



Memorandum of Understanding

between the

NSW Environment Protection Authority

and the

Forestry Corporation of NSW

December 2019

1. Parties to this Memorandum

- 1.1 This Memorandum of Understanding (MOU) is entered into by the Forestry Corporation of NSW (FCNSW) and the Environment Protection Authority (EPA).

2. Introduction

- 2.1 This MOU provides the grounds for the development of a cooperative relationship between the EPA and FCNSW.
- 2.2 This MOU acknowledges and reflects the objectives and responsibilities of:
- the EPA as the primary environmental regulator for NSW, and the regulator of forestry operations under the *Forestry Act 2012*; and
 - FCNSW as a State-Owned Corporation responsible for managing, and carrying out forestry operations, on State forests or land owned by the Corporation under the *Forestry Act 2012*.
- 2.3 The EPA and FCNSW will work through the structures and processes set out in this MOU to achieve the statutory objectives of both organisations. In doing so the EPA expects FCNSW to meet all statutory requirements and will regulate FCNSW in a manner consistent with its regulation of other organisations.
- 2.4 The EPA and FCNSW will establish and maintain an open and cooperative relationship, at all levels, especially regarding the achievement of principles of ecologically sustainable forest management (ESFM) and preventing environmental degradation.

3. Principal statutory instruments

- 3.1 Parties acknowledge the role of the *Forestry Act 2012* and *Integrated Forestry Operations Approvals* (IFOA) as the principal statutory instruments and 'rule set' for undertaking native forestry operations on State forest crown-timber land.

4. Consultative Structures and Processes

- 4.1 Parties agree the following consultative structures and processes will be used to ensure a cooperative relationship between the Parties.

Chief Executive Officer (CEO) Meetings

- 4.2 The CEO of the EPA and the CEO of FCNSW shall meet to discuss strategic matters of mutual concern and matters referred by the Senior Officers Group. CEO meetings shall be held twice a year and may be initiated by either party.

Senior Officers Group (SOG) Meetings

- 4.3 The Parties shall establish a SOG which will meet at least four times a year. The role of the SOG will be to consider outcomes of CEO Meetings, relevant issues determined by members of the group, and any systemic issues identified by the Operations Group. The membership of the SOG shall comprise nominated senior executives as agreed.
- 4.4 The SOG shall determine the procedure for calling meetings and the way business is to be conducted at meetings. The SOG shall develop an annual work program to form the basis of SOG meetings.
- 4.5 CEO and SOG meetings shall be used to consult on:
- the effectiveness and efficiency of IFOA settings, including Conditions, Protocols and supporting Guidance (including any matters of interpretation that may arise);
 - strategic issues arising from regulatory or operational practices or functions;
 - strategic issues of a scientific nature;
 - areas for co-operative research and joint initiatives; and
 - training initiatives.

Operational Group Meetings

- 4.6 The Parties shall establish regionally focussed Operational Group(s). The SOG shall determine the number and regional scope of Operational Groups. The role of the Operational Groups will be to consider compliance trends, operational implementation and regional issues of an operational nature.
- 4.7 The Operational Groups meetings will be held at least twice a year in each region, or as determined by the SOG. Attendance will include senior regional operational staff as nominated by the SOG from time to time.

5. Adaptive management and best practice

- 5.1 The Coastal IFOA is an outcomes-based approval that specifies high level objectives and stated outcomes that the Coastal IFOA intends to achieve. The Coastal IFOA also sets out conditions, which FCNSW must comply with and that are essential to achieving these objectives and outcomes. The Coastal IFOA can apply or adopt protocols, codes, standards or other instruments that are publicly available and in force from time to time. These protocols can include those prepared by the EPA.
- 5.2 The Parties agree that the IFOAs should be adaptively managed to ensure they continue to meet environmental, regulatory and forest management best practice. The Parties agree to maintain a high-level of engagement to facilitate the adaptive management of the IFOAs.

6. Compliance and Regulatory Enforcement

- 6.1 In the circumstances that the EPA exercises its regulatory powers as the environmental regulator of the state of NSW, the EPA will apply (as applicable):

- (a) The Environment Protection Authority Prosecution Guidelines.
- (b) The Environment Protection Authority Compliance Audit Handbook.
- (c) The Environment Protection Authority Compliance Policy.
- (d) The Environment Protection Authority Guidelines on Enforceable Undertakings.
- (e) Premiers Memorandum M1997-26 – Litigation Involving Government Authorities.
- (f) the Protection of the Environment Operations Act 1997, the Forestry Act 2012, the Biodiversity and Conservation Act 2016, and other legislation.

7. Litigation

- 7.1 The Parties agree to apply the guidelines for litigation involving government authorities, outlined in the *Premiers Memorandum M1997-26* as a sound approach to the management of litigation by prosecution agencies and State-Owned Corporations.
- 7.2 Where litigation does occur, the EPA and FCNSW will take steps, as set out in the Memorandum to consult at a senior level and attempt to reach agreement on as many factual and legal issues as possible, to ensure only matters which need to be resolved by the Court are left in issue.

8. Training and accreditation of forestry industry contractors

- 8.1 The Parties agree to support the development of forestry industry staff and contractor training and accreditation in collaboration with other State government initiatives.
- 8.2 The Parties support development of a Forestry Contractor Certification Scheme and will work collaboratively to develop IFOA Guidance (where required) and identify requirements for the development and ongoing delivery of FCNSW Coastal IFOA Training Package.

9. Term and Amendments to this MOU

- 9.1 The Parties do not intend this MOU to be legally binding.
- 9.2 This MOU:
 - (a) commences on the date it is signed by the Parties and continues until it is terminated.
 - (b) may be amended by agreement of the Parties in writing.
 - (c) may be terminated by either party by notice in writing.

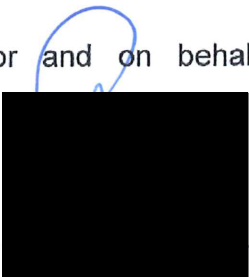
This MOU is made between the EPA and FCNSW on the 23 day of December 2019.

SIGNED for and on behalf of the EPA

SIGNED for and on behalf of the
FCNSW

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Tracy Mackey, Chief Executive Officer
NSW Environment Protection Authority

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Nick Roberts, Chief Executive Officer
Forestry Corporation of NSW

Witness to the above signature:

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