

Allied Natural Wood Exports submission regarding the Draft Coastal Integrated Forest Operations Approvals.

Allied Natural Wood Exports (ANWE) would like to make the following submission regarding the Draft Coastal IFOA.

### **1. THE RELATIONSHIP BETWEEN PENALTIES FOR BREACHES OF THE IFOA CONDITIONS & RELEVANT ACTS & REGULATIONS**

IFOA Conditions 16, 17 and 18 set out the terms of the biodiversity conservation, environment protection and fisheries licences. Each licence falls under the relevant Act, being the Protection of the Environment Operations Act 1997 (POEO Act), Biodiversity Conservation Act 2016 and the Fisheries Management Act 1994.

The Forestry Bill 2018 proposes maximum penalties of \$5 million for corporations and \$1 million for individuals for offences under Part 5B of the Forestry Act 2012. These penalties are to align with the maximum penalties set out in the Protection of the POEO Act. The maximum penalties applying under Sections 115, 116 and 117 of the POEO Act relate to disposal of waste, leaks, spillages and other escapes and emission of ozone depleting substances. None of these offences would be expected to occur during native forest harvesting operations.

Section 123 of the POEO Act states that the maximum penalties for water pollution offences are **\$1 million for corporations and \$250,000 for individuals**, with additional penalties for continuing offences.

Section 13.1 of the Biodiversity Conservation Act states the maximum penalty for a **Tier 1 offence is \$1,650,000 for a corporation and \$330,000 for individuals**, with additional penalties for continuing offences.

Section 220ZA of the Fisheries Management Act 1994 sets maximum penalties for harming threatened species or ecological communities at 2,000 penalty units or \$220,000.

The proposed maximum penalties in the Forestry Bill 2018 are greatly in excess of the relevant penalty provisions of the three Acts.

Penalty Notice offences under the bill are to be increased from \$1,100 to \$15,000 for corporations and to \$5,000 for individuals. This means potential breaches under the IFOA will be treated with the same severity as operations conducted on state forest without authority under the IFOA process, that is operations done illegally.

Penalties applying to Part 5A offences under the Local Land Services Act 2013, are included in Schedule 1 of the Biodiversity Conservation Regulations, where Part 5B (Forestry Act 2012) penalties will also appear. In relation to Clause 139 (Offence of contravening certain requirements of approvals or certificates), maximum penalties for corporations are \$2,200 and \$440 for individuals.

This seems to be an intent to establish the harshest penalty regimes, whether operations are conducted with or without approvals. Those responsible for drafting the Forestry Bill have:

- Relied on comparison to irrelevant sections of the POEO Act to justify the maximum penalties for court-imposed penalties;

- Chosen to impose the same penalty for breaches of IFOA conditions (usually at the low end of the environmental impact scale) for penalty notice offences, as would be applied to illegally conducted operations; and
- Included the penalties under the Biodiversity Conservation Regulations, rather than under the relevant Act and Regulations applicable to each of the three licences.

## **2. IFOA PROTOCOLS & CONDITIONS**

### **a. Protocol 6: Suitably qualified persons – training and experience**

Protocol 6 sets out requirements for suitably qualified persons, who undertake soil, aquatic and biodiversity assessments.

No similar requirement is placed on EPA staff who will approve various IFOA processes and enforce breaches of IFOA conditions.

### **b. Protocol 24: Identification of old growth on unassessed land.**

The note under 24.2 (3) (b) states: "*Re-evaluation of old growth mapping is only permitted in areas previously unassessed for high conservation value old growth. Existing high conservation old growth mapping will not be altered under any circumstances.*"

The high error levels which have been identified in the 13 areas on the NSW north coast reassessed by the Natural Resources Commission (NRC) would clearly indicate the inclusion of the above note in the IFOA is totally inappropriate and must be revisited.

The mapping of old growth forests on both public and private land and in northern and southern NSW has proven to be highly inaccurate. If old growth forest is of high conservation value, then it must be properly managed. If it is to be managed, land managers must know where it is in the local and regional landscape.

The areas identified as not being old growth forest must be returned to the available harvest area.

### **c. Protocol 25: Identification of rainforest on unassessed land**

25.2 (3) (b) notes: *Re-evaluation of rainforest mapping is only permitted in areas previously unassessed for rainforest. Existing areas mapped for rainforest will not be altered under any circumstances.*

Given the findings of the NRC Final Report *Old Growth Forests and Rainforests - North Coast State Forests*, the ecological sense of this directive is highly questionable.

### **d. Protocol 22: Wildlife habitat and tree retention clumps**

If permanently protected areas are to deliver the best environmental outcomes, they must be actively managed and not left to the assumption that the lockup and leave policies will maintain or improve environmental values.

The document gives no consideration to the nature of the Australian bush and the need for active and adaptive management. It assumes that classifying forest as a reserve or permanently protected is enough to protect it. It lacks the flexibility which is needed to achieve good environmental and commercial outcomes through areas being actively managed and monitored.

**e. Division 7: Burning operations**

Condition 120.3 (a) requires that a pre-harvest or post-harvest burn does not impact on fallen logs greater than 40 centimetres in diameter and greater than 5 metres in length.

As it will be next to impossible to ensure logs of this dimension are not impacted by burns, this condition could stop all post-harvest burns, including those used to create a seed bed for regeneration. It will be lower risk for FCNSW to do nothing than risk fines and adverse publicity resulting from breaches of impractical conditions.

Lack of appropriate fuel management in the short to medium term will lead to perverse outcomes in the long term.

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