



Remake of the Coastal IFOAS
Environment Protection Authority,
Level 12 PO Box A290
Sydney South NSW 1232
Email: ifoa.remake@epa.nsw.gov.au

Dear Sir/Madam,

Re: Submission on the Remake of the Coastal Integrated Forestry Operations Approvals Discussion Paper

Thank you for the opportunity to have input on the IFOA Remake Discussion Paper.

The NSW FPA supports the overarching tenor, structure and aims of the new IFOA framework. The proposal to create a single new IFOA document with a simplified and streamlined structure is to be applauded. The intention to move from a process focus to an outcome based regulatory approach is also strongly supported.

The NSW FPA sees the IFOA Remake as an important opportunity to take a somewhat broader look at the IFOAs than has been proposed in the discussion paper's scope.

The IFOAs are but one part of the broader framework that constitutes the NSW Forests Agreements. The Forests Agreements provide important guidance as to the role of the IFOAs and how they should be integrated, aligned and balanced with other forest values and interests.

For too long the IFOAs have been allowed to operate independently and without due consideration for how they impact on broader landscape issues and in particular their effect on the maintenance and enhancement of social and economic interests.

In our attached submission we have chosen to focus on these issues which we believe have not been fully explored within the discussion paper. We hope that they may be given further more detailed consideration by the submission review committee and look forward to having further input as the IFOA Remake is progressed.

Yours sincerely,

Maree McCaskill

General Manager

6 April 2014

1. Overview

The NSW FPA supports the purpose of the discussion paper and appreciates the opportunity to provide formal feedback on it.

2. Why the NSW Government is remaking the coastal IFOAs

The NSW FPA supports a comprehensive remake of the IFOAs to address their identified weaknesses and deliver a modern regulatory framework.

The objectives of the IFOA remake as they relate to economic, social and environmental values must be equitable and balanced. The way in which the objectives are currently defined is not entirely consistent with this principle.

The scope of the remake and the key principles that guide it are all supported.

1. Recommendation

Section 2.1

Delete: *The NSW Government is committed to delivering these objectives with no net change to wood supply and no erosion of environmental values.*

Insert: *The NSW Government is committed to delivering these objectives with no erosion of environmental, social or economic values.*

3. Stakeholder engagement

The three-stage stakeholder engagement process is supported.

4. The NSW forestry framework

In the coastal NSW Forest Agreements it states that *the overriding intention of forest management across all tenures is to maintain and enhance all forests values in the environmental, social and economic interests of the State.*

The NSW Forest Agreements have relied upon the coastal IFOAs to *maintain and enhance* environmental and cultural heritage values. The conditions of these IFOAs have (in theory at least) been designed to provide comprehensive protection from an individual site through to the landscape level.

When it comes to the *maintenance and enhancement* of social and economic interests there are no documents that have comparable standing to the IFOAs. This has permitted the IFOAs to operate in isolation of socio-economic considerations. The consequence of this imbalance has been alluded to in IFOA Remake where it states - *each coastal IFOA*

contains over 2000 conditions, creating an operating environment based largely around process.

In response to any claim of there being an imbalance it is sometimes argued that social and economic interests have been adequately served through the allocation of long term wood supply agreements (WSAs). At face value this argument has merit with WSAs providing guaranteed access to timber resources over the duration of the Forest Agreement term and enabling the timber industry to operate on a sustainable basis. Not until one looks at the detail of the actual commitments provided by Government in the WSAs however, does it become clear that the provisions are quite limited. WSAs are simplistic in their structure and do not offer anywhere near the same level of protection for social and economic interests as the IFOAs provides to the environment.

For example, under the current governance arrangements there is no commitment to ensure that the forests made available to regional wood processors are economically viable to harvest or that the standard or quality of the mix of timber that they produce will be maintained. Further, if a decision is made under the IFOA to set aside high quality coastal regrowth to protect an environmental value (e.g. say koala habitat or a threatened ecological community) the quality of the industry's resource base is adversely impacted and there is no mechanism to make available a comparable resource or to trigger a regulatory concession.

The performance indicators in the NSW Forest Agreements that are designed to protect social and economic interests operate only at a high level. The indicators contain insufficient detail to protect the interests of wood processors and timber dependent communities at a local or regional level.

It is common knowledge within the industry that the quality of the timber mix being made available to industry on the north coast (under the operating rules of the IFOA) has steadily declined under the existing IFOAs and that the cost of sawlogs has increased (in real terms). These trends are expected to continue in the future. The trends are mainly due to IFOA conditions which limit access to better quality regrowth sites within traditional coastal working circles.

Based on current trends the future will see an increasing proportion of sawlogs sourced from areas with lower productive capacity, more defective Tableland forest types, more difficult terrain, and from localities more remote from coastal processing facilities. All of these issues are incrementally impacting on the viability of the industry. Under the current governance arrangements there is no opportunity for recourse and the industry is being made unsustainable. Ironically, the native forest industry's declining profitability is now being highlighted by those who don't support it as a reason why it should be closed down¹.

In the IFOA Remake it states that the Forest Agreements recognise *that all aspects of environmental protection and social and economic development, as they relate to forests, should be integrated and comprehensive. As such the NSW Forest Agreements are jointly signed by NSW Ministers administering environmental, planning and forestry legislation.*

If the spirit of this statement is to be recaptured by the IFOA Remake it must look much more seriously at how environmental protection and social and economic development can be integrated, aligned and balanced.

¹ Macintosh, A. (2013). The Australian native forest sector: causes of the decline and prospects for the future. The Australia Institute, Technical Brief No. 21 April 2013 ISSN 1836-9014.

2. Recommendation

That Forest Agreement indicators designed to maintain and enhance economic and social interests be reviewed, expanded and strengthened to provide comparable protection for the timber industry and timber dependent communities to that provided for the environment by the new IFOA.

5. The proposed coastal IFOA structure and framework

Moving from four current IFOAs to a single integrated IFOA covering all coastal Forest Agreement regions is strongly supported.

The division of the new IFOA into four key sections with supporting supplementary material including enforceable protocols and other best practice guidance material are also supported where they provide greater flexibility.

In relation to proposed legislative amendments the NSW FPA is comfortable that non-licence terms of the IFOA are made enforceable.

The NSW FPA is less comfortable with the proposal to ensure the Environment Protection Licence is always 'on'. Concern relates to small scale, low risk and one-off timber harvesting activities. Unless given special consideration these operations (if covered?) are likely to become subject to a disproportional regulatory burden which will impact their viability. The proposal could also reduce the discretion and flexibility of professional forest managers to support benign operational activities which engender good will to neighbours and local communities.

3. Recommendation

That further consideration and discussion occur about the inclusion and regulation of small scale, low risk and one-off activities prior to making a final decision about whether the Environment Protection Licence is always turned 'on'.

The Role of People

A vibrant and sustainable native forest timber industry that is outcome focused needs an IFOA framework that goes beyond regulatory enforcement.

The attitude and good will of the people who undertake and manage forestry operations is critical to an outcome based approach which is sought by the IFOA Remake. The best environmental, social and commercial outcomes will always be achieved when people are positively motivated. It is widely recognised that positively motivated people are more energized and focused and generate enjoyment from what they do.

When Forest Agreements and IFOAs were introduced in the late 1990s public trust in the people who represented the forest industry was very low. In response these people were disenfranchised and stripped of many of their decision making powers.

Over the next decade and a half the role of these people has centred on the application of rigid regulatory and administrative controls. This focus on compliance has generated an inordinate amount of paperwork which has impacted heavily on the profitability of the Forestry Corporation and the industry. Interest and care in achieving good outcomes has to some degree been replaced by a culture of box ticking and protecting one-self from legal and administrative penalties and other punitive measures. Many people within the industry who had been passionate about their profession have become indifferent to it. The additional regulatory burden and disenfranchisement has regrettably failed to satisfy the environmentalists and also failed to provide tangible examples of improved environmental outcomes.

Unlike factories, where most processes and decisions can be effectively systemised, native forests are dynamic, natural and wild environments that require a flexible and adaptive approach. Rigid regulatory models when applied to dynamic systems invariably fall short of their goals and when 'the system' fails there tends to be no accountability.

The IFOA Remake represents an opportunity to modify the regulatory framework in a way that will positively re-engage those people who depend on public forests for their livelihood and introduce a more integrated management model.

Public credibility and trust needs to be worked on and for the industry this is best achieved by demonstrating good performance. Under the IFOA Remake good performance should be rewarded with less regulatory burden and more discretion and decision making power.

The IFOA Remake's proposed focus on specified environmental outcomes and standards, rather than on procedure-based administrative conditions is strongly supported. The proposal to split regulatory conditions into protocols and guidelines is also supported as it will provide an opportunity to re-empower those who have direct responsibility for upholding standards and delivering outcomes.

The proposed introduction of minimum competencies for forest contractors is endorsed and should be appropriately supported by government. For too long the Forestry Corporation has relied upon direct supervision as its preferred model for upholding operational standards and performance. Technological advantages have greatly enabled the ability to manage operations through remote supervision and audit.

4. Recommendation

That the new IFOA:

- empowers those who have direct responsibility for upholding standards and delivering outcomes.
- be designed in a way that rewards good performance by reducing regulatory burdens.

6. What will the new coastal IFOA cover?

Geographical coverage

The proposed geographical coverage of the coastal IFOAs is largely supported. It is noted that there is no IFOA coverage for the Central (Sydney) Region. This is understood to be due to the absence of any timber operational activity in this region. It should be noted however that there are native State forests within the Central (Sydney) region that could be subject to minor timber harvesting operations.

5. Recommendation

That the NSW EPA clarifies how it proposes to regulate forests operations if they were to occur on State forests in the Central (Sydney) Region.

Activity coverage

Activities that will be less tightly prescribed under the new IFOA:

- Silvicultural practices, including thinning

Activities not proposed to be regulated under the new IFOA include:

- Forest products operations
- Burning
- Heritage matters
- Bee-keeping
- Grazing
- Weed and pest control

Activities where coverage under the new IFOA is not made explicit

- Timber harvesting activities traditionally covered under a Forestry Act permit.
- Control and management of disease
- Management of climate change impacts
- Biomass harvesting

Activities that will be less tightly prescribed under the new IFOA

The proposal for the new IFOA to be less prescriptive about silvicultural practices is strongly supported. Where landscape requirements for environmental protection have been met the Forestry Corporation should be given flexibility to determine the most appropriate silvicultural practice on any given site.

Silvicultural decisions around which and how many trees are harvested and which trees are retained need to balance an array of economic and biophysical considerations. Economic considerations are multi-faceted and dynamic. Markets ultimately determine demand and this varies from one locality to another and between different log products. Location and site attributes influence harvesting and haulage costs which in turn influence marketability.

The forest manager will always seek to optimise their return by directing timber to its highest end use. Once environmental and sustainability requirements have been met the forest manager should be free to market the timber as they best see fit. In the past much effort has been misdirected in trying to cap and control the destination of low quality timber. Provided that a log is marketed to best effect it should matter not whether it is utilised for biomass, pulpwood, firewood or some higher end use.

Biophysical attributes that must also be considered include forest age and species mix, wood properties, the forests' past disturbance history and its future regeneration capacity.

When the environmental regulator tries to prescribe silvicultural practice through individual tree retention requirements in every forest stand it can become an impossible juggling act for the forest manager. Put another way, it is simply not practicable for the forest manager to apply individual tree retention requirements on every two hectares and concurrently achieve optimal silvicultural outcomes.

An example of where individual tree retention requirements are not currently aligning with good silviculture occurs in Coastal Blackbutt regrowth forests. Coastal Blackbutt is a relatively fast growing species which is intolerant to competition. For it to regenerate effectively it requires a good amount of soil disturbance (from fire or harvesting). To grow into a well formed tree it requires plenty of space and light. For Coastal Blackbutt forests, retaining large numbers of isolated canopy trees to meet individual tree retention requirements for habitat can inhibit good regeneration and stifle future forest growth and health.

Activities not proposed to be regulated under the new IFOA

Based on the proposed coverage it may be fairly concluded that the largest and most significant threats to native forest values, namely: altered fire regimes and mega fires; pests, weeds and diseases; land-use change; and climate change will not be the subject of coverage under the new IFOA.

The NSW FPA understands that there are existing laws and regulations pertaining to the management of these threats, albeit that they are not operating in accord with integrated landscape management principles.

It is anticipated that although the environmental regulator is not currently proposing any IFOA based regulatory controls to mitigate these key threats it is likely to support any initiative which seeks to manage them more effectively through a landscape scale approach.

If this occurs there is a distinct risk of an additional layer of 'landscape scale' regulation being introduced which sits independently of the new IFOA. Under this scenario any economic costs are likely to be borne directly by the forest manager and the timber industry. For the forest manager to mitigate these costs it needs to have greater flexibility to be able to move operations in time and space. So that the timber industry it is not disadvantaged it will require indicators to ensure that its interests are not eroded or, if they are, that it is duly compensated.

In the short term the NSW FPA sees some risk in the new IFOA having an unduly narrow regulatory perspective. For example, experts who will be engaged by the EPA to assess the effectiveness of the new IFOAs may fail to look beyond timber harvesting as the cause of

any unwanted environmental outcome. One way to minimise this risk will be to get a landscape scale forest monitoring system up and running that can generate objective scientific data that is relevant to cause and effect scenarios.

6. Recommendation

That it be publicly acknowledge and explicitly stated that:

- I. there is a deliberate intention in the new IFOA not to cover key threats to native forest values, namely:
 - a. altered fire regimes and mega fires;
 - b. pests, weeds, diseases;
 - c. land use change, and;
 - d. climate change.
- II. When assessing and evaluating the effectiveness of outcomes under the new IFOA it will be necessary to look beyond the regulatory boundaries defined by the IFOA to take account for key threats to environmental values which operate at a whole of landscape scale.
- III. the timber industry will not have its economic interests eroded (without being duly compensated) if in the future it is deemed necessary to introduce additional regulatory controls to mitigate key threats to native forest values.

Activities where coverage under the new IFOA is not made explicit

For activities where coverage under the new IFOA is not made explicit it is important to clarify the management intent. For example, may it be assumed that the control and management of diseases like Myrtle Rust will not be the subject of any future IFOA regulatory conditions? Similarly, if climate change were to impact on forest health may it be assumed that the management will be handled independently of the IFOA? Where these issues do lead to changes in resource availability or new regulations how will economic and social interests be protected?

In relation to timber harvesting how will small scale operations be regulated?

These issues require clarification.

With new market for harvesting residues and biomass emerging there has been much misinformation about the threat which this poses to the environment. The new IFOA provides a unique opportunity to address this issue in advance by giving due consideration to sustainable harvesting practice. The management of site nutrients and ground based habitat are key issue which may be effectively addressed through the introduction of a product specification. The NSW FPA supports the coverage of biomass harvesting in the new IFOA and would like to be directly consulted during the development of any biomass specific regulation.

7. Recommendation

That the NSW EPA clarifies how the following activities will be regulated:

- Timber harvesting activities traditionally covered under a Forestry Act permit;
- Control and management of disease;
- Management of climate change impacts.
- Biomass harvesting

7. Landscape-based protection for threatened species and communities

Under the discussion paper a commitment has been given to incorporate landscape scale management principles into the new IFOA:

The licence will include minimum required thresholds of areas protected from forestry operations at the local scale and maximum thresholds for harvesting disturbance at the local scale over both time and space.

In the new IFOA it should be acknowledged that disturbance is an important and widespread phenomenon and an intrinsic and necessary part of the function of most terrestrial ecosystems – a mechanism for reversing declining rates of nutrient cycling or relieving stand stagnation (Aber et al 1991). Conversely for example, where a fully stocked mature forest has not been disturbed for a long time, both species diversity and biological productivity may decline (Florence 1996). Evolution in natural ecosystems is punctuated by sudden shifts in the otherwise methodical process of natural succession. Major natural and unnatural disturbances in this area might include fire, wind storms and gap dynamics, frost and freeze damage, earth movements including land slip and erosion, drought, flash flooding, fluctuating water levels, alluvial processes and salinity changes, biotic influences such as insect attack, fungal disease, browsing and burrowing animals, weed invasion and disturbances caused by man. Disturbance has its own scales of intensity and frequency and though its interaction with the range of environmental conditions (soils, climate etc) diversity is created and maintained. This is so much so that a random mosaic of micro-ecosystems is created in close proximity, each a slightly different version of the other with an apparent different visual quality.

If we accept the idea of evolution, of change as a product of disturbance and natural processes, of the dynamics of nature, of birth and death of individual entities, then we must inevitably accept creation and extinction of species as a consequence of continuing evolution. The preservation notion fails to recognise the fundamental dynamics of nature.²

The application of landscape scale management principles to human-induced disturbance activities (i.e. harvesting and burning) enables them to be more effectively integrated with other natural cycles of disturbance and recovery.

² Resource profile of “high- graded” dry hardwood forests: implications for improving productivity
M Combe, GL Unwin, R Dyason, RJ Peacock 1998.

Under the Forest Agreements, attempts to distribute harvesting disturbance, both in time and space have been largely overshadowed by other competing interests. The IFOAs have added an additional layer of complexity to what was already a heavily constrained operating environment. Wet weather constraints, silvicultural consideration, species mix, harvesting and haulage costs are all factors which must be balanced and accommodated in the development of landscape scale plans of operation.

Under the IFOA site specific conditions and zoning exclusions have resulted in operations moving more rapidly through the landscape from one harvesting area to another. The consequence is that whole catchments and whole State forests can be harvested within a relatively short period of time (5-10 years), whereas in the past the equivalent disturbance may have been spread over many decades.

Under this operating environment there is limited provision or capacity to accommodate other disturbance events. For example in the event of a major wildfire in an area subject to concentrated harvesting disturbance there will be limited scope to shift the operations to a less disturbed forest.

The proposal to commit resources to better define (map) Endangered Ecological Communities (EECs) and Threatened Ecological Communities (TECs) is another emerging landscape issue. At present there is considerable uncertainty about the presence and extent of these communities and where they have been identified there has been considerable difficulty in defining their boundaries. The NSW FPA anticipates that the focus on EECs and TECs will give rise to proposals which seek to further erode both the area made available for timber harvesting and the operational flexibility which the Forestry Corporation requires to effectively manage its operations in time and space.

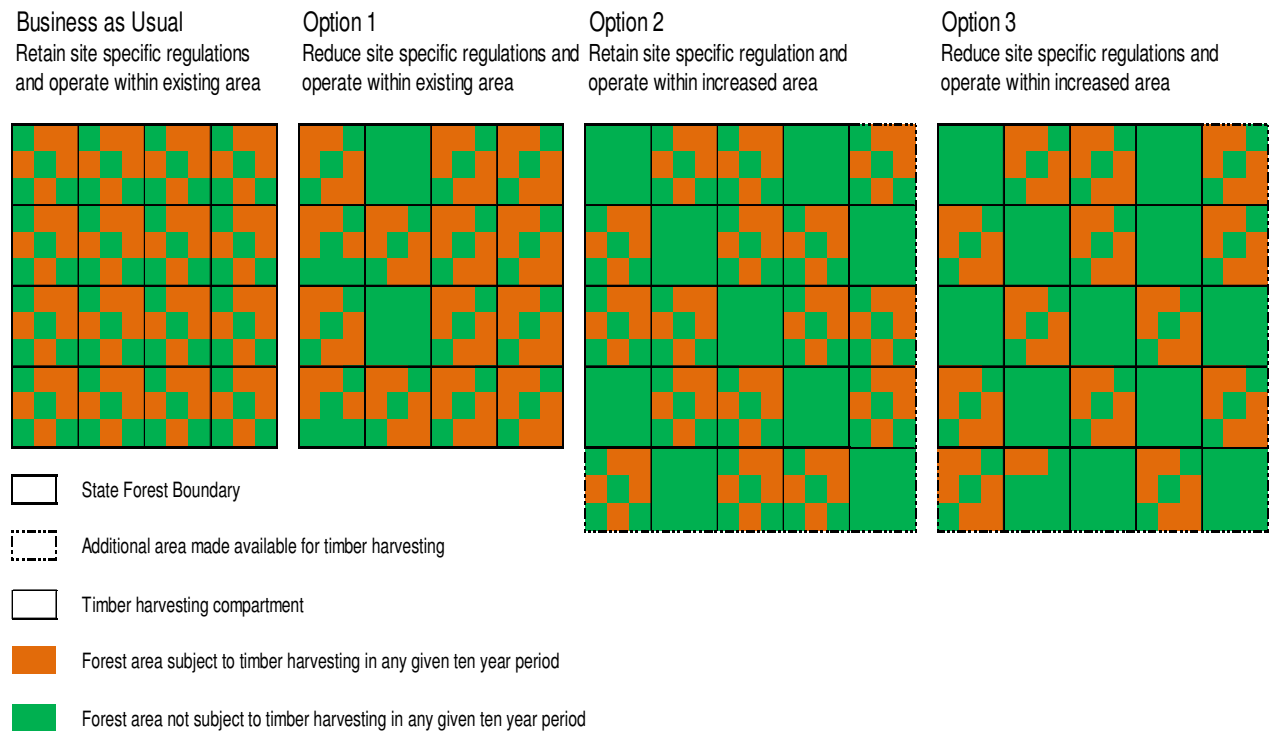
Similarly, as understanding grows about Bell miner associated dieback (BMAD) there is every prospect that the area of productive State forest available for timber harvesting may be formally reduced. Without alternative areas being made available to the industry pressure on existing available areas will inevitably increase.

The progressive erosion of the areas which are available and suitable for harvesting inevitably leads to a situation where harvesting becomes more concentrated in time and space. This can be a primary cause of local community dissatisfaction (with forestry practice) which can give rise to unwanted local disputes. In an attempt to placate the community, government regulators and forest managers defend their management by pointing to the extensive network of wildlife corridors, streamside exclusion buffers and informal reserves. When however a local State forest has been comprehensively harvested from boundary to boundary (all within the space of few years) such explanation is not always accepted as a reasonable defence.

The major challenge for the IFOA Remake is to identify the source and location of additional forest areas that will be required if time and space thresholds are to be effectively implemented.

Figure 1 highlights the spatial and temporal dilemma. Four scenarios are considered. All scenarios assume no change to either the intensity of harvesting or the amount of wood that is harvested.

Figure 1 – Incorporating landscape management principles to timber harvesting operations on public land



- *Business as Usual* - reflects the current operating environment where landscape management principles are given no emphasis. This scenario can lead to a concentration of harvesting activity in time and space. It is assumed that this scenario will not be acceptable under the new IFOA.
- *Option 1* - gives some emphasis to the principle of landscape management and lesser emphasis to local scale protection through the reduction of site specific regulations.
- *Option 2* - gives equal emphasis to the principle of landscape management and local scale protection by increasing the area of forest that is nominally available for timber harvesting and retaining site specific regulations.
- *Option 3* – This option is preferred; it gives the highest emphasis to the principle of landscape scale management and lesser emphasis to the protection of individual plants and animals by increasing the area of forest that is nominally available for timber harvesting and by reducing site specific regulations.

8. Recommendation

That it be publicly acknowledged that:

- i. the effective application of landscape scale management principles will:
 - a. enable human-induced disturbance activities (i.e. harvesting and burning) to be better integrated with other natural cycles of disturbance and recovery.
 - b. help mitigate landscape scale threats.

- ii. the existing regulatory and operating constraints imposed on the Forestry Corporation do not provide sufficient flexibility for landscape scale principles to be applied in practice.
 - a. To achieve landscape scale protection for threatened species and communities there needs to be greater flexibility to distribute operations in space and time.
 - b. If landscape scale principles are to be effectively applied more productive forest area needs to be made available to the industry (through either a reduction in site specific regulation or an increase in State forest).

- iii. economic and social interests are at risk of being eroded by the application of landscape scale management principles in the absence of special protection provisions.
 - a. Industry protection provisions are specifically needed to ensure that the TEC mapping project does not erode economic and social interests.
 - b. General regional level indicators are needed to track and protect economic and social interests.

8. Soil and water

The NSW FPA supports the proposal to undertake a small scale 'steep slope' harvesting trial.

9. Adopting new technologies to improve the accuracy and efficiency of the identification of protected areas of environmental significance

The NSW FPA is optimistic about the benefits that will come from the adoption of new technologies.

Under the existing IFOAs the NSW FPA understands that the width of the protection zones which apply to waterways and other environmental features have been designed with an inbuilt buffer. These buffers take into account the uncertainties around the actual location of the feature which is being protected. For example the width of a filter strip on a mapped drainage line is wider than it actually needs to be to accommodate the possibility that it may be mapped or marked in the field incorrectly.

Where new technology can be introduced like LiDAR and GPS it has the capacity to greatly increase the accuracy and precision of locating environmental buffer boundaries in the field.

Within the new IFOA there should be provisions relating to technological advancements that can trigger the removal of the 'in built' buffers.

9. Recommendation

That the EPA incorporates provisions within the new IFOA which enable the removal of 'in built' buffers where it can be demonstrated that technology has improved the accuracy of the identification of protected area boundaries.

10. A new strategic environmental monitoring framework

Throughout the discussion paper there is a commitment to and an emphasis on shifting to an outcome based regulatory system. This approach is applauded although there needs to be some examples of how this may work in practice.

It is also pleasing to read that *the coastal IFOA includes a new strategic monitoring framework focussed on evaluating whether the IFOA licence conditions (and related protocols) are effective in achieving intended environmental standards and outcomes specified in the licence.*

A *strategic monitoring framework* is overdue and essential for the following reasons:

- Under the existing IFOAs there are literally dozens of conditions which continue to be justified on the basis of uncertainty and the precautionary principle. Most of these conditions concern habitat requirements for threatened species or endangered ecological communities. It is unacceptable that very little has been done to address the uncertainties which are underpinning many of the conditions (particularly given that the IFOAs were introduced some 15 years ago).
- Where there are gaps in understanding and knowledge, resources need to be allocated to research the answers. Priority should be given to the regulatory conditions which are most onerous and having the greatest impacts on timber availability. Having a scientifically designed and evidence based monitoring system will provide a logical framework upon which this research may be based.
- To be useful and effective the *strategic monitoring framework* must be undertaken at a landscape scale and be tenure neutral. In the absence of a strategic landscape monitoring framework there has been undue reliance on the results of monitoring and survey that have occurred on State forests. This has given rise to distorted perceptions about the distribution and status of threatened species. For example based on the number of records contained in the NSW Wildlife Atlas the density of threatened species on State forest could be assumed to be three times greater than it is on National Parks and Reserves. In reality the high number of records does not mean that State forests are more biologically rich rather they highlight that the knowledge and understanding that we have of threatened species on National Parks and Reserves is very limited.

- It is reasonable to expect that knowledge levels in the future should be equivalent or higher for National Parks and Reserves than for other tenures, particularly if they are to be assumed as the benchmark upon which performance and trends on other tenures may be judged.
- Cross tenure monitoring data will also provide an invaluable guide and decision support tool for expert panels tasked with evaluating the effectiveness of IFOA and its licence conditions in achieving their intended outcomes.

10. Recommendation

That high priority be given to the introduction, management and maintenance of a landscape scale strategic forest monitoring system that is designed using sound scientific principles for use across all land tenures.

11. Delivering the new coastal IFOA

No comment