A key part of the threatened species protection system are the concepts of education and cooperative management.

Clause 51 is not an exemption from the requirements of the TSPA – it simply recognises the adequacy of the planning systems that deliver certified forest practices plans to appropriately manage threatened species.

#### Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBCA)

##### KEY POINTS:

Forestry activities are essentially "exempt" from the referral process under the EPBCA because of the RFA but there are exceptions to these exemptions (dependent on the definitions of "forestry operations" and legal interpretation).

Changes to the operation of the forest practices system (e.g. management of threatened non-forest vegetation) are likely to not be exempt from the EPBCA, as currently circumscribed.

Commonwealth *Regional Forest Agreements Act 2002*

KEY POINT:

As far as I can ascertain, the definition of “forestry operation” has not been modified so only includes the activities listed below i.e. does not include threatened non-forest and agricultural activities.

Tasmanian *Regional Forest Agreement 1997* (RFA)

KEY POINTS:

See comments above under RFA Act. The key term seems to be “any related”, which is unlikely to include agricultural activities such as ploughing and residential developments (as two examples of non-standard activities) because they are not related to (a)-(c).

Amendments to the RFA have clarified the definitions of “protect” in relation to “priority species”.

Community Forest Agreement

Threatened Species Recovery Plans (under the EPBC and/or TSPA)

Tasmanian Government Policy for Maintaining a Permanent Native Forest Estate November 2005 (PNFE)

KEY POINTS:

The State is committed to maintaining a permanent native forest estate, administered through the forest practices system.

The policy has Statewide and bioregional thresholds.

**Other international, national and state policies and processes**

Environmental Management Systems (EMS)

KEY POINT:

EMS’s have been developed and implemented by various forestry organisations in Tasmania, and include some provisions related to biodiversity values.

Certification schemes

Australian Forestry Standard (AFS)

KEY POINTS:

Certification under the AFS is being pursued by forestry organisations in Tasmania.

The AFS includes a definition of biodiversity and has specific recommendations and actions regarding management of biodiversity.

Forest Stewardship Council (FSC)

A National Approach to Firewood Collection and Use in Australia (Australian and New Zealand Environment and Conservation Council, June 2001)

Tasmanian *Inland Fisheries Act 1995*

Forestry Tasmania vs. Bob Brown (Justice Marshall’s decision)

Private Timber Reserves (PTR)

Tasmanian *Private Forests Act 1994*

Tasmanian *Forestry Act 1920*

## Introduction

The following information has been compiled to assist with the review of the biodiversity provisions of the forest practices system by the Biodiversity Expert Review Panel (BERP). The specific information requested to be included in this document is included at Appendix A.

The intent of this document is not to provide legal interpretation of legislation and/or other policies. It is to simply document the available information in relation to the legislation, policies and other agreements that have some bearing on the management of biodiversity under the State's forest practices system.

All references cited in this document have been provided to the review panel.

The emphasis of this document is on activities currently or potentially covered by the provisions of the forest practices system. While the focus of this document is on forest biodiversity, mainly within a wood production context, other planning systems, policies and legislation are addressed in relation to other aspects of biodiversity management captured by the forest practices system (e.g. threatened non-forest vegetation).

It is recognised that the forest practices system may have some influence on activities outside the wood production, agricultural and rural/residential development context. However, it is beyond the scope of this document to address the myriad of additional planning systems, policies and legislation that may apply to such activities. For example, activities within the World Heritage Area may require some involvement of the forest practices system but are primarily administered by other agencies under quite different legislation or policies.

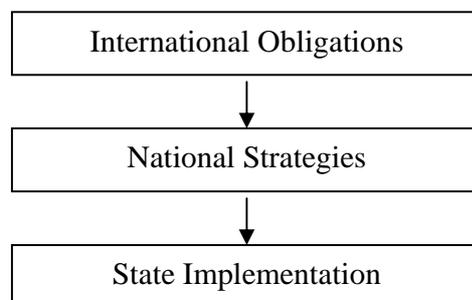
In addition, there are a number of other biodiversity management issues (such as weed and disease management) that have not been addressed by this document.

A summary of the policy instruments is provided at Appendix B.

## The present situation

The Tasmanian *Forest Practices Act 1985* (and associated regulations and amendments) provides the basis for the forest practices system, and as such the management of biodiversity values within areas covered by that system.

In essence, the forest practices system forms a part of the overall management of biodiversity in Tasmania. A set of overarching international, national and state policies outline broad objectives in relation to the management of various biodiversity values.



## International context

Internationally, Australia is party to a large number of agreements that are relevant to the conservation of biological diversity. These range from agreements about the protection of the habitats of migratory species, World Heritage properties, Antarctica, and the South Pacific region to agreements on trade in wildlife and pollution control.

It is beyond the scope of the present document to provide a complete history and account of all international agreements, conventions, etc. that Australia has been or is a party to that have some bearing on the management of biodiversity. For example, the global issue of climate change, which does relate to forestry and agricultural activities, is not addressed. Only the key agreements that may relate to the operation of the forest practices system in Tasmania will be addressed.

### Convention on Biological Diversity 1993

The *Convention on Biological Diversity*, ratified by Australia on 18 June 1993, deals at a global level with the full range of biological diversity conservation, its sustainable use, and the fair and equitable sharing of the benefits arising from this use.

The *Convention on Biological Diversity* is an international treaty that was adopted at the Earth Summit in Rio de Janeiro in 1992. The Convention has three main goals: (1) conservation of biological diversity (or biodiversity); (2) sustainable use of its components; and (3) fair and equitable sharing of benefits arising from genetic resources. In other words, its objective is to develop national strategies for the conservation and sustainable use of biological diversity. It is often seen as the key document regarding sustainable development.

The convention recognized for the first time in international law that the conservation of biological diversity is "a common concern of humankind" and is an integral part of the development process. The agreement covers all ecosystems, species, and genetic resources. It links traditional conservation efforts to the economic goal of using biological resources sustainably. Importantly, the Convention is legally binding; countries that join it ('Parties') are obliged to implement its provisions.

The convention reminds decision-makers that natural resources are not infinite and sets out a philosophy of sustainable use. While past conservation efforts were aimed at protecting particular species and habitats, the Convention recognizes that ecosystems, species and genes must be used for the benefit of humans. However, this should be done in a way and at a rate that does not lead to the long-term decline of biological diversity.

The convention also offers decision-makers guidance based on the precautionary principle that where there is a threat of significant reduction or loss of biological diversity, lack of full scientific certainty should not be used as a reason for postponing measures to avoid or minimize such a threat. The Convention acknowledges that substantial investments are required to conserve biological diversity. It argues, however, that conservation will bring us significant environmental, economic and social benefits in return (preceding paragraphs from Wikipedia).

### **KEY POINT:**

**Australia, and therefore Tasmania, has international obligations in relation to managing biodiversity.**

## National context

The Commonwealth and State governments have adopted a cooperative approach to managing biodiversity, including threatened species. A range of intergovernmental agreements such as the Intergovernmental Agreement on the Environment, National Strategy for Conservation of Australian Species and Ecological Communities Threatened with Extinction, and The National Strategy for the Conservation of Australia's Biological Diversity identify the responsibilities of Tasmania and the Commonwealth and means of implementing the strategies.

Only the key documents are discussed below. Further information on some peripheral agreements (e.g. RAMSAR wetland management, national firewood strategy, etc.) are presented later in this document.

### National Forest Policy Statement 1992 (NFPS)

The NFPS outlines agreed objectives and policies for the future of Australia's public and private forests. It is the joint response of the Commonwealth, State and Territory Governments to three major reports on forest issues — those of the Ecologically Sustainable Development Working Group on Forest Use, the National Plantations Advisory Committee, and the Resource Assessment Commission's Forest and Timber Inquiry — and it builds on the 1983 *National Conservation Strategy for Australia* initiated by the Commonwealth Government and the 1986 *National Forest Strategy for Australia* developed by the Australian Forestry Council.

It has the following broad national goals. The goals, and the specific wording related to biodiversity are highlighted below (bold underlined text).

The Governments agree that, to achieve their vision for the forest estate and to ensure that the community obtains a balanced return from all forest uses, eleven broad national goals must be pursued. These goals should be pursued within a regionally based planning framework that integrates environmental and commercial objectives so that, as far as possible, provision is made for all forest values. The eleven broad national goals are as follows:

- **Conservation.** The goals are to **maintain an extensive and permanent native forest estate** in Australia and to manage that estate in an **ecologically sustainable manner** so as to conserve the full suite of values that forests can provide for current and future generations. These **values include biological diversity**, and heritage, Aboriginal and other cultural values.
- **Wood production and industry development.** The goal is for Australia to develop internationally competitive and **ecologically sustainable wood production** and wood products industries. Efficient industries based on maximising value-adding opportunities and efficient use of wood resources will provide the basis for expansion in wood products manufacturing, which in turn will provide national and regional economic benefits.
- *Integrated and coordinated decision making and management.* The goals are to reduce fragmentation and duplication in the land use decision-making process between the States and the Commonwealth and to improve interaction between forest management agencies in order to achieve agreed and durable land use decisions.
- **Private native forests.** The goal is to ensure that private native forests are **maintained and managed in an ecologically sustainable manner, as part of the permanent native forest estate, as a resource in their own right, and to complement the commercial and nature conservation values of public native forests.**
- *Plantations.* One goal is to expand Australia's commercial plantations of softwoods and hardwoods so as to provide an additional, economically viable, reliable and high-quality wood resource for industry. Other goals are to increase plantings to rehabilitate cleared agricultural land, to improve water quality, and to meet other environmental, economic or aesthetic objectives.

- *Water supply and catchment management.* The goals are to ensure the availability of reliable, high-quality water supplies from forested land and to protect catchment values.
- *Tourism and other economic and social opportunities.* The goal is to manage Australia's forests in an ecologically sustainable manner for a range of uses, including tourism, recreation and production of non-wood products.
- *Employment, workforce education and training.* The goal is to expand employment opportunities and the skills base of people working in forest management and forest-based industries.
- *Public awareness, education and involvement.* The goals are to foster community understanding of and support for ecologically sustainable forest management in Australia and to provide opportunities for effective public participation in decision making.
- **Research and development.** The goals are to increase Australia's national forest research and development effort and to ensure that it is well coordinated, efficiently undertaken and effectively applied. This research will **expand and integrate knowledge about the many aspects of native forests, plantations, forest management, conservation,** and forest product development.
- **International responsibilities.** The goals are to promote **nature conservation and sustainable use of forests outside Australia** and to ensure that Australia fulfils its obligations under relevant international agreements.

**KEY POINT:**

**The NFPS included 11 broad national goals, several of which have direct and indirect bearing on the management of biodiversity. The highlighting above indicates the key elements of the goals related to biodiversity, specifically conservation through a CAR reserve system and a permanent native forest estate, ecologically sustainable wood production, an ecologically sustainable private forest estate to complement management of public forests, research and development and meeting international responsibilities.**

The NFPS included the following definitions:

Biological diversity	a concept encompassing the diversity of indigenous species and communities occurring in a given region. Also called 'biodiversity', it includes 'genetic diversity', which reflects the diversity within each species; 'species diversity', which is the variety of species; and 'ecosystem diversity', which is the diversity of different communities formed by living organisms and the relations between them. Biological diversity is the variety of all life forms — the plants, animals and micro-organisms — the genes they constitute, and the ecosystems they inhabit.
Ecologically sustainable development	There is no common definition in the literature for the term 'ecologically sustainable development'. In considering this issue, the Ecologically Sustainable Development Working Group on Forest Use specified three requirements for sustainable forest use: maintaining the ecological processes within forests (the formation of soil, energy flows, and the carbon, nutrient and water cycles); maintaining the biological diversity of forests; and optimising the benefits to the community from all uses of forests within ecological constraints. The National Forest Policy Statement adopts these principles as the basis for ecologically sustainable development.

The NFPS formed the basis of the Tasmanian *Regional Forest Agreement*. Clause 19 of the RFA specifically stated:

19. The Parties confirm their commitment to fulfilling the goals, objectives and implementation of the NFPS by:

- developing and implementing ecologically sustainable forest management and use; and
- establishing a CAR Reserve System; and
- facilitating the development of an internationally competitive wood production and wood products industry; and
- promoting the conservation and management of the Private Forest Estate.

**KEY POINT:**

**The NFPS has direct relevance to the management of biodiversity values in the State's forest. It provides guiding objectives and definitions (including a definition of biodiversity) but not management prescriptions.**

**The NFPS was used in the RFA and several of the goals of the NFPS were recognised, especially those related to ecologically sustainable forest management, establishing a CAR reserve system and promoting conservation and management of the private forest estate.**

*National Strategy for the Conservation of Australia's Biological Diversity 1993*

The *National Strategy for the Conservation of Australia's Biological Diversity* provides the framework for protecting Australia's biodiversity.

Conservation of biological diversity is a foundation of ecologically sustainable development and is one of the three core objectives of the *National Strategy for Ecologically Sustainable Development*.

The *Convention on Biological Diversity*, ratified by Australia on 18 June 1993, deals at a global level with the full range of biological diversity conservation, its sustainable use, and the fair and equitable sharing of the benefits arising from this use. This *National Strategy for the Conservation of Australia's Biological Diversity* aims to bridge the gap between current activities and the effective identification, conservation and management of Australia's biological diversity. The Strategy's primary focus is Australia's indigenous biological diversity. Implementation of the Strategy will require actions affecting virtually all of Australia's land and sea, most of which will continue to be subject to a multiplicity of uses, either in parallel or in sequence. Governments, community groups, the private sector and individuals are engaged in numerous activities aimed at the conservation of biological diversity in Australia, but much remains to be done. There are deficiencies in resourcing and coordination, in the adequacy of the protected area system, and in the knowledge upon which we base our decisions. There is also scope to improve resource management and conservation outside protected areas and to coordinate this with the protected area system. Greater consistency in approaches between governments and improved information flows between all sectors of the community are also necessary.

The Strategy was prepared by the Australian and New Zealand Environment and Conservation Council, in consultation with the Agriculture and Resources Management Council of Australia and New Zealand, the Australian Forestry Council, the Australian and New Zealand Fisheries and Aquaculture Council, the Australian and New Zealand Minerals and Energy Council, and the Industry, Technology and Regional Development Council. The views of business, industry and the conservation movement were also sought and the provisions of the Convention on Biological

Diversity and the draft national strategy prepared by the Biological Diversity Advisory Committee, were taken into account.

The Strategy defines “biological diversity” at three levels, as follows:

- genetic diversity - the variety of genetic information contained in all of the individual plants, animals and microorganisms that inhabit the earth. Genetic diversity occurs within and between the populations of organisms that comprise individual species as well as among species;
- species diversity - the variety of species on the earth;
- ecosystem diversity - the variety of habitats, biotic communities and ecological processes.

#### *National Objectives and Targets for Biodiversity Conservation 2001-2005*

The *National Objectives and Targets for Biodiversity Conservation 2001-2005* was produced to augment the National Strategy and sets objectives and targets for ten priority outcomes for the Australian Government, States and Territories to achieve.

The priority actions are to:

1. protect and restore native vegetation and terrestrial ecosystems;
2. protect and restore freshwater ecosystems;
3. protect and restore marine and estuarine ecosystems;
4. control invasive species;
5. mitigate dryland salinity;
6. promote ecologically sustainable grazing;
7. minimise impacts of climate change on biodiversity;
8. maintain and record indigenous peoples’ ethnobiological knowledge;
9. improve scientific knowledge and access to information; and
10. introduce institutional reform.

These priority outcomes, objectives and targets complement the Prime Minister’s *National Action Plan for Salinity and Water Quality* initiative adopted by COAG in November 2000; the *National Framework for Management and Monitoring of Australia’s Native Vegetation*; the *National Greenhouse Strategy*; the *Ramsar Convention Strategic Plan 1997–2002*; the *Asia–Pacific Migratory Waterbird Conservation Strategy* and *Shorebird Action Plan 2000–2005*; and COAG water reforms.

The document provides substantially more detail with respect to these priority actions. These are not documented individually but the entire document is provided to the panel.

This document provides a description (but not specifically a formal definition) of biodiversity as follows:

Biodiversity describes the organisms in the natural environment, which provide the ecosystem services that form our natural capital: fresh water, clean air, soil fertility and biological pest control. Biodiversity is fundamental to the future sustainability of the world’s natural resources. A recent report by the World Resources Institute values the ‘free’ ecosystem services at over \$30 trillion to the global economy each year. Conservation of biodiversity, on economic grounds alone, needs to become core business in the management of our natural resources.

### National Strategy for Ecologically Sustainable Development

The *National Strategy for Ecologically Sustainable Development* has three core objectives: to enhance individual and community wellbeing and welfare by following a path of economic development that safeguards the welfare of future generations; to provide for equity within and between generations; and to protect biological diversity and maintain essential ecological processes and life-support systems. It will be used by governments to guide policy and decision making, particularly in those industry sectors that rely on the use of natural resources.

The chapter on forest resource use and management (Chapter 3) is of most relevance to the Tasmanian forest practices system. It is available at: <http://www.environment.gov.au/esd/national/nsesd/strategy/forests.html> and has also been provided to the panel. The three core objectives in relation to forest resource use and management identified are:

- to manage and utilise Australia's forest estate for all forest values on an ecologically sustainable basis
- to maintain ecological processes within the forests, maintain biodiversity, and optimise benefits to the community from all uses, within ecological constraints
- to enhance the quality of life for successive generations of Australians by protecting and enhancing all of the values available from Australia's forests, and development of an ecologically sustainable and internationally competitive forest products industry

#### **KEY POINT:**

**Tasmania has national obligations in relation to managing biodiversity.**

#### **State context**

The Tasmanian forest practices system operates at various scales but principally it operates at the coupe-level i.e. operational areas rather than regionally-based plans. It is a co-regulatory system based on education of industry personnel and delegation of authority to certify forest practices plans for operational activities. Training, research and monitoring are key elements of the forest practices system.

Numerous acts and policies have some bearing on the management of biodiversity under the forest practices system. These are described in various levels of detail below. Appendix B is a list of such documents.

#### Tasmanian Resource Management and Planning System (RMPS)

Tasmania has developed and adopted a *Resource Management and Planning System*, which is referred to in the objectives of several State acts and policies.

The *Tasmanian Natural Resource Management Framework* was developed to provide Tasmania with a systematic way of integrating natural resource management, to ensure consistency, efficiency and improved natural resource management outcomes. It is implemented under the State's *Natural Resource Management Act 2002*.

The *Guide to the Resource Management and Planning System* does not note the *Forest Practices Act* as one of the supporting acts to the system. However, while forestry activities on public land and on private land subject to a Private Timber Reserve may be subject to the *Forest Practices Act*, other activities on privately owned land not subject to a Private Timber Reserve, may be subject to the RMPS (and hence acts such as the *Land Use Planning and Approvals Act 1993*).

### Tasmanian Nature Conservation Strategy 2002-2006

Tasmania's *Nature Conservation Strategy* is an important whole-of-government document that complements several other Government initiatives, including *Tasmania Together*, the State of Environment Report and the *Natural Resource Management Framework* (DPIW web page statement).

The Government has considered all the 64 recommendations and is also releasing its response, which addresses each recommendation and highlights 17 that are supported as a high priority.

The Strategy includes the following priorities:

1 Improve the protection of Tasmania's native forest and non-forest vegetation. This should be done by the following actions. Increase the retention of native forest at a Statewide level through the Permanent Forest Estate Policy, ensure adequate representation of forest communities at IBRA region level and improve the protection of threatened forest communities. Improve the protection of high conservation value native non-forest vegetation, particularly native grasslands and grassy woodlands, through sustainable management programs, the introduction of an assessment and approvals process where destruction is proposed, and emergency funding to protect vegetation requiring immediate and urgent protection. (Actions 39, 40, 41, 42)

2 Establish a Conservation Fund so that nature conservation programs are resourced on a long-term basis and at realistic levels, and create a State Emergency Fund for priority and urgent situations. These funds need to recognise that nature conservation is a community responsibility. Investigate a range of revenue-raising and funding options to support these funds. (Actions 63, 64)

3 In the context of the Tasmanian Natural Resource Management Framework, increase and recognise community involvement in nature conservation issues at the regional level. This includes enabling the community to be more involved in policy setting and decision making. This is essential to foster and build on community involvement and ownership of nature conservation. (Action 59)

4 Significantly increase measures to prevent the entry of weeds, pests and diseases into Tasmania and control those already present. Many actions will be needed to address this issue. Actions should include increasing quarantine and surveillance, undertaking rigorous risk assessments, having emergency response plans, and implementing existing strategies dealing with weeds, pests and diseases. (Actions 45, 46)

5 Improve protection for freshwater environments. As a priority, identify and establish freshwater CAR reserves and complete integrated catchment planning for natural resource management. (Actions 15, 47)

6 Improve the long-term protection and management of natural diversity on private land. This should include developing codes of practices supported by realistic incentives and packages, for all major land use activities. To assist this further, the existing RFA Private Forest Reserve Program should be broadened in scope and maintained long-term. (Actions 18, 19, 20)

7 Improve sustainable land practices in agriculture by developing codes of practice for individual agricultural sectors and supporting this with a range of packages including accreditation and certification, property management planning, realistic financial incentives and more technical extension services. (Actions 22, 23, 24)

8 Increase financial support for the Threatened Species Strategy to provide greater protection for State-listed species, develop a range of mechanisms for broad-scale protection, increase effort in a range of other areas and encourage greater co-operation in recovery actions. (Action 17)

9 Improve the capacity of planning processes to protect natural diversity. This should include reviewing the Resource Management and Planning System to facilitate more regional planning between state and local management authorities, to improve local government planning processes and to ensure strategic planning and development of planning schemes formally address nature conservation issues. (Actions 9, 10, 11)

10 Create new nature conservation legislation by merging and extending relevant aspects of the *National Parks and Wildlife Act 1970* and the *Threatened Species Protection Act*

1995. This should improve protection for all natural elements in all environments and across all land tenures. A review of the other statutes dealing with the protection of natural elements should also be undertaken with the aim of improving their protection. (Actions 6, 7)

11 Include mandatory high environmental standards in the accreditation systems for key industries in Tasmania. These standards should include a code of practice with a duty of care component, a certification of product quality and of minimal environmental impact during production, and a third-party audit. Where possible the process should be linked to financial advantages such as an ecolabel or other incentives. (Action 22)

12 Improve the standard of environmental impact assessments and environmental management plans through the provision of revised generic guidelines which include check lists of key nature conservation issues to be assessed and requirements for on-site assessments where appropriate. (Action 12)

13 Target well recognised gaps in scientific research. Priorities include biological surveys and habitat mapping of marine systems, systematic surveys and research on invertebrates and non-vascular plants including their taxonomy and ecology, habitat requirements and life history of freshwater species, descriptive inventories and process research on major representative classes of Tasmanian landforms, soil systems and bedrock geology. (Action 1)

14 Explicit nature conservation objectives should be provided in all plans and regulations involving marine and freshwater resources. Plans should be implemented, audited and enforced. (Action 26)

15 Within the regional context of the Tasmanian Natural Resource Management Framework, support community extension through a network of natural resource management officers operating within local government and at the regional level. (Action 61)

The Strategy includes the following definitions:

“Natural diversity” is all the native plants, animals and geological elements that occur on land, in freshwater and throughout our marine environment. It includes their genetic and microscopic composition, individual species and groups, and all the larger interacting ecosystems. Genes make up the species, which together with their habitats make up the ecosystems – all are interconnected. Natural diversity also includes the processes and functions that occur at many different scales and underpin ecosystems.

“Biodiversity” refers to all the living components, the plants and animals, while geodiversity refers to the non-living components, such as the bedrock, landforms, soil and associated processes. Geodiversity includes a record of the earth’s evolutionary history, as well as the processes currently shaping it internally and externally. Geodiversity forms the foundation for all living things.

The Strategy included the following key actions in relation to the forest industry (note that there are also key actions for other industries that should be referred to also e.g. agriculture).

31. Amend the *Forest Practices Act 1985* to increase protection for special values. This includes:

- identifying and protecting remnants as a ‘special value’ and classifying them in forestry planning as ‘vulnerable land’;
- permanently protecting ‘reserves’ (e.g. streamside reserves, etc.) after the Forest Practices Plan has expired;
- providing stronger obligations and a duty of care to protect threatened elements.

32. Increase the research effort into the efficacy of prescriptions in the Forest Practices Code and review those prescriptions in the light of research results. Two research priorities are the protection of catchments and stream integrity, and the effects of plantations on fragmentation in the landscape.

## KEY POINTS:

**Tasmania has developed a broad strategy in relation to natural diversity management, which includes specific reference to the management of**

**biodiversity values captured by the provisions of the forest practices system.**

**Some recommendations and actions identified in the Strategy have already been addressed within the forest practices system.**

Tasmanian Natural Resource Management Act 2002

Schedule 1 of the Act states the objectives of that Act, as follows:

1. The objectives of the resource management and planning system of Tasmania are –
  - (a) to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity; and
  - (b) to provide for the fair, orderly and sustainable use and development of air, land and water; and
  - (c) to encourage public involvement in resource management and planning; and
  - (d) to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c); and
  - (e) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.
2. In item 1(a) –

"sustainable development" means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing and for their health and safety while –

  - (a) sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations; and
  - (b) safeguarding the life-supporting capacity of air, water, soil and ecosystems; and
  - (c) avoiding, remedying or mitigating any adverse effects of activities on the environment.

The Act defines "natural resource management" as:

- means management of any activity that uses, develops or conserves –
- (a) air, water, land, plants, animals and micro-organisms; and
  - (b) the systems they form;

**KEY POINTS:**

**Tasmania has an overarching piece of legislation that defines and promotes natural resource management in the State.**

**Tasmania has developed and implemented the concept of a "resource management and planning system" designed to promote the sustainable development of natural and physical resources, etc.**

**A key part of the resource management and planning system is the concept of "sustainable development".**

Tasmanian Land Use Planning and Approvals Act 1993 (LUPAA)

LUPAA is the central legislation underpinning the RMPS. Broadly it provides for:

- the making and amendment of planning schemes;
- the assessment of planning directives;
- development control and enforcement and agreements between planning authorities and landowners; and

- RMPAT to hear appeals into specific development control matters.

#### Tasmanian Forest Practices Act 1985 (FPA)

This is the principal piece of legislation relevant to the operation of the forest practices system in Tasmania. The Act has been recently amended through the *Forest Practices Amendment (Threatened Native Vegetation Communities) Bill 2006*. Key amendments to the Act and Regulations are highlighted below using underlined text.

Schedule 7 of the Act states the objectives of the forest practices system of Tasmania, 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 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.

#### **KEY POINTS:**

**The forest practices system applies to both public and private land.**

**The forest practices system is intended to be a practical planning system with an emphasis on consultation, education and ongoing review and improvement.**

The following definitions have implications for what types of activities are regulated, and hence likely to have some impact on biodiversity.

"clearing of trees" means the removal of trees by –

- (a) clearing, cutting, pushing or otherwise removing; or
- (b) destroying the trees in any way;

"clearance and conversion" – the deliberate process of removing all or most of the threatened native vegetation community from an area of land and – (a) leaving the area of land in an unvegetated state; or (b) replacing the threatened native vegetation so removed, on a permanent or extended basis, with any, or any combination of, the following: (i) another community of native vegetation; (ii) non-native vegetation; (iii) agricultural works; (iv) residential, commercial or other non-agricultural development; or (c) doing a combination of any of the things referred to in paragraphs (a) and (b).

"exceptional circumstances" – that may justify the clearance and conversion of a threatened native vegetation community, include the need to do one or more of the following: (a) ensure the physical safety of an owner of land or the owner's relatives or employees; (b) remove or reduce a bushfire risk; (c) respond to a threat to the State's

biosecurity; (d) protect a rare, vulnerable or endangered species of flora or fauna; (e) discharge a statutory obligation or comply with an order of a court.

"forest" means an area containing trees;

"forest practices"– (a) the processes involved in establishing forests, growing or harvesting timber, clearing trees or clearing and converting threatened native vegetation communities; and (b) works (including the construction of roads and the development and operation of quarries) connected with establishing forests, growing or harvesting timber or clearing trees.

"native vegetation" means vegetation of a species that existed in Tasmania, on land, before European settlement

"threatened native vegetation community" - meaning as in the *Nature Conservation Act 2002* [see section below under this Act]

"tree fern" means a plant of the species *Dicksonia antarctica*;

"trees" means –

(a) any woody plants with a height or potential height of 5 metres or more, whether or not living, dead, standing or fallen, that are –

(i) native to Tasmania; or

(ii) introduced into Tasmania and used for the processing or harvesting of timber; and

(b) tree ferns.

"remove" means remove by any direct or indirect means or combination of means, including but not limited to the following: (a) burning; (b) clearfelling; (c) cutting down; (d) lopping; (e) ploughing; (f) poisoning; (g) ringbarking; (h) thinning; (i) uprooting.

"agricultural works" includes, but is not limited to, the following: (a) farm sheds and workshops; (b) farm dams and irrigation facilities; (c) farm storage and processing facilities; (d) farm access roads and easements; (e) farm fencing.

"management practice" means any of the following: (a) applying fertilizer or changing the nature or scale of a fertilizer regime; (b) burning off to reduce wildfire fuel; (c) constructing fire-breaks; (d) mowing, slashing or scything grasses or undergrowth; (e) pruning, trimming or lopping vegetation for work safety purposes or to ensure the health of specific specimens of vegetation or vegetation communities; (f) removing or controlling noxious weeds; (g) switching from one kind of livestock to another or adjusting livestock numbers.

#### **KEY POINT:**

**The forest practices system has a very broad definition of the concept of "clearing" and what constitutes a "forest".**

**Recent amendments extend the scope of the previous definitions.**

The Act establishes the Forest Practices Code (the Code is discussed in detail later in this document), as follows:

31. Purpose, &c., of Forest Practices Code

(1) The Forest Practices Code shall prescribe the manner in which forest practices shall be conducted so as to provide reasonable protection to the environment.

#### **KEY POINT:**

**The Act establishes the concept of "reasonable protection to the environment".**

Tasmanian Forest Practices Regulations 1997 (FPR)

The FPR provide conditions of when a Forest Practices Plan is not required. It is more convenient to state the situations in which an FPP is not required, because the

converse will indicate when a FPP is required. The FPR have recently been amended (in final stages of assent) – key changes are highlighted below using underlined text.

The FPR states:

5. Forest practices plan not required

(1) For the purpose of section 17(6) of the Act, the following circumstances are prescribed:

(a) the harvesting of timber or the clearing of trees on land that is not vulnerable land, with the consent of the owner of that land, if –

(i) the volume of timber harvested or trees cleared is less than 100 tonnes for each area of applicable land for each year; or

(ii) the total area of land on which the harvesting or clearing occurs is less than one hectare for each area of applicable land for each year –

whichever is the lesser;

(b) the harvesting of timber or the clearing of trees on vulnerable land, with the consent of the owner of that land, if necessary to protect public safety or to maintain existing infrastructure if the volume of timber harvested or trees cleared is less than 5 tonnes for each area of applicable land for each year or the total area of land upon which the harvesting or clearing occurs is less than one hectare for each area of applicable land for each year, whichever is the lesser;

(c) the harvesting of timber or the clearing of trees on any land for the following purposes:

(i) easements for powerlines;

(ii) gas pipelines;

(iii) public roads;

(d) the establishment of trees on land that has not contained trees in the immediately preceding 5 year period if –

(i) establishing the trees does not involve the construction of a road or the operation of a quarry; and

(ii) the relevant area of land is less than 10 hectares for each area of applicable land for each year;

(e) the harvesting of tree ferns –

(i) with the consent of the owner of the applicable land; and

(ii) if no more than 6 tree ferns are harvested on each area of applicable land during one year;

(f) the harvesting of timber or the clearing of trees carried out in accordance with –

(i) a conservation covenant of a kind that the Authority, by instrument in writing, has approved for the purposes of this paragraph; or

(ii) a vegetation management agreement of a kind that the Authority, by instrument in writing, has approved for the purposes of this paragraph;

(g) the clearing of trees in the course of fire management work carried out under a fire management program of a kind that the Authority, by instrument in writing, has approved for the purposes of this paragraph.

**KEY POINT:**

**The forest practices system applies to virtually all situations in which native or commercially grown woody vegetation will be “cleared”, excluding only specific situations or minor maintenance-type activities.**

The FPR makes the following relevant definitions:

"conservation covenant" means a conservation covenant within the meaning of Part 5 of the *Nature Conservation Act 2002*;

"fire management work" means burning off vegetation and constructing firebreaks and access tracks where –

- (a) the sole purpose of the work is to reduce fire hazards or control wildfires; and
- (b) trees affected by the work are not harvested or cleared for any other purpose; and
- (c) reasonable precautions are taken to avoid harming natural and cultural forest values, including forest cover and regeneration;

"vegetation management agreement" means an agreement that an owner of land enters into with an instrumentality or agency of the Crown for the purposes of managing native vegetation on that land;

"vulnerable land" means land that –

- (b) is within a streamside reserve or a machinery exclusion zone within the meaning of the *Forest Practices Code*; or
- (c) has a slope of more than the landslide threshold slope angles within the meaning of the *Forest Practices Code*; or
- (d) is within the High or Very High Soil Erodibility Class within the meaning of the *Forest Practices Code*; or
- (e) consists of, or contains, an endangered, vulnerable or rare forest community of the kind specified in Schedule 1; or
- (f) is inhabited by threatened species within the meaning of the *Threatened Species Protection Act 1995*; or
- (g) contains vulnerable karst soils within the meaning of the *Forest Practices Code*; or
- (h) contains areas of trees reserved from the harvesting of timber or the clearing of trees under a forest practices plan in which the period specified in the plan has expired.

(d) consists of, or contains, a threatened native vegetation community

"native vegetation regrowth" means native vegetation not containing, in any 0.5 hectare area, more than 20 eucalypt plants, of any species, more than 2 metres in height;

"previously cleared and converted land" means land – (a) whose owner can demonstrate a history of agricultural or other non-forest land use over a consecutive period of at least 5 years, since 1985, during which the land did not contain trees or threatened native vegetation communities; or (b) that has been cleared and converted in the immediately preceding 5-year period in accordance with a certified forest practices plan;

"native vegetation regrowth" means native

"reasonable buffer", in relation to infrastructure, means – (a) a buffer of land of such area as is necessary to provide safe vehicular access to the infrastructure; or (b) a buffer of land of such width as is necessary to protect the infrastructure from being damaged by falling timber;

#### **KEY POINTS:**

**The broader definitions now include virtually all activities associated with wood production.**

**The broader definitions now include reference to threatened native vegetation, not just forest and clarifies the definition of "clearance and conversion".**

**These amendments provide the link between the forest practices system and other legislation related to the management of biodiversity values in the State.**

In addition to the above, the amended FPR includes the concept of "FPP ranking" in relation to determining the amount of the "prescribed fee" for application for an FPP. The rankings are from 0-4 (4 incurring the highest prescribed fee). The rankings are determined according to three land classes (C, P and NF). The "P" class (forest

established by planting trees i.e. a plantation) and "NF" class (forest established by the natural or assisted regeneration of trees from seed or other natural propagules i.e. native forest silviculture) are not discussed further. The "C" class is the most significant definition in relation to biodiversity values and requires some explanation as it establishes a "new" concept of "disturbed land", as follows:

"C" signifies treeless land or land containing scattered or degraded forest that the Authority has determined comprises – (a) trees that – (i) are mostly dead or show signs of severe dieback; and (ii) show no signs of healthy regeneration; or (b) trees that – (i) are mostly in poor health; and (ii) have an extensively disturbed or modified understorey dominated by introduced species of grass or other vegetation (such as broom, gorse or blackberry); and (iii) have a low potential to regenerate naturally or regain long-term health; or (c) mature trees that – (i) have, collectively, a canopy cover of less than 5% of the canopy cover that would be expected in a healthy forest; and (ii) occur only as solitary specimens, or in small stands of fewer than 10 trees, within a largely cleared landscape; or (d) native vegetation regrowth on previously cleared and converted land.

The revised regulations will also formally exempt dam works authorised by a dam permit under the *Water Management Act 1999*.

### The Forest Practices Code 2000 (FPC)

The following statements are taken directly from the *Forest Practices Code 2000* (edited only to aid readability) and relate specifically to the some aspect of the management of biodiversity.

#### A1. Tasmania's Forest Practices System

Tasmania is endowed with extensive forest resources. These forests contain natural, cultural and economic values which will be managed in a sustainable manner to optimise the benefit to current and future generations. Good forest management entails protection of natural and cultural values during forest operations, and proper reforestation where areas are to be reforested. The *Forest Practices Act 1985* was passed to ensure that forest operations are conducted in an environmentally acceptable manner on public and private forest lands. The Act forms part of a broader legislative and policy framework that provides the basis for sustainable forest management in Tasmania.

#### A2. The Forest Practices Code

The *Forest Practices Act 1985* provides that the Forest Practices Code shall prescribe the manner in which forest practices are to be conducted so as to provide reasonable protection to the environment. The Code is issued by the Forest Practices Board, after extensive consultation and public comment.

The Code provides a practical set of guidelines and standards for the protection of environmental values during forest operations, in particular:

soils    water quality and flow    geomorphology    flora, fauna, genetic resources  
visual landscape    cultural heritage.

### **KEY POINTS:**

**The forest practices system is based on the concepts of wood production in the context of reasonable protection to the environment.**

**The forest practices system forms part of a broader legislative and policy framework in Tasmania.**

Section D (Conservation of Natural and Cultural Values) of the FPC includes the core set of statements related to the management of biodiversity. The most important statements are copied below. The FPC includes numerous other statements related to some aspect of biodiversity management (especially management of aquatic and riparian values).

### General Principles

The forest practices system contributes to the conservation of natural and cultural values at State and regional levels. Such values can occur in forest and non-forest environments.

Conservation of environmental diversity (biodiversity, including flora, fauna, threatened species, and genetic resources; landscape; cultural heritage; and geodiversity, including soils and landforms;) will be principally catered for in a systematic reserve system on public land, by a voluntary private land reserve system, and by management prescriptions in production forests.

Natural and cultural values in adjacent reserves should be considered during the planning and conducting of forest operations.

Management of natural and cultural values should be integrated where possible.

Resource manuals and other available information on flora, fauna, threatened species, cultural heritage, geomorphology, landscape and soils will be consulted where appropriate.

The main provisions dealing with the conservation of natural and cultural values are detailed below. Numerous other provisions in this Code affect these values, but have not been repeated in this section.

Measures taken to conserve natural and cultural values will be consistent with effective fire management, silvicultural practices and safety requirements.

### Basic Approach

Natural and cultural values should be assessed at the strategic or property level, and will be evaluated during the preparation of Forest Practices Plans.

Requirements for the conservation of natural and cultural values, including specific sites, should be recorded to aid in future decision making and ensure continuity of management.

Areas of high conservation significance may be designated as special management zones where there is agreement with the landowner. Forestry operations in special management zones will comply with the agreed management recommendations to ensure maintenance of natural and cultural values. Advice should be sought from an appropriate specialist before conducting any forest operations.

The sustainable management of natural and cultural values within production forests under the forest practices system will be determined in accordance with:

- relevant legislation, including the *National Parks and Wildlife Act 1970*, *Threatened Species Protection Act 1995*, *Aboriginal Relics Act 1975*, *Forestry Act 1920*, *Commonwealth Environment Protection and Biodiversity Conservation Act 1999*, and State Policies;
- the Tasmanian Regional Forest Agreement 1997 (including the provisions for the Comprehensive Adequate and Representative reserve system);
- the policy for maintaining a Permanent Forest Estate;
- policy mechanisms that relate to State forest;
- the duty of care of landowners under the provisions of this Code, which is defined as the fundamental contribution of the landowner to the conservation of natural and cultural values that are deemed to be significant under the forest practices system. The landowners duty of care includes: all measures that are necessary to protect soil and water values as detailed in this Code; the reservation of other significant natural and cultural values. This will be at a level of up to 5% of the existing and proposed forest on the property for areas totally excluded from operations. In circumstances where partial harvesting of the reserve area is compatible with the protection of the values, the level will be up to 10%. The conservation of values beyond the duty of care is deemed to be for the community benefit and should be achieved on a voluntary basis or through compensation mechanisms where available.

### KEY POINTS:

**The Code provides a set of guiding principles and basic approaches. It does not, on the whole and especially in relation to biodiversity values, provide detailed prescriptions on how to manage particular values.**

**The Code is intended as a practical document for off-reserve management of environmental values.**

Section D3 of the FPC deals specifically with the management of flora and fauna. The entire section (*sans* images) is copied below.

General Principles

Conservation of flora and fauna is assisted by the maintenance and restoration of habitat, the enhancement of opportunities for recolonisation of disturbed areas, and the linking of forest areas to allow genetic interchange.

Maintenance of the genetic resources of native forest is assisted by the retention of native flora and fauna in formal and informal reserves including wildlife habitat strips and streamside reserves dispersed throughout the forest, and the use of seed sources native to the site when regenerating forests. Generally, retention of forest with oldgrowth characteristics is preferable to retention of regrowth of the same forest type.

Basic Approach

Planning for flora and fauna conservation should initially be carried out at a regional level (e.g. whole property, forest block or district forest management plan). At this level:

- strategies should be developed to maintain species diversity, particularly in extensive plantation areas and other intensively managed areas;
- dispersed coupes should be considered;
- management agreements should be considered between the landholder and DPIWE for threatened species, particularly those with a restricted range.

As far as practicable, areas of retained vegetation (including wildlife habitat strips – see page 62) should include localised features associated with:

- threatened species;
- species with disjunct or unusual distributions;
- sites with high species diversity;
- inadequately reserved communities;
- forests that have oldgrowth characteristics;
- other significant biological values (e.g. important research sites).

In parts of the State where native forests occur mainly as remnants, consideration will be given to:

- retention of native forest remnants to aid in the maintenance of local flora and fauna diversity and landscape values;
- restoration of habitat including widening and linking wildlife habitat strips, particularly where species and communities of high conservation significance are known to occur.

D3.1 Flora Conservation

General Principle

The general requirements and guidelines for conservation of significant flora values are outlined in the *Forest Botany Manuals*. Other sources of information include vegetation maps, the flora databases held by Forestry Tasmania and DPIWE and advice from specialists.

Disturbance to native vegetation in localised environments (such as rocky knolls, swamps, heaths, and streambanks) should be avoided or minimised. These environments are associated with plant communities and species with a priority for conservation, and are important in maintaining diversity at a local level.

Basic Approach

*Planning and Assessment*

See also Section D3 above.

Planning for broad areas of forest will require the consideration of the conservation requirements of plant communities and species, maintenance of values in formal and informal reserves, and other flora-related issues.

During the preparation of a Forest Practices Plan the proposed operational area will be assessed to determine:

- the plant communities present;
- whether threatened plant species are known or likely to occur;
- whether other significant flora values are known or likely to occur.

#### *Site Management for Flora in Native Forests*

Vegetation that is susceptible to *Phytophthora cinnamomi* (e.g. swamps, heaths, sedgeland, dry lowland forest on sandy or poorly drained sites, and low altitude rainforest on infertile sites), should be protected from accidental infection by the fungus by the implementation of hygiene measures.

Patches of myrtle or rainforest that are to be retained should be protected from fire, damage and disease (notably myrtle wilt). This may require buffering of some patches (e.g. by extending streamside reserves) and avoiding or minimising damage during road construction or maintenance (see page 13).

Measures should be taken to ensure exotic weed species, (e.g. pampas grass, ragwort, blackberry and Spanish heath), do not become established in native forest, particularly reserves. Native forest most at risk includes areas adjoining plantations, and drier forest types in general. Machinery should be washed down before being transported from one area to another, particularly when moving from infested to uninfested areas.

Consideration should be given to the protection (e.g. by buffering) of native forests, particularly reserves, from incursion by adjoining plantation species. For example, dry forests may be invaded by radiata pine, and some planted eucalypts may hybridise with related species in adjacent native forest.

Disturbance to localised environments rich in epiphytic species should be avoided or minimised, particularly in drier parts of Tasmania. Such environments include relict or oldgrowth rainforest, dense patches of musk or manferns and sheltered boulderfaces. If possible, trees should not be felled into or yarded across these environments, partly to reduce the volume of slash and consequently the intensity of regeneration burns. Epiphytic species will recover most rapidly on sites which are not subjected to high intensity burning.

### D3.2. Fauna Conservation

#### General Principles

Fauna conservation will be considered in all stages of forest management. In particular, the requirements of threatened species and communities, aquatic fauna and cave fauna will be addressed.

Sources of information include the *Threatened Fauna Manual for Production Forests in Tasmania*, *Threatened Fauna Adviser*, technical notes and specialist advice.

#### Basic Approach

##### *Planning and Assessment for Fauna*

See also Section D3 above.

During the preparation of a Forest Practices Plan the proposed operational area will be assessed to determine:

- the known occurrences and potential habitat for threatened species;
- the presence of or requirements for wildlife habitat strips;
- the requirements for wildlife habitat clumps;
- the presence of or requirements for special management zones for fauna.

A specialist will be consulted for advice where appropriate.

Wildlife habitat strips should be retained to maintain habitat diversity. As a guide, strips of uncut forest 100 m in width, based on streamside reserves but including links up slopes

and across ridges to connect with watercourses in adjoining catchments, should be provided every 3-5 km. These strips should connect any large patches of forest which are not to be harvested, such as formal and informal reserves.

Patches of mature forest (wildlife habitat clumps) containing habitat trees with nesting hollows and other oldgrowth structural elements should be retained in coupes with few retained areas (e.g. streamside reserves, areas reserved for other values, areas reserved for operational reasons etc.). Retention of such wildlife habitat clumps assists maintenance of the habitat requirements of oldgrowth dependent fauna species, particularly hollow dependent fauna, and enhances recolonisation of areas following harvesting.

#### *Site Management for Fauna in Native Forests*

Within coupes where no burning or low intensity burning is intended (mainly partially harvested coupes), wildlife habitat clumps should be retained in areas which are not within 200 m of other retained areas. Clumps should be retained at a rate of approximately 1 clump every 5 ha and should contain a minimum of 2 to 3 habitat trees and where possible a range of trees and shrubs of other ages.

In coupes where high intensity burning is required to achieve regeneration or where cable harvesting is used (mainly clearfell coupes), wildlife habitat clumps should be retained along the boundary of the coupe where they can be protected from disturbance. As a guide retain clumps at approximately 200 m intervals along a coupe boundary in areas not within 200 m of other reserved areas. These clumps should be about 50 m by 20 m in size. Consideration should be given to retaining adjoining clumps when adjacent coupes are felled.

Consult *Fauna Conservation in Production Forests in Tasmania* or other sources for more details.

### D3.3 Threatened Species and Inadequately Reserved Plant Communities

#### Basic Approach

Management of threatened flora and fauna species and inadequately reserved plant communities are covered by legislation and processes that include the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*, the Tasmanian *Threatened Species Protection Act 1995*, the *National Parks and Wildlife Act 1970*, and the Tasmanian Regional Forest Agreement 1997.

Threatened species and inadequately reserved plant communities will be managed in wood production areas in accordance with procedures agreed between the Forest Practices Board and DPIWE. The agreed procedures will include the development of endorsed management prescriptions through consultation among landowners, Forest Practices Officers and specialists within the Board and DPIWE. Under the agreed procedures Forest Practices Officers will:

- consult the *Forest Botany Manual*, the *Threatened Fauna Manual for Production Forests in Tasmania*, and the *Threatened Fauna Adviser* to determine if threatened species or inadequately reserved plant communities occur or are likely to occur in the operational area;
- notify the appropriate specialist within the Forest Practices Board if threatened species or inadequately reserved plant communities occur or are likely to occur in the operational area;
- obtain an endorsed management prescription for the operational area and incorporate this prescription into the Forest Practices Plan. This may involve further consultation between the Forest Practices Officer, the landowner, and specialists within the Forest Practices Board and DPIWE.

The conservation of threatened species and inadequately reserved plant communities may be achieved by reservation or prescription in accordance with the duty of care policy, voluntary arrangements such as the Private Land Reserve Program, or through legislative processes as mentioned above.

#### **KEY POINTS:**

**The Code outlines the basic biodiversity values that will be considered as part of planning forestry activities.**

**The Code refers the planner to supporting documents.**

**The Code outlines the essential elements of the planning system (e.g. an outline of the agreed procedures) but does not necessarily include all details of all policies.**

The Code refers to numerous additional planning documents that have relevance to the management of biodiversity. These are simply listed below.

- *Threatened Fauna Adviser* (delivers case-by-case, species-by-species management prescriptions)
- *Threatened Fauna Manual for Wood Production Forests in Tasmania* (superseded by the online version of the manual)
- *Fauna Conservation in Production Forests in Tasmania*
- *Forest Botany Manual*
- Flora and Fauna Technical Note Series
- Other databases (e.g. Conserve, Natural Values Atlas)

There are numerous other documents that also have some bearing on the management of biodiversity (e.g. those related to use of chemicals, weed management, pest management, game control, fire management, silvicultural management, etc.) that are not mentioned further here.

#### Agreed procedures

The “agreed procedures” referred to in s.D3.3 of the FPC were jointly developed by the Forest Practices Authority and DPIW on a cooperative basis. The procedures were endorsed by the Chair of the Forest Practices Board and the Director of the National Parks and Wildlife Service (pursuant to s.5 of the *National Parks and Wildlife Act 1970*) on 26<sup>th</sup> July 2000.

The complete agreed procedures are included at Appendix C.

The agreed procedures represent a formal and accredited process for delivering the requirements of the *Threatened Species Protection Act 1995* through the planning and approval process established under the *Forest Practices Act*. The intent is to avoid duplication and unnecessary bureaucracy by providing an integrated approval process for forestry operations. This intent was endorsed by the Tasmanian Parliament through the amendment of s.51(3) of the *Threatened Species Protection Act* in 2001 (cited in sections below).

#### **KEY POINT:**

**The Code includes a set of agreed procedures for the management of threatened species, intended to provide a stream-lined assessment process to facilitate management of threatened species in the context of wood production.**

#### Tasmanian Nature Conservation Act 2002 (NCA)

The primary purposes of the NCA are to make provision with respect to the conservation and protection of the fauna, flora and geological diversity of the State, to provide for the declaration of national parks and other reserved land and for related purposes. Recent amendments to the NCA have been affected through the *Tasmanian Nature Conservation Amendment (Threatened Native Vegetation Communities) Bill 2006*.

Schedule 2 of the NCA re-states the objectives of the resource management and planning system of Tasmania, and in exercising any powers or performing any functions under the Act a person is to have regard to the resource management and planning system objectives.

The NCA provides a direct link to the operation of the forest practices system through the provisions for compensation for “affected owners”.

The Act defines and “affected owner” as:

an owner of land in respect of which, under section 19(1) of the *Forest Practices Act 1985*, an application to the Forest Practices Authority for the certification of a forest practices plan –

(a) has been approved subject to amendments, which have been agreed to by the applicant, made for the purpose of protecting a rare or endangered species of flora or fauna; or

(b) has been approved subject to amendments made for the purpose of protecting a rare or endangered species of flora or fauna, and where an appeal to the Forest Practices Tribunal under section 25(1) of that Act in respect of those amendments has been wholly or partially dismissed; or

(c) has been refused wholly or partially on the ground that implementation of the forest practices plan would threaten a rare or endangered species of flora or fauna, and where an appeal to the Forest Practices Tribunal under section 25(1) of that Act in respect of that refusal has been wholly or partially dismissed;

Note that amendments to the Act extend the definition of “affected owner” to include “threatened native vegetation community”.

The Act defines “biological diversity” as:

the variety of – (a) plants, animals and micro-organisms; and (b) the genes contained in plants, animals and micro-organisms; and (c) the ecosystems of which plants, animals and micro-organisms form part.

Schedule 3A includes the list of “threatened native vegetation community”, as follows:

1. Alkaline pans
2. *Allocasuarina littoralis* forest
3. *Athrotaxis cupressoides*/*Nothofagus gunnii* short rainforest
4. *Athrotaxis cupressoides* open woodland
5. *Athrotaxis cupressoides* rainforest
6. *Athrotaxis selaginoides*/*Nothofagus gunni* short rainforest
7. *Athrotaxis selaginoides* rainforest
8. *Athrotaxis selaginoides* subalpine scrub
9. *Banksia marginata* wet scrub
10. *Banksia serrata* woodland
11. *Callitris rhomboidea* forest
12. Coastal complex on King Island
13. Cushion moorland
14. *Eucalyptus amygdalina* forest and woodland on sandstone
15. *Eucalyptus amygdalina* inland forest and woodland on cainozoic deposits
16. *Eucalyptus brookeriana* wet forest
17. *Eucalyptus globulus* dry forest and woodland

18. Eucalyptus globulus King Island forest
19. Eucalyptus morrisbyi forest and woodland
20. Eucalyptus ovata forest and woodland
21. Eucalyptus risdonii forest and woodland
22. Eucalyptus tenuiramis forest and woodland on sediments
23. Eucalyptus viminalis – Eucalyptus globulus coastal forest and woodland
24. Eucalyptus viminalis Furneaux forest and woodland
25. Eucalyptus viminalis wet forest
26. Heathland on calcarenite
27. Heathland scrub complex at Wingaroo
28. Highland Poa grassland
29. Highland grassy sedgeland
30. Melaleuca ericifolia swamp forest
31. Melaleuca pustulata scrub
32. Notelaea - Pomaderris - Beyeria forest
33. Rainforest fernland
34. Riparian scrub
35. Seabird rookery complex
36. Sphagnum peatland
37. Subalpine Diplarrena latifolia rushland
38. Subalpine Leptospermum nitidum woodland
39. Wetlands

**KEY POINTS:**

**The Act is part of the State’s resource management and planning system.**

**The Act allows for compensation to be paid to landowners if they are affected by the presence of threatened species or threatened vegetation types because of provisions of the forest practices system.**

**The Act lists threatened vegetation communities. This provides a direct link to the Forest Practices Act and Regulations.**

**The Act defines biodiversity.**

**The Code, through the “agreed procedures” (see Appendix C) provides the link between the *Forest Practices Act* and the *Nature Conservation Act*.**

**Compensation mechanisms, over and above the “duty of care” provisions of the Code, now include both threatened species and threatened vegetation types.**

**Threatened native vegetation community (as well as threatened species) are now legally defined.**

**Threatened forest and non forest native vegetation communities are now covered.**

Tasmanian Threatened Species Protection Act 1995 (TSPA)

Schedule 1 (Part 1) of the TSPA states the objectives of that Act, specifically the objectives of the Resource Management and Planning System of Tasmania, as stated in the NCA.

Schedule 1 (Part 2) of the TSPA states the further objectives of the Act, specifically the objectives of the Threatened Species Protection System, as follows:

3. The objectives of the threatened species protection system established by this Act are, in support of the objectives specified in Part 1 of this Schedule –

(a) to ensure that all native flora and fauna in Tasmania can survive, flourish and retain their potential for evolutionary development in the wild; and

(b) to ensure that the genetic diversity of native flora and fauna is maintained; and

(c) to educate the community in the conservation of native flora and fauna; and

(d) to encourage co-operative management of native flora and fauna including the making of co-operative agreements for land management under this Act; and

(e) to assist landholders to enable native flora and fauna to be conserved; and

(f) to encourage the conserving of native flora and fauna through co-operative community endeavours.

**KEY POINTS:**

**In addition to the “resource management and planning system”, Tasmania has a “threatened species protection system”.**

**A key part of the threatened species protection system are the concepts of education and cooperative management.**

The TSPA provides for the production of listing statements, recovery plans, public authority management and land management agreements.

Schedules 3, 4 and 5 of the TSPA list species of fauna and flora classified as Extinct, Endangered, Vulnerable and Rare.

Section 51 of the TSPA provides a link to the FPA, through permit conditions.

51. Offences relating to listed taxa

(3) A person acting in accordance with a certified forest practices plan or a public authority management agreement may take, without a permit, a specimen of a listed taxon of flora or fauna, unless the Secretary, by notice in writing, requires the person to obtain a permit.

**KEY POINT:**

**Clause 51 is not an exemption from the requirements of the TSPA – it simply recognises the adequacy of the planning systems that deliver certified forest practices plans to appropriately manage threatened species.**

Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBCA)

Note: While this Act is Commonwealth legislation, it has direct bearing on the management of biodiversity in the State, and indirect bearing on the management of biodiversity under the current forest practices system so has been included here under State context.

Division 4 of the EPBCA states:

Division 4—Forestry operations in certain regions

Subdivision A—Regions covered by regional forest agreements

38 Part 3 not to apply to certain RFA forestry operations

(1) Part 3 does not apply to an RFA forestry operation that is undertaken in accordance with an RFA.

(2) In this Division:

*RFA* or *regional forest agreement* has the same meaning as in the *Regional Forest Agreements Act 2002*.

*RFA forestry operation* has the same meaning as in the *Regional Forest Agreements Act 2002*.

Note: This section does not apply to some RFA forestry operations. See section 42.

42 This Division does not apply to some forestry operations

Subdivisions A and B of this Division, and subsection 6(4) of the Regional Forest Agreements Act 2002, do not apply to RFA forestry operations, or to forestry operations, that are:

- (a) in a property included in the World Heritage List; or
- (b) in a wetland included in the List of Wetlands of International Importance kept under the Ramsar Convention; or
- (c) incidental to another action whose primary purpose does not relate to forestry.

#### **KEY POINTS:**

**Forestry activities are essentially “exempt” from the referral process under the EPBCA because of the RFA but there are exceptions to these exemptions (dependent on the definitions of “forestry operations” and legal interpretation).**

**Changes to the operation of the forest practices system (e.g. management of threatened non-forest vegetation) are likely to not be exempt from the EPBCA, as currently circumscribed.**

See also section on *Regional Forest Agreements Act 2002, Regional Forest Agreement, Community Forest Agreement* and Judge Marshall’s decision.

#### Commonwealth Regional Forest Agreements Act 2002

This Act defines “RFA forestry operations” as:

- (d) forestry operations (as defined by an RFA as in force on 1 September 2001 between the Commonwealth and Tasmania) that are conducted in relation to land in a region covered by the RFA (being land where those operations are not prohibited by the RFA).

#### **KEY POINT:**

**As far as I can ascertain, the definition of “forestry operation” has not been modified so only includes the activities listed below i.e. does not include threatened non-forest and agricultural activities.**

#### Tasmanian Regional Forest Agreement 1997 (RFA)

The RFA includes the following definitions:

“Forest Products” means all live and dead trees, ferns or shrubs or parts thereof;

“Forestry Operations” means -

- (a) the planting of trees; or
- (b) the managing of trees before they are harvested; or

(c) the harvesting of Forest Products

for commercial purposes and includes any related land clearing, land preparation and burning-off, and transport operations;

**KEY POINT:**

**See comments above under RFA Act. The key term seems to be “any related”, which is unlikely to include agricultural activities such as ploughing and residential developments (as two examples of non-standard activities) because they are not related to (a)-(c).**

The RFA includes the following clauses in relation to protection of priority species (see also further sections for proposed amendments to these clauses):

68. The State agrees to protect the Priority Species listed in Attachment 2 (Part A) through the CAR Reserve System or by applying relevant management prescriptions.

69. Prior to the first 5 yearly review, the State will, where practical, assess those species in Attachment 2 (Part B) and determine management requirements in accordance with clause 96 below.

70. The Parties agree that management prescriptions or actions identified in jointly prepared and agreed Recovery Plans or Threat Abatement Plans will be implemented as a matter of priority.

71. The Parties recognise that Priority Species may change and that new or altered management prescriptions may be needed during the term of this Agreement to take account of changes in the status of species, additional information and evolving forest management practices. Alterations in prescriptions will be in accordance with processes described in clause 96.

96. The State agrees that any changes to the Priority Species in Attachment 2 including new or altered management prescriptions developed over the term of the Agreement will:

- (a) be adequate to maintain the species identified;
- (b) have a sound scientific basis;
- (c) be endorsed by the Tasmanian Threatened Species Scientific Advisory Committee where relevant; and
- (d) take note of public comment.

97. A Management Prescriptions Database and a Response to Disturbance Database have been prepared as part of the comprehensive regional assessment for species identified as priority for protection by reservation and/or management prescription. The State agrees to maintain these databases and to update them as necessary and also confirms that they will be used as a basis for updating relevant State management documents including the Threatened Species Database, Listing Statements, the Management Decision Classification System, the Forest Botany Manuals and the Threatened Fauna Manual. Updated hard copies of the database contents will be made available periodically for public comment.

Amendment to the RFA occurred on 23 February 2007, following Justice Marshall's decision in the Federal Court of Australia. The following changes relate primarily to the definition and effect of the term “protect” as it applies to “priority species”.

SCHEDULE OF AMENDMENTS TO THE TASMANIAN  
REGIONAL FOREST AGREEMENT

1. Replace the current clause 68 of the agreement with the following:

"68 The Parties agree that the CAR Reserve System, established in accordance with this Agreement, and the application of management strategies and management prescriptions developed under Tasmania's Forest Management Systems, protect rare and threatened fauna and flora species and Forest Communities."
2. Replace the current clause 70 with the following:

"70. The Parties agree that where a Recovery Plan for a forest-related species in Tasmania or a Threat Abatement Plan concerning a Priority Species (Attachment 2 Part A) is in force, any recommended actions in the Recovery Plan or the Threat Abatement Plan that are within the jurisdiction of the Parties will be carried out in accordance with the timelines specified in the relevant Plan. If an action has not been carried out in accordance with the timelines in the relevant Plan, it will be carried out as soon as possible afterwards."
3. Replace the introductory paragraph to clause 96 and 96 (a) with the following:

"96. The State agrees that any new or altered management prescriptions that are developed over the term of the Agreement for the Priority Species in Attachment 2, as amended from time to time, will:

  - (a) provide for the maintenance of the relevant species;"
4. Replace the existing Clause 97 with the following:

"97. The State agrees to maintain and to update as necessary a database or databases of management prescriptions and responses to disturbance related to threatened fauna and flora and confirms that it intends to use the database or databases as a basis for updating relevant State management documents and as a basis for the management of threatened species. Updated database contents will be periodically made available in a publicly accessible form for public comment."
5. Amend Clause 2 by deleting the definitions of "Listing Statements", "Management Prescriptions Database", "Response to Disturbance Database", "Threatened Fauna Manual" and "Threatened Species Database" in Part 1 clause 2;
6. Deleting the note occurring under the heading in Part B of Attachment 2, "Species included in the Management Prescriptions Database are marked \*", and remove the asterisks where they occur in Part B; and
7. Replacing the current milestone relating to Clause 97 in Attachment 3 with the following:

"The State to maintain and update the database or databases referred to in clause 97 - as necessary."

**KEY POINT:**

**Amendments to the RFA have clarified the definitions of "protect" in relation to "priority species".**

The RFA was the key policy instrument for determining the classification of forest types, their conservation priorities, and reservation levels (and/or targets). Since the RFA, government agencies have revised vegetation mapping in Tasmania (TASVEG project) and redefined several communities and their conservation status. TASVEG vegetation types classified as threatened are now listed on Schedule 3 of the Nature Conservation Amendment (see above).

Community Forest Agreement

One of the key components of the CFA in relation to management of biodiversity, in addition to the additions to the reserve system, is the commitments on developing land clearing controls and modifying the Permanent Forest Estate Policy.

Native vegetation clearing and conversion

45. The Parties have agreed an approach to the phasing out of broad scale clearing and conversion of native forest in Tasmania. The State agrees to revise the Permanent Forest Estate Policy so that:

An overall cap on clearing or conversion of native forest on both public and private land will be established to retain 95 per cent of the 1996 area of native forest;

Broad scale clearing and conversion of native forest on public land will be phased out by 2010;

Broad scale clearing and conversion of native forest on private land will be phased out over a period of ten years from the date of this Supplementary Agreement; and Assessment criteria for regulating forest clearing and conversion will ensure the protection of regional biodiversity and water quality values and to meet salinity objectives.

46. The State agrees that the design of the approach outlined in clause 45 will be developed, in consultation with the Commonwealth, and will be implemented within six months of the date of this Supplementary Agreement, including public release of the revised Permanent Forest Estate Policy.

47. The Parties agree that the controls on private forest clearing and plantation conversion will not otherwise constrain private forest owners from undertaking sustainable commercial harvesting and regeneration of native forest and other land uses on their land that maintain the native forest cover.

48. The State undertakes to introduce new statutory mechanisms to the Tasmanian Parliament by December 2005 to prevent the clearing and conversion of rare, vulnerable and endangered non-forest native vegetation communities on public and private land, and use its best endeavours to secure the enactment of the proposals. The Parties agree to make the necessary amendments to the Bilateral Agreement for the Extension to the Natural Heritage Trust (2003) consistent with this undertaking.

49. The Commonwealth acknowledges that, in giving effect to the terms of clauses 45 and 46 of this Supplementary Agreement, the State will have established the necessary framework to achieve the outcomes sought by the National Framework for the Management and Monitoring of Australia's Native Vegetation (2001).

50. The Parties note the Commonwealth's program for protection of private land referred to in clause 21 and the State's program for voluntary vegetation management agreements referred to in clause 29 will provide private landowners with new alternatives to clearing of native vegetation.

51. The Parties agree that, if the actions outlined in clauses 45, 46 and 48 have not occurred, then the Commonwealth may suspend funding to the State, in whole or in part, until such time as the actions have occurred.

The CFA also made commitments to the management of other biodiversity values (e.g. 1080 use, devil disease, etc.), which are discussed further below.

#### Threatened Species Recovery Plans (under the EPBC and/or TSPA)

Recovery Plans provide guidelines for the management of threatened species, groups of species of particular habitats and can be prepared under State and/or Commonwealth legislation.

Recent amendments to the RFA clarified the policy in relation to recovery plans (see clause 70 above). Recovery plans have been produced for several Tasmanian species.

#### Tasmanian Government Policy for Maintaining a Permanent Native Forest Estate November 2005 (PNFE)

The RFA committed the State to developing a Permanent Native Forest Estate policy (Attachment 9 of the RFA). A policy was developed in 1997. Subsequent to this, an agreement between the State and Commonwealth was signed in June 2003 (*Bilateral Agreement between the Commonwealth of Australia and the State of Tasmania to deliver the Natural Heritage Trust*). This agreement included specific reference to reviewing the PNFE policy in relation to forest and non-forest vegetation communities.

The key terms of the revised policy are stated below.

This policy statement replaces the 1997 "Maintaining a Permanent Forest Estate" policy document, which now ceases to have effect, and is the policy referred to in Attachment 9 of the Tasmanian Regional Forest Agreement and S4C (fb) of the Forest Practices Act 1985. The Policy is given effect through the Forest Practices Authority's consideration of applications for Forest Practices Plans under the Forest Practices Act 1985.

#### 1. Objectives

Tasmania will maintain a Permanent Forest Estate that comprises areas of native forest managed on a sustainable basis both within formal reserves and within multiple-use forests across public and private land in order to -

1.1 Maintain and sustainably manage Tasmania's native forest resource base and associated economic, nature conservation, ecosystem services, scenic, cultural and amenity values;

1.2 Ensure that the conservation status of forest communities is maintained or enhanced;

1.3 Provide for the reasonable aspirations of the Tasmanian community for sustainable economic development; and

1.4 Ensure that private landholders continue to be able to manage native forest on private land on a sustainable basis, including existing sustainable uses of those forests.

In meeting these objectives, the burden of transition will be borne in the first instance on public land and, for private land, flexibility will be developed into the implementation of this policy to the extent that these objectives are met.

#### 2. Native Forests

##### 2.1 Statewide retention levels

2.1.1 95% of the 1996 CRA native forest area is to be maintained on a statewide basis.

2.1.2 Broadscale clearing and conversion of native forest on public land will be phased-out by 2010.

2.1.3 Broadscale clearing and conversion on native forest on private land will be phased-out over a period of ten years from 13<sup>th</sup> May 2005.

##### 2.2 Forest Communities retention levels

2.2.1 Rare, Vulnerable and Endangered (threatened) forest communities – all viable threatened forest communities are to be maintained other than in those circumstances where conversion will not substantially detract from the conservation of that forest community or conservation values within the immediate area.

2.2.2 Non-threatened forest communities –the mapping and conservation status of any non-threatened forest community will be reviewed if the rate of conversion is likely to result in the area of a forest community falling below 75% of the 1996 CRA native forest area of that community in an IBRA bioregion or, a minimum of 2,000 hectares in an IBRA bioregion (which ever is the higher) unless not of bioregional significance (as under 4.4.3 below). Action will be taken to ensure that conversion does not result in any non-threatened forest community becoming threatened. Non-threatened forest communities must be maintained at a level no less than 50% of the 1996 CRA native forest area of each community in each IBRA bioregion.

##### 2.3 Biodiversity, water quality and salinity

The policy is underpinned by guidelines for biodiversity, water quality and salinity outcomes that will be implemented through regulation mechanisms: –

2.3.1 the protection of regional biodiversity will be addressed through provisions in the Forest Practices Code, reflecting the guidelines in Clauses 2.1, 2.2 and 3 of this policy.

2.3.2 The protection of water quality values including meeting salinity objectives will be addressed through provisions in the Forest Practices Code. Salinity objectives will be included in the next planned review of the Code and will be consistent with the objectives of the Tasmanian Salinity Strategy. Prior to the next Code review applications for clearance and conversion will be assessed having regard to available salinity risk mapping.

#### 3. Non-Forest Vegetation

Forestry operations regulated by the Forest Practices Authority must not include incidental clearance and conversion of threatened non-forest vegetation communities, except in those conditions where the activity will not substantially detract from the conservation of that non-forest vegetation community or conservation values within the immediate area

**KEY POINT:**

**The State is committed to maintaining a permanent native forest estate, administered through the forest practices system.**

**The policy has Statewide and bioregional thresholds.**

**Other international, national and state policies and processes**

Environmental Management Systems (EMS)

Major forest industry “players” such as Forestry Tasmania and the major forest companies have developed and implemented some form of Environmental Management System (EMS). The following general information on EMS is taken from DEH’s web page. The specific EMS’s developed by these agencies have not been examined as part of this document but they will include several clauses relevant to the management of biodiversity under the State’s forest practices system.

An Environment Management System (EMS) is a tool for managing the impacts of an organisation's activities on the environment. It provides a structured approach to planning and implementing environment protection measures. An EMS has several key components including: Environmental Policy, Environmental Impact Identification, Objectives and Targets, Consultation, Operational and Emergency Procedures, Environmental Management Plan, Documentation, Responsibilities and Reporting Structure, Training, Review Audits and Monitoring Compliance, Continual Improvement.

Although the implementation of an EMS is essentially a voluntary initiative, it can also become an effective tool for governments to protect the environment as it can assist regulation. For example, regulatory systems can encourage organisations to use EMS to meet standards, by providing incentives for strong environmental performance.

Likewise, organisations can use EMS to ensure that their performance is within regulatory requirements, and to keep ahead of more stringent regulations which might be introduced in the future.

**KEY POINT:**

**EMS’s have been developed and implemented by various forestry organisations in Tasmania, and include some provisions related to biodiversity values.**

Certification schemes

The two key certification schemes related to forest products in Australia are the Australian Forestry Standard and the Forest Stewardship Council.

Australian Forestry Standard (AFS)

The AFS embodies forest management performance criteria and requirements that support continual improvement towards sustainable wood production in Australia's forests. There are nine criteria and forty requirements with the number of

requirements varying under each criterion (from AFS web page 6 May 2007). The nine criteria are:

- management system;
- public participation;
- protect and maintain biological diversity;
- forest productive capacity;
- forest ecosystem health and vitality;
- protect soil and water resources;
- contribution to carbon cycles;
- natural, cultural, social, religious and spiritual values; and
- social and economic benefits.

This AFS defines “biodiversity” as per the NFPS, and “Significant Biological Diversity Values” (referred to below in detail) to include:

- threatened (including vulnerable, rare and endangered) forest types or ecosystems and old-growth forest which is depleted within a forest type or ecosystem as identified under the nationally agreed forest reserve criteria;
- forest types or ecosystems and old-growth forest which are under-represented in the regional conservation reserve system as implemented through Regional Forest Agreements;
- known and likely occurrences of threatened (including vulnerable, rare, or endangered) species and communities and relevant habitat;
- habitat of migratory species listed under the Commonwealth's Environment Protection and Biodiversity Conservation Act 1999;
- Ramsar wetlands; and
- natural heritage places with regionally or nationally significant concentrations of biological diversity values (e.g. refugia and centres of endemism).

Criterion 3 relates to biological diversity, as follows:

Criterion 3 – Forest management shall protect and maintain the biological diversity of forests, including their successional stages, across the regional landscape.

Note – The intent of the requirements under this criterion is to protect and maintain the elements of the biological diversity of forests, including where relevant:

- ecosystem diversity, by maintaining the range of ecosystems across the landscape;
- species diversity, by maintaining forest dependent species; and
- genetic diversity, by maintaining representative species populations across their range.

While the criterion is largely focused on native forest management, it is relevant to some aspects of plantation management such as planning and establishment. Other issues relating to biological diversity are addressed under Criterion 5, which addresses forest ecosystem health and vitality.

Criterion 3 has a number of requirements stated within its broader statement of intent, as follows:

4.3.1 The forest manager shall actively identify and assess the significance of biological diversity values and structural elements (such as standing and fallen dead wood and hollow bearing trees) to support the maintenance and protection of identified Significant Biological Diversity Values.

The assessment of the significance of biological diversity values shall be based on existing relevant knowledge and forest planning instruments and shall be undertaken in a regional context.

4.3.2 The forest manager shall identify and assess the bioregional impact on identified Significant Biological Diversity Values of converting native vegetation to plantation or non-forest cover when planning the conversion of that vegetation and ensure that planning and practices support the protection and maintenance of Significant Biological Diversity Values likely to be affected by forest operations.

The forest manager shall not undertake conversion, except in circumstances where conversion entails a limited portion of the forest type at the bioregional level and where it is reasonably certain that it does not involve viable examples of:

- threatened (including vulnerable, rare or endangered) forest ecosystems;
- old-growth forest that is rare or depleted within a forest ecosystem; and
- important habitat of threatened (including vulnerable, rare or endangered) species.

In addition, the forest manager shall not carry out conversion of native vegetation which would result in that vegetation community or ecosystem becoming threatened or endangered in accordance with Commonwealth, State and Territory laws, regulations or species recovery plans.

Any conversion for plantation establishment within the defined forest area should also make a significant contribution to long-term conservation, economic and social benefits at the regional level.

Note – While this requirement is designed to discourage native vegetation clearance, it is not intended to prevent certification where some clearing for infrastructure development within the defined forest area is required by law or regulation, such as for powerlines. It also allows for ancillary infrastructure development related to the objectives of forest management.

Note – Managers of plantations established after the date of publication of the AFS will be required to demonstrate conformance with this requirement as part of the certification process. Non-conforming plantations may only be certified where the owner can demonstrate that they were not directly or indirectly responsible for the conversion and they commit to and implement a plan to ameliorate adverse impacts associated with the conversion of native vegetation.

Note – This requirement has some linkages to requirement 4.1.2 regarding development of a management plan or equivalent instruments, requirement 4.8.2 regarding protection of culturally significant sites and requirement 4.6.3 regarding consideration of possible impacts of plantation establishment on hydrological flows or values within catchments.

4.3.3 The forest manager shall implement practices to support the protection and maintenance of Significant Biological Diversity Values likely to be affected by forest operations.

Planning and implementation of forest operations shall be consistent with those specified in recovery/action plans or equivalent instruments and prescriptions for management and conservation of threatened (including vulnerable, rare or endangered) species and communities developed under Commonwealth and State and Territory legislative processes.

Where management practices are being developed for new identifications and listings of threatened (including vulnerable, rare or endangered) species and communities, the forest manager shall minimise adverse impacts by ensuring the planning and implementation of forest operations follows recognised interim guidelines and takes account of known information and relevant specialist advice.

4.3.4 The forest manager shall progressively establish and maintain a spatial configuration of forest cover, stand structure elements and growth stages that is intended to support the protection and maintenance of significant biological diversity values.

The nature of the planned actions shall be appropriate to:

- the type of forest and the scale of ownership; and
- identified regional and landscape biodiversity priorities.

4.3.5 The forest manager shall regenerate native forest with species and provenances native to the area, or from an equivalent locality, as far as reasonably practicable to maintain local gene pools and species mixes.

Note – This requirement is linked to requirement 4.4.4 which relates to the effectiveness of regeneration of native forests.

4.3.6 Forest managers managing plantations shall constrain the spread of introduced species, provenances or populations used in plantations, into adjacent native vegetation in order to protect its integrity.

Forest managers managing plantations shall ensure that all dealings with live viable organisms that have been modified by gene technology comply with the law and that any licensed release within the defined forest area is in accordance with a publicly available ecological risk management strategy. Commercial use of such organisms shall be preceded by authorised field trials which demonstrate practicality of the risk management strategy.

Note – This requirement recognises community concern about use of Genetically Modified Organisms particularly regarding environmental risk, such as from gene transfer to native populations, and also the potential environmental benefits, such as through reduced reliance on chemicals, and seeks to balance these interests.

4.3.7 Forest managers managing native forests shall, where appropriate, use fire and other disturbance regimes that are applicable to the forest type or community to support the protection and maintenance of biological diversity values.

The contribution of the disturbance regime to the maintenance and protection of biological diversity values shall be reviewed regularly. The results of the review shall be used to modify the disturbance regime in the future in order to increase its effectiveness.

#### **KEY POINT:**

**Certification under the AFS is being pursued by forestry organisations in Tasmania.**

**The AFS includes a definition of biodiversity and has specific recommendations and actions regarding management of biodiversity.**

#### **Forest Stewardship Council (FSC)**

The FSC includes a key principle related to biodiversity, as follows:

Principle #6: Environmental impact

Forest management shall conserve biological diversity and its associated values, water resources, soils, and unique and fragile ecosystems and landscapes, and, by so doing, maintain the ecological functions and the integrity of the forest.

Under this key principle, the FSC provides more detailed actions, such as:

6.1 Assessment of environmental impacts shall be completed -- appropriate to the scale, intensity of forest management and the uniqueness of the affected resources – and adequately integrated into management systems. Assessments shall include landscape level considerations as well as the impacts of on-site processing facilities. Environmental impacts shall be assessed prior to commencement of site-disturbing operations.

6.2 Safeguards shall exist which protect rare, threatened and endangered species and their habitats (e.g., nesting and feeding areas). Conservation zones and protection areas shall be established, appropriate to the scale and intensity of forest management and the uniqueness of the affected resources. Inappropriate hunting, fishing, trapping and collecting shall be controlled.

6.3 Ecological functions and values shall be maintained intact, enhanced, or restored, including: a) Forest regeneration and succession. b) Genetic, species, and ecosystem diversity. c) Natural cycles that affect the productivity of the forest ecosystem.

6.4 Representative samples of existing ecosystems within the landscape shall be protected in their natural state and recorded on maps, appropriate to the scale and intensity of operations and the uniqueness of the affected resources.

6.5 Written guidelines shall be prepared and implemented to: control erosion; minimize forest damage during harvesting, road construction, and all other mechanical disturbances; and protect water resources.

6.6 Management systems shall promote the development and adoption of environmentally friendly non-chemical methods of pest management and strive to avoid the use of chemical pesticides. World Health Organization Type 1A and 1B and chlorinated hydrocarbon pesticides; pesticides that are persistent, toxic or whose derivatives remain biologically active and accumulate in the food chain beyond their intended use; as well as any pesticides banned by international agreement, shall be prohibited. If chemicals are used, proper equipment and training shall be provided to minimize health and environmental risks.

6.7 Chemicals, containers, liquid and solid non-organic wastes including fuel and oil shall be disposed of in an environmentally appropriate manner at off-site locations.

6.8 Use of biological control agents shall be documented, minimized, monitored and strictly controlled in accordance with national laws and internationally accepted scientific protocols. Use of genetically modified organisms shall be prohibited.

6.9 The use of exotic species shall be carefully controlled and actively monitored to avoid adverse ecological impacts.

6.10 Forest conversion to plantations or non-forest land uses shall not occur, except in circumstances where conversion: a) entails a very limited portion of the forest management unit; and b) does not occur on high conservation value forest areas; and c) will enable clear, substantial, additional, secure, long term conservation benefits across the forest management unit.

#### A National Approach to Firewood Collection and Use in Australia (Australian and New Zealand Environment and Conservation Council, June 2001)

This document arises from Resolution 422 of the 19th meeting of the Australian and New Zealand Environment and Conservation Council that a SCEP/SCC task force (the 'Firewood Taskforce') 'develop a national approach to commercial and private firewood collection'.

This national approach to firewood collection and use in Australia has been developed by a Firewood Taskforce established under the auspices of the Australian and New Zealand Environment and Conservation Council (ANZECC). It aims to ensure all firewood collection, including commercial cutting, is ecologically sustainable and not a major cause of loss and degradation of remnant and woodland ecosystems or the habitats of threatened species. It does not seek to stop firewood collection. Rather, it seeks to reduce its impact in areas of concern and to ensure firewood is obtained from sustainable sources over the long term.

Not all elements of this strategy will be appropriate or necessary in all jurisdictions. But it will provide a national framework that each jurisdiction may draw upon to develop appropriate management strategies for their firewood industry.

1. Protect remnant native vegetation, threatened ecosystems and habitat for threatened and declining wildlife species.
2. Encourage ecologically sustainable firewood collection from native forest, woodland and plantations.
3. Contribute to broader environmental objectives, including improved air quality, ameliorating dryland salinity, and sequestering carbon.

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#### Tasmanian Inland Fisheries Act 1995

There is no direct link between the forest practices system and this Act. However, the Act includes clause 139 (free passage of fish), a concept referred to in the FPC.

139. Free passage of fish

(1) A person, without the written consent of the Director, must not –

- (a) place or use in any inland waters any equipment, instrument or device likely to hinder or obstruct the free passage of fish in those waters; or
- (b) injure a fish-pass; or
- (c) do anything likely to impair the efficiency of a fish-pass; or
- (d) cut through, break down or otherwise destroy a dam, floodgate or sluice for the purpose of destroying or taking any fish.

#### Forestry Tasmania vs. Bob Brown (Justice Marshall's decision)

The recent case between Senator Bob Brown and Forestry Tasmania, heard in the Federal Court of Australia, has particular relevance to the management of threatened fauna species in wood production forests under both Commonwealth and State legislation and policies.

The key statements from the summary of Justice Marshall's decision are:

- 8. The Court has found that the forestry operations and proposed forestry operations of Forestry Tasmania in the Wielangta area are likely to have a significant impact on all three species, having regard to their endangered status and all other threats to them.
- 9 The Court has also found that the Regional Forest Agreement ('RFA') between the Commonwealth and the State of Tasmania is an 'RFA' within the terms of the Regional Forest Agreements Act 2002 (Cth) ('RFA Act').
- 10 However, the Court has found that Forestry Tasmania does not have an exemption from relevant provisions of the EPBC Act by virtue of exemption provisions in s 38 of that Act and s 6(4) of the RFA Act. This is because the Court has formed the view that the relevant forestry operations will be, and have been, carried out otherwise than in accordance with the RFA.

The State and Commonwealth governments have made changes to the RFA to clarify the definition of the term "protect" to align the Tasmanian usage with that originally intended under the RFA and to that of other State's RFAs (paraphrase of Senator Eric Abetz, Stateline, 23/02/2007). See section under *Regional Forest Agreement* for changes.

#### Private Timber Reserves (PTR)

The following information is taken from the Forest Practices Authority's web site.

PTRs provide long-term planning certainty to private landowners wishing to grow or harvest trees on their land. A FPP is mandatory on a PTR but additional local government approval is not required for forestry operations. Land declared as a PTR must satisfy the criteria outlined in the *Forest Practices Act 1985*. For example, it must be in the public interest, local government zoning must permit forestry and the land must be suitable for forestry. Local government and neighbouring landowners may object to the declaration of a PTR through the Forest Practices Tribunal.

A PTR is an area of private land that must be used only for establishing forests, or growing or harvesting timber and a few other compatible activities in accordance with the *Forest Practices Code*. A PTR can only be established on land where forestry is a permitted use under a local planning scheme.

Forest practices in a PTR do not require further approval under the local government planning scheme. However they must comply with the forest practices system set out in the *Forest Practices Act 1985*. This means that forest practices in a PTR need a Forest Practices Plan (FPP) and are monitored by the Forest Practices Authority (FPA). A PTR is not a licence to operate like a planning permit is for most activities. The actual "license to operate" is the FPP, which must be prepared for forest practices. The exemption for PTRs from approval under the local government

planning scheme is only valid for forest practices. All other forms of development must have Council approval.

When a landowner applies to the FPA for a PTR, Private Forests Tasmania undertakes the preliminary administrative processing of the application on behalf of the FPA. An inspection of the property and evaluation of natural and cultural values are required to ensure that the land is suitable for forestry. The application is advertised in the newspaper and Council is notified. There is then a period in which "prescribed persons" can object to the application. "Prescribed persons" include a local or State authority, neighbours within 100 metres or a person who has a legal or equitable interest in the land to which the application relates.

A PTR cannot be declared and shall be refused if the FPA is satisfied that:

- (a) the application has not been made in good faith and honestly;
- (b) the land is not suitable for declaration as a private timber reserve;
- (c) a person who has a legal or equitable interest in the land, or in timber on the land, would be disadvantaged if the application was granted;
- (d) by virtue of the operation of any Act, the owner of the land is prohibited from establishing forests, or growing or harvesting timber, on the land: or
- (e) it would not be in the public interest to grant the application; or
- (f) an owner of land that adjoins, or is within 100 metres of, the boundary of the proposed private timber reserve would be directly and materially disadvantaged if the application was granted.

Applicants and prescribed persons have the right to appeal if aggrieved by a decision of the FPA relating to the approval or refusal of a PTR. Appeals are heard by the Forest Practices Tribunal convened under the *Forest Practices Act 1985* and chaired by a legal practitioner.

The status of the land, as a PTR, is then registered on the land title. The registration remains with the title, irrespective of subsequent land sales, unless revoked in part or full by the current titleholder or by the Forest Practices Authority. The Private Timber Reserve may cover all or only a part of the title or UPI listed.

PTRs can only be used for establishing forests, or growing or harvesting timber in accordance with the *Forest Practices Code* and other compatible activities.

If the landowner wishes to use the land for other purposes, such as agriculture, they must apply for revocation of the PTR. Approvals and revocations are listed in the Government Gazette and local authorities are notified of these.

#### Tasmanian Private Forests Act 1994

The primary purposes of this Act are to establish an authority to provide assistance and advice on private forest management, to prescribe the functions and powers of that authority, to provide for related matters and to amend certain Acts.

One of the stated functions of the Authority (of Private Forests Tasmania) is to:

- (j) to examine matters relating to the conservation of flora, fauna, land forms, cultural heritage and care of the environment on private forest lands.

Tasmanian Forestry Act 1920

The primary purpose of this Act is to establish a forestry corporation and to provide for the better management and protection of forests.

One of the listed functions of the corporation is to:

(d) to use multiple use forest land for wood production and, in a manner that is consistent with sustainable forest management and forest produce production policy, for other purposes including –

- (i) the conservation of flora and fauna; and
- (ii) the conservation of landforms; and
- (iii) the conservation of cultural heritage; and
- (iv) the care of the environment including scenery; and
- (v) recreation.

Forestry Tasmania has several internal policies relevant to the management of biodiversity values. Some of these are relate to retention of native forest (“biodiversity spines”), giant trees, rainforest, etc.

## Appendix A. Consultant Brief

### Project

Review of processes for conservation of biodiversity under the Forest Practices Code (2000)

### Tasks

- To review information relevant to Terms of Reference 1 and prepare a background document relevant to TOR 1 (see below).
- To compile a reference library of cited information and supply to the Biodiversity Expert Review Panel.
- To prepare and deliver a presentation for the Biodiversity Expert Review Panel summarising the information contained within the background document.

### Timeframe

Deliver draft document to BERP chairperson one week prior to the meeting of April 16<sup>th</sup> and attend meeting of April 16<sup>th</sup> to make presentation to panel.

### Terms of Reference

1. Review the role of the Forest Practices System in the overall approach to the maintenance of Biodiversity in the State.
2. Review the relevance and scope of the Forest Practices System in relation to biodiversity conservation and evaluate the ability of existing provisions to meet conservation objectives at the local, catchment and regional scales. In particular consider:
  - a) Processes and planning tools to meet objectives and requirements of the RFA, Tasmanian Nature Conservation Strategy, Threatened Species Strategy, Threatened Species Recovery Plans, Tasmanian *Threatened Species Protection Act, 1995* and other relevant National and State legislation and policies.
  - b) Processes and planning tools to address current forest practices at both the landscape and stand level. Provisions to address plantation design and planning are a priority. Provisions for stream fauna are also a priority. In particular, consider the research undertaken to address issues raised in the last review of the Code, relating to the management of stream fauna, and translate outcomes into recommended actions.
  - c) Processes and planning tools for facilitating legislative responsibilities amongst agencies (e.g. interagency agreed procedures).
  - d) Processes and planning tools to facilitate implementation - practicability of current planning processes and provisions (strategic and operational).
  - e) Relationships between biodiversity provisions and other forest management provisions covered in the Code (eg. provisions for other natural and cultural values, roading, burning etc.).
3. Review the monitoring (implementation and effectiveness) that underpins the biodiversity provisions of the Code. What are the mechanisms for delivery of adaptive management under the FP system? Is the Code sufficiently adaptive in its approach? Are there appropriate feedback mechanisms outlined in the Code?
4. Review current research relating to the distribution, ecology and impacts of forest practices on forest fauna and flora and report on future funding priorities for new information.

**Appendix B.** Policy instruments related to biodiversity management in Tasmania

This appendix simply lists the policy instruments discussed in the bulk of the report, along with a simple explanation of the objective of that instrument. The following policy instruments have some influence on management of biodiversity at a State level, under the provisions of the forest practices system. This list is no comprehensive and there may be additional policy instruments that have less influence on the management of biodiversity.

Appendix B2 attempts to synthesise these policy instruments into a flow chart.

**International and national**

*Convention on Biological Diversity 1993*

An international treaty that was adopted at the Earth Summit in Rio de Janeiro in 1992. The Convention has three main goals: (1) conservation of biological diversity (or biodiversity); (2) sustainable use of its components; and (3) fair and equitable sharing of benefits arising from genetic resources. In other words, its objective is to develop national strategies for the conservation and sustainable use of biological diversity. It is often seen as the key document regarding sustainable development.

*National Forest Policy Statement 1992*

Outlines agreed objectives and policies for the future of Australia's public and private forests. It is the joint response of the Commonwealth, State and Territory Governments to three major reports on forest issues — those of the Ecologically Sustainable Development Working Group on Forest Use, the National Plantations Advisory Committee, and the Resource Assessment Commission's Forest and Timber Inquiry — and it builds on the 1983 *National Conservation Strategy for Australia* initiated by the Commonwealth Government and the 1986 *National Forest Strategy for Australia* developed by the Australian Forestry Council.

*National Strategy for the Conservation of Australia's Biological Diversity 1993*

Provides the framework for protecting Australia's biodiversity.

*National Objectives and Targets for Biodiversity Conservation 2001-2005*

Augments the National Strategy and sets objectives and targets for ten priority outcomes for the Australian Government, States and Territories to achieve.

*National Strategy for Ecologically Sustainable Development*

Has three core objectives: to enhance individual and community wellbeing and welfare by following a path of economic development that safeguards the welfare of future generations; to provide for equity within and between generations; and to protect biological diversity and maintain essential ecological processes and life-support systems. It will be used by governments to guide policy and decision making, particularly in those industry sectors that rely on the use of natural resources.

*Regional Forest Agreement*

Provides for sustainable forestry and the establishment of a comprehensive, adequate and representative reserve system.

*Community Forest Agreement*

Added public land to the reserve system established under the RFA, made various other commitments to management of native vegetation and other biodiversity values.

*Regional Forest Agreements Act 2002*

Defines "RFA forestry operations".

*Regional Forest Agreement (Land Classification) Act 1998*

Implements consequential changes in land classifications.

*Environment Protection and Biodiversity Conservation Act 1999*

Controls activities affecting threatened species, threatened ecological types and threatening processes on areas not subject to a Regional Forest Agreement.

*A National Approach to Firewood Collection and Use in Australia*

Arises from Resolution 422 of the 19th meeting of the Australian and New Zealand Environment and Conservation Council that a SCEP/SCC task force (the 'Firewood Taskforce') 'develop a national approach to commercial and private firewood collection'.

*National Action Plan for Salinity and Water Quality*

The NAP has been adopted by the State. The Midlands is the primary area of concern.

*Convention on Wetlands (Ramsar)*

Australia is a signatory to this convention, designed to protect and manage Australia's wetlands.

## **State**

### **Legislation**

*Forest Practices Act 1985*

Establishes the framework for regulating forest practices across all tenures; requires development and implementation of the Forest Practices Code.

*Forest Practices Regulations 1997*

Provide conditions of when a Forest Practices Plan is not required.

*Forest Practices Amendment (Threatened Native Vegetation Communities) Bill 2006*

Makes amendments to control activities on land supporting threatened non-forest vegetation.

*Forestry Act 1920*

Establishes Forestry Tasmania as exclusive manager of State forest and requires it to manage that forest for multiple uses.

*Natural Resource Management Act 2002*

Provides for a Natural Resource Management Council and 3 regional NRM committees, and for the preparation and accreditation of regional NRM strategies.

*Land Use Planning and Approvals Act 1993*

LUPAA is the central legislation underpinning the Resource Management and Planning System.

*Nature Conservation Act 2002*

Provides for the conservation and protection of the fauna, flora and geological diversity of the State, and for the declaration of national parks and other reserved land.

*Nature Conservation Amendment (Threatened Native Vegetation Communities) Bill 2006*

Amendments include the listing of threatened vegetation types and a link to the forest practices system.

*Environmental Management and Pollution Control Act 1994*

Provides for the regulation of environmentally relevant activities and associated waste-water emissions by local and State Government.

*Water Management Act 1999*

Provides for the preparation and implementation of Water Management Plans and for all issues related to water licensing.

*Inland Fisheries Act 1995*

Provides for the management of the inland fisheries.

*State Policies and Projects Act 1993*

Provides for State of the Environment Reports every 5 years.

*Mineral Resources Development Act 1995*

Provides for the development of mineral resources consistent with sound economic, environmental and land use management.

*Private Forests Act 1994*

Establishes Private Forests Tasmania, to encourage private forestry with sound forest land management practices.

*Threatened Species Protection Act 1995*

Provides for the conservation and management of threatened flora and fauna.

*Weed Management Act 1999*

Provides for the control and eradication of declared weeds, including through powers in relation to landowners, and the promotion of strategic weed management.

**State Policy**

*State Policy on Water Quality Management*

Provides for Protected Environmental Values and Water Quality Objectives and the management of point and diffuse source pollution.

*Protection of Agricultural Land State Policy*

Protects prime agricultural land from conversion to other uses.

*State Coastal Policy*

Provides a statutory framework for integrated management and planning of the State's coastal and marine areas.

## **Other Policy Instruments**

### *Forest Practices Code*

Prescribes the manner in which forest operations are to be planned and conducted so as to provide reasonable protection to the environment. Includes guidelines on protection of natural and heritage values.

### *Permanent Forest Estate Policy*

Provides for the maintenance of minimum thresholds for retention of native forest cover statewide and within bioregions.

### *Forests and Forest Industry Strategy*

Developed in 1990 by the Forests and Forest Industry Council to provide a blueprint for the sustainable management of Tasmania's forests and development of forest industries.

### *Resource Management and Planning System*

Tasmania has developed and adopted a Resource Management and Planning System, which is referred to in the objectives of several State acts and policies.

### *Nature Conservation Strategy*

Provides detailed recommendations for the better conservation of the State's natural heritage values.

### *Threatened Species Strategy*

Developed under the Threatened Species Protection Act for the conservation and management of threatened species.

### *Mineral Exploration Code of Practice*

Provides the requirements that the holders of mineral exploration licences must follow to minimise environmental impacts of exploration activities.

Appendix C. Agreed procedures....

**Procedures for the management of threatened species in wood production forests under the forest practices system**

Threatened species as listed in the schedules to the *Threatened Species Protection Act* 1995 will be managed in wood production forests under the forest practices system as follows.

1. *Provisions of the Forest Practices Code.* The Code prescribes the approach that must be taken with respect to the conservation of flora and fauna, including threatened species. The Code (2000) provides that threatened species must be managed in accordance with procedures agreed between the Forest Practices Board (FPB) and the Director of the National Parks and Wildlife Service (pursuant to s.5 of the *National Parks and Wildlife Act* 1970). This document sets out those agreed procedures.
2. *Forest Practices Officers* – Forest Practices Officers are responsible for planning and supervising forest operations and are therefore key personnel for the transmission of good management prescriptions to landowners and forest workers. Specialists within the FPB and DPIWE will actively support and facilitate the continuing training of Forest Practices Officers.
3. *Endorsed management prescriptions*
  - 3.1 *Fauna*
    - 3.1.1 The *Threatened Fauna Manual for Production Forests in Tasmania* and the *Threatened Fauna Adviser Expert System* program will be the basis for providing management prescriptions at the operational (coupe) scale.
    - 3.1.2 The *Threatened Fauna Manual for Production Forests in Tasmania* and the *Threatened Fauna Adviser* program will be updated on a regular basis, as new information becomes available. In addition, the manual and program should be reviewed at least every 5 years, to coincide with the 5 yearly reviews under the RFA. The development and review of the manual and program and any updates will be subject to consultation among specialists within FPB and DPIWE, landowners and Forest Practices Officers. The manual and program and any changes will be subject to formal endorsement by the following bodies – the Director of the National Parks and Wildlife Service, the Scientific Advisory Committee established under the *Threatened Species Protection Act* and the Forest Practices Advisory Council established under the *Forest Practices Act*. Any proposed changes will be taken as endorsed by a body where that body has not responded within 3 months to a request for endorsement of a change. New site data that become available to the FPB will be added to the Threatened Fauna Manual (web version) as soon as practical after the site is received (within

2 weeks) to ensure that the most up-to-date information is available to the forest industry. Such alterations to the Threatened Fauna Manual do not require endorsement by the parties listed above. Specialists from DPIWE will supply relevant data on forest-associated threatened fauna, as the data become available.

- 3.1.3 Forest Practices Officers will consult *the Threatened Fauna Manual for Production Forests in Tasmania* (or up to date version in GIS format) to determine whether an operational area contains or is likely to contain threatened species.
- 3.1.4 The Forest Practices Officer will consult the *Threatened Fauna Adviser* to determine the appropriate endorsed management prescription and will seek further specialist advice from the Senior Zoologist of the FPB where required by the provisions of the *Threatened Fauna Adviser*.
- 3.1.5 Where an operational area contains or is likely to contain threatened species, the Forest Practices Officer will notify the Senior Zoologist of the FPB.
- 3.1.6 Where a Forest Practices Officer seeks further advice for a specific operational area in accordance with the *Threatened Fauna Adviser*, or where endorsed prescriptions are not appropriate for an operation, the Senior Zoologist of the FPB will consult with the DPIWE to determine an appropriate management prescription. This should involve consultation and negotiation among the specialists, the Forest Practices Officer and the landowner and may involve field inspections or surveys. Advice will be provided within 6 weeks, otherwise the Forest Practices Officer may proceed on the basis of best available information.

## 3.2 *Flora*

- 3.2.1 The *Forest Botany Manuals* will be the basis for providing management prescriptions at the operational scale.
- 3.2.2 The manuals will be updated on a regular basis, as new information becomes available. In addition, the manuals should be reviewed at least every 5 years, to coincide with the 5 yearly reviews under the RFA. The development and review of the manuals and any updates will be subject to consultation between specialists within FPB and the DPIWE, landowners and Forest Practices Officers. The manuals and any changes will be subject to formal endorsement by the following bodies – the Director of the National Parks and Wildlife Service, the Scientific Advisory Committee established under the *Threatened Species Protection Act* and the Forest Practices Advisory Council established under the *Forest Practices Act*. Any proposed changes will be taken as endorsed by

- a body where that body has not responded within 3 months to a request for endorsement of a change.
- 3.2.3 Forest Practices Officers will consult the manuals to determine whether an operational area contains or is likely to contain threatened species.
  - 3.2.4 Where an area contains or is likely to contain threatened species, the Forest Practices Officer will notify the Senior Botanist of the FPB to seek advice on management for the species.
  - 3.2.5 Endorsed management prescriptions will be developed and issued where possible for individual species or groups of species. “Endorsed management prescriptions” means endorsed by the Director of the National Parks and Wildlife Service, the Scientific Advisory Committee established under the *Threatened Species Protection Act* and the Forest Practices Advisory Council established under the *Forest Practices Act*. When the operation will follow an endorsed management prescription, the Forest Practices Plan can be determined in consultation with the FPB Senior Botanist without further consultation with DPIWE. Details of the site and operation will be provided by the FPB to DPIWE.
  - 3.2.6 Where standard endorsed prescriptions are not available or are not appropriate for an operation, prescriptions will be provided on a case by case basis. The development of these prescriptions should involve consultation and negotiation among the relevant specialists within FPB and DPIWE, the Forest Practices Officer and the landowner and may involve field inspections or surveys. Advice will be provided within 6 weeks, otherwise the Forest Practices Officer may proceed on the basis of best available information.
- 4 *Forest Practices Plans* - Once the Forest Practices Officer has obtained an endorsed management prescription, the officer will apply the prescription by incorporating appropriate provisions into the Forest Practices Plan for the area. The provisions of a certified Forest Practices Plan are legally binding on all parties who operate within the area covered by the plan for the duration of the plan. A permit for the purposes of s.51 of the *Threatened Species Protection Act* is not required where a Forest Practices Plan has been certified in accordance with these procedures.
  - 5 *Monitoring of compliance* – Compliance with the provisions of the Forest Practices Plan, including provisions that relate to threatened species, will be assessed by a Forest Practices Officer and a report on compliance will be lodged with the FPB within 30 days of the expiry of the plan, as required under s.25A of the *Forest Practices Act*. The Board will publish information on compliance in its Annual Report.
  - 6 *Independent audit and enforcement*– The Board will audit the standard of planning and the degree of compliance with the implementation of the provisions

of the Code and Forest Practices Plan, including those that relate to threatened species as part of its annual audit. Results will be published in the Board's Annual Report, as required under s.4 of the *Forest Practices Act*. Appropriate action will be taken with respect to instances of poor planning, or failure to comply with the provisions of a plan, in accordance with the provisions of the *Forest Practices Act*. Potential breaches of the *Threatened Species Protection Act* will be reported to DPIWE as soon as practicable.

- 7 *Monitoring of efficacy of prescriptions* – The Board in association with the DPIWE will monitor the efficacy of management prescriptions through a coordinated approach to research.
- 8 *Research* – The FPB and the DPIWE will consult with landowners and other stakeholders to determine the priorities for research into the ecology and management requirements of threatened species. Both bodies will coordinate an approach to secure appropriate levels of funding from all available sources. The forest industry recognises its role in contributing to research into the effects of forest management practices on threatened species. The forest industry will consider the research needs for threatened species as part of its overall contribution to forest practices research under the terms of the forest practices research fund.

These procedures are agreed:

.....

Chair

Forest Practices Board

Date:.....

.....

Director of the National Parks and Wildlife Service (pursuant to s.5 of the *National Parks and Wildlife Act 1970*)

Date:.....