Forest Practices Authority Board Policy

Certification and Variation Decisions under Part D4A of the Forest Practices Code

Certification and variation powers of the Forest Practices Authority

- The Forest Practices Authority (the Authority) exercises powers under Division 1 of Part III of the *Forest Practices Act 1985* (the Act) to certify, amend or refuse Forest Practices Plans (FPPs) and approve variations to FPPs.

Purpose of this policy

- This Policy sets out matters that the Authority must consider when making a decision to certify, amend or refuse an FPP, vary an FPP or approve variations to FPPs, to which Part D4A of the Forest Practices Code (the Code) applies.

Application

- This Policy applies to all decisions made by the Authority in relation to FPPs under sections 19, 22 and 24 of the Act.
- Before making any decision on FPP certification or a variation, the Authority must consider whether Part D4A of the Code applies, that is, whether the forest practices may have an impact on a Relevant Protected Matter. Where Part D4A of the Code is applicable but has not been followed, the Authority must require the applicant to comply with it before making a decision.

Principle

- Decisions are made with consideration of the requirements and standards set out in Part D4A of the Code, with scrutiny proportionate to the risk to Relevant Protected Matters.

Matters to be considered

- Prior to making a decision to which Part D4A of the Code applies, the Authority will consider whether:
    - the requirements of Part D4A of the Code have been met, including whether:
        - the impact assessment report required under Part D4A.4 of the Code 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 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;
        - 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;

DRAFT

        - any Residual Significant Impact on a Relevant Protected Matter has been identified, consistent with Part D4A.4 of the Code;
        - where one or more Residual Significant Impacts on a Relevant Protected Matter has been identified, whether the FPP includes offset proposals that comply with the Forest Practices Offsets Policy and whether the forest practices pass the Net Gain test for each Residual Significant, Impact consistent with Part D4A.8 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; and
    - 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).
- In considering whether the requirements of Part D4A of the Code have been met, the Authority will 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 management prescriptions were developed;
    - whether the management 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 Authority must consider whether the forest practices may have a significant impact on a Matter of National Environmental Significance other than a Relevant Protected Matter. If so, the Authority 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 making a decision, the Authority 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 Authority is not satisfied that sufficient information has been provided in relation to the requirements of Part D4A of the Code to support a decision, it may require further particulars under section 18(5) of the Act.
- Where an FPP does not meet the requirements of Part D4A of the Code, the Authority may amend the FPP under section 19 of the Act, request further particulars or refuse certification.
- Where appropriate, the certifier may impose conditions under subsection 19(1A) of the Act.
- Where an FPP relies on an offset, the Authority will impose one or more related conditions under section 19(1A) of the Act. Each such condition will provide, as needed, that the forest practices causing the Residual Significant Impact must not commence until:

DRAFT

- For FPPs proposing a new offset, the offset has been approved by the Authority, secured and registered, and management of the offset has commenced;
- For FPPs proposing a new indirect offset, the offset has been approved by the Authority and registered, its delivery has been secured, and the full cost of delivery has been paid or committed;
- For FPPs proposing a draw down on an advanced offset, the Authority has approved the draw down;
- For FPPs proposing a contribution, the payment has been made.

Records and publications

- The Authority will record, in a statement of reasons, the basis on which it is satisfied that the requirements of Part D4A of the Code and this Policy 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 Authority Board Functions Policy.

Definitions

- Relevant Protected Matter, Residual Significant Impact, Management Instrument and other terms defined in Part D4A of the Code have the same meaning in this Policy.

DRAFT