Chief Forest Practices Officer Direction under section 43A of the *Forest Practices Act 1985* (Tas)

Forest Practices Plans to which Part D4A of the Forest Practices Code applies

Application

- This direction is given by the Chief Forest Practices Officer under section 43A of the *Forest Practices Act 1985* (the Act).
- This direction applies to decision-makers exercising powers or functions delegated by the Forest Practices Authority (the Authority).
- This direction must be complied with when making the following decisions:
    - Certification of a Forest Practices Plan (FPP) under section 19 of the Act;
    - Variation of a certified FPP under section 22 of the Act; or
    - Approving an application to vary a certified FPP under section 24 of the Act.
- This Direction forms part of the Forest Practices Officer (FPO) Manual and prevails over the Manual and any other section 43A direction to the extent of any inconsistency.

Matters to be considered

- Prior to making a decision to which Part D4A of the Forest Practices Code (the Code) applies, the decision-maker must consider whether:
    - the requirements of Part D4A have been met, including whether:
        - whether the impact assessment report required under Part D4A.4 identifies and assesses all Relevant Protected Matters reasonably likely to be directly or indirectly impacted, using information sufficient and proportionate to the level of risk;
        - the best available data and information have been used, consistent with the requirements of Part D4A.9 of the Code;
        - the mitigation hierarchy has been applied in sequence and all reasonably practicable avoidance, mitigation and repair measures have been adopted, consistent with Part D4A.5 of the Code;
        - any Residual Significant Impact on a Relevant Protected Matter has been identified, consistent with Part D4A.4 of the Code
        - the forest practices will not result in an Unacceptable Impact, consistent with Part D4A.7 of the Code;
        - the forest practices are not inconsistent with relevant recovery plans, threat abatement plans and protection statements, and relevant conservation advice has been considered, consistent with Part D4A.6 of the Code;
        - community engagement has been undertaken in accordance with Part D4A.10 of the Code and the Community Engagement Protocol in the Code, and the applicant has considered all submissions; and
        - any required greenhouse gas emissions disclosure has been provided consistent with Part D4A.11 of the Code;
    - any relevant bioregional plan or bioregional guidance plan have been considered
    - for FPPs that may have an Unacceptable Impact, whether the FPP can be amended under subsection 19(1A) of the Act to prevent the Unacceptable Impact (noting that FPPs with Unacceptable Impacts cannot be certified); and

    - the proposed forest practices may have a significant impact on a Matter of National Environmental Significance other than a Relevant Protected Matter and, where such an impact has been identified, the decision-maker must inform the applicant that a separate referral for assessment and approval under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) may be required.
- In considering whether the requirements of Part D4A of the Code have been met, decision-makers must consider the currency of the management measures included in the FPP including, where the measures reflect management prescriptions developed in accordance with the Agreed Procedures for the Management of Threatened Species and Relevant Protected Matters under the Forest Practices System (Agreed Procedures):
    - the date on which those prescriptions were developed;
    - whether the prescriptions were developed after the adoption of the most recent version of the Agreed Procedures; and
    - whether more recent Commonwealth Conservation Planning Documents exist.
- The decision-maker may rely on management instruments, specialist advice and technical assessments, but must independently determine whether the requirements of Part D4A of the Code have been met.
- Where the information provided in relation to the requirements of Part D4A of the Code is insufficient, the decision-maker must require further particulars under section 18(5) of the Act, or obtain specialist advice, before deciding.
- Where appropriate, the decision-maker may impose conditions under subsection 19(1A) of the Act.
- Where an FPP does not meet the requirements of Part D4A of the Code, the decision-maker may amend the FPP under section 19 of the Act, request further particulars or refuse certification.

Decisions reserved to the Authority

- The Authority's Delegation Policy provides that it will not delegate the power to certify or vary a FPP involving a Residual Significant Impact on a Relevant Protected Matter to a decision-maker who is not directly employed or engaged by the Authority. Such a decision-maker must not vary, or approve a variation to, an FPP that has a Residual Significant Impact, or a variation that affects the offset provisions of an FPP.

Matters requiring the Authority's advice

- A decision-maker who is not directly employed or engaged by the Authority must obtain the Authority's advice before deciding where:
    - a management instrument for a Relevant Protected Matter is not available, cannot be applied, was updated prior to the adoption of the latest version of the Agreed Procedures, or is otherwise insufficient to meet the requirements of Part D4A of the Code;
    - a relevant Commonwealth Conservation Planning Document has not yet been incorporated into the management instruments or there is inconsistency between a management measure and a Commonwealth Conservation Planning Document;
    - site-specific factors are present that the management instruments were not designed to address;
    - specialist advice is needed;

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    - appropriate changes to the FPP or impact assessment report have not been made in response to submissions received in the community engagement process;
    - there is insufficient information or uncertainty about whether the FPP or variation meets the requirements of Part D4A of the Code, or about how to apply this direction; and
    - new information received during the assessment process has been received, such as a survey finding or a submission, raises any of the matters above or indicates that a Residual Significant Impact or Unacceptable Impact may arise.
- Where the Authority's advice is that a Residual Significant Impact may arise, the decision-maker must not make the decision, and must inform the applicant that the FPP or variation must be decided by the Authority.
- Where the decision-maker considers that there is a potential for an unacceptable impact on a Relevant Protected Matter, they must seek the FPA's advice on whether the FPP can be redesigned to avoid the unacceptable impact.
- Where there is inconsistency with a Commonwealth Conservation Planning Document, the decision-maker must seek the FPA's advice on whether the FPP can be redesigned

Records and publication

- The decision-maker must provide the certified FPP (including the greenhouse gas emissions disclosure), the Impact Assessment Report and the engagement record to the Authority as soon as reasonably practical, after the decision.
- The decision-maker will record, in a statement of reasons, the basis on which it is satisfied that the requirements of Part D4A have been met. The Authority will publish the statement of reasons with the certified or varied FPP, the Impact Assessment Report and the engagement record in accordance with the FPA Board Functions Policy.

Definitions

- Relevant Protected Matter, Residual Significant Impact, Commonwealth Conservation Planning Document, Unacceptable Impact and other terms defined in Part D4A of the Code have the same meaning in this direction.
- **Decision-maker** means a Forest Practices Officer or any other person exercising a power or function delegated by the Forest Practices Authority under the Forest Practices Act 1985.

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