



**Australian Government**  

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**Department of Agriculture**



## State Specific Guideline for *New South Wales*

This Guideline has been prepared by the Australian Government and the New South Wales Government. It is intended to assist New South Wales processors to understand the New South Wales regulatory framework and to carry out their due diligence obligations under the Australian Government's *Illegal Logging Prohibition Amendment Regulation 2013* and *Illegal Logging Prohibition Act 2012*.

This Guideline was co-endorsed by the Australian and New South Wales Governments on 24 October 2014.

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## What is required under the new law?

Australia's *Illegal Logging Prohibition Act 2012* (the Act) restricts the movement of illegally logged timber into Australia at the border, for imported timber and timber products; and at timber processing mills, for domestically grown raw logs.

The Act seeks to address the harmful environmental, social and economic impacts of illegal logging, including forest degradation, habitat loss and threats to sustainable livelihoods.

The Act defines illegally logged as:

*'...in relation to timber, means harvested in contravention of laws in force in the place (whether or not in Australia) where the timber was harvested.'*

The *Illegal Logging Prohibition Amendment Regulation 2013* (the Regulation) prescribes due diligence for the regulated community, that is, Australian importers of regulated timber products (for these purposes a regulated timber product is a product listed in Schedule 1 to the Regulation) and Australian processors of domestic raw logs. Under the Regulation the regulated community have to undertake a due diligence process to minimise the risk of sourcing illegally logged timber.

Due diligence requirements for processors include the following steps:

- Step 1:** Information gathering
- Step 2:** Assessing and identifying risk against a timber legality framework or a state specific guideline (optional)
- Step 3:** Risk assessment (if required)
- Step 4:** Risk mitigation (if required)

Further information about the Act and the Regulation is available at [www.agriculture.gov.au/illegallogging](http://www.agriculture.gov.au/illegallogging).

This guideline is intended to assist a processor of Australian raw logs from New South Wales to comply with the due diligence requirements of the Regulation.

Information or evidence listed in this guideline is not an exhaustive list of evidence or documentation required to satisfy due diligence requirements under the Regulation. The Regulation should be referred to for a complete list of the information required to be gathered to satisfy due diligence requirements.

Information gathered by applying this guideline, along with any other information gathered in accordance with the Regulation, needs to be assessed in accordance with the processes outlined in the Regulation to identify the risk that a regulated timber product is, is made from, or contains illegally logged timber.

## Who is a processor?

For the purposes of the Act, a processor is a person who processes Australian grown raw logs into something other than a raw log. This includes activities such as the processing of Australian grown raw logs into woodchips, sawlogs, pulp, or other timber products (including firewood).

The Act also specifies that a processor needs to be a constitutional corporation, or a person processing the raw logs:

- on behalf of a constitutional corporation, the Commonwealth or a Commonwealth authority
- for trade with other countries or between Australian states or territories; or in a territory.

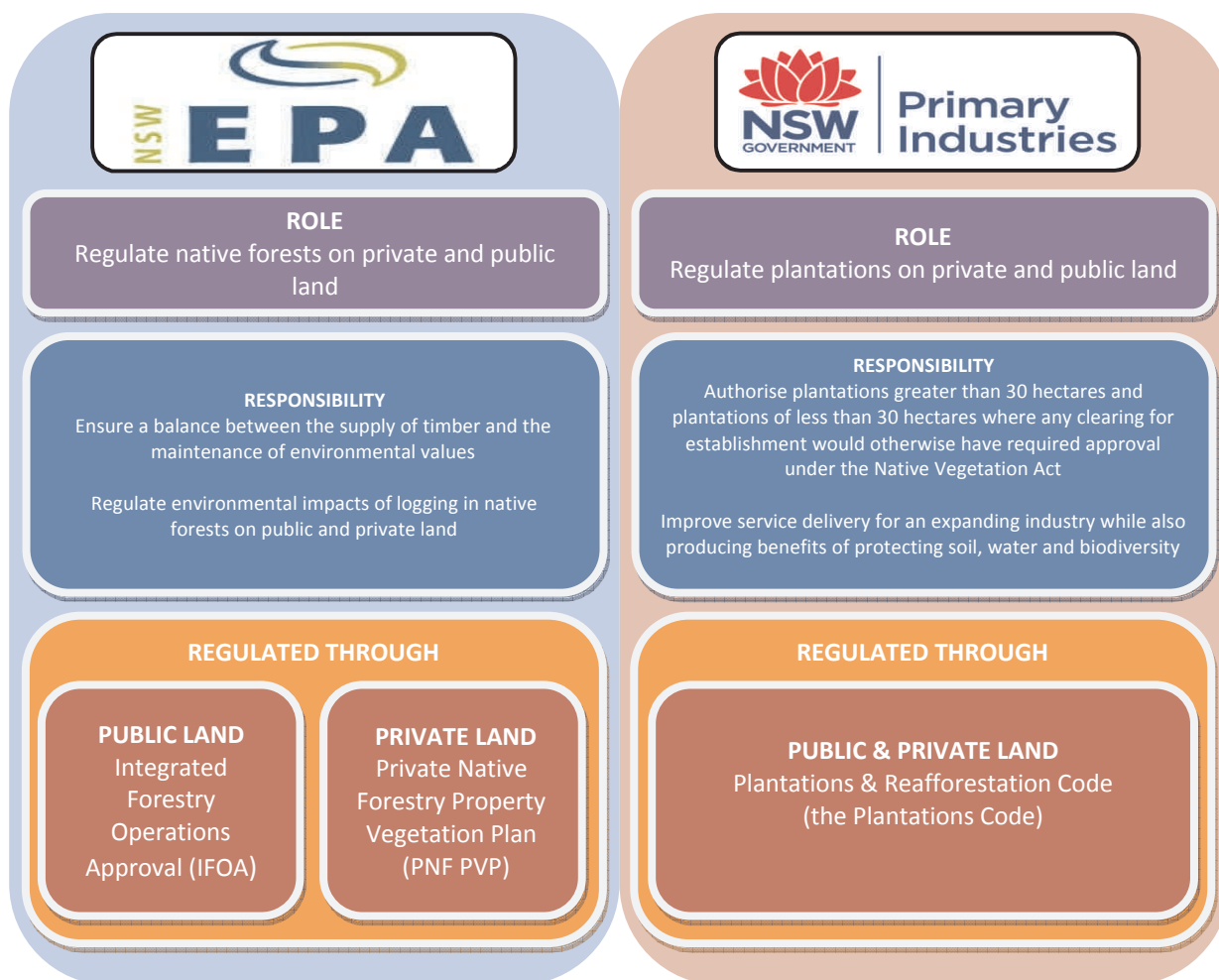
Entities which are not constitutional corporations, and therefore are not regulated under the Act, include:

- state authorities not established as a body corporate
- partnerships
- unincorporated associations
- individuals.

For example, individuals who collect firewood for personal consumption purposes are not regulated under the Act or Regulation.

## How is timber harvesting regulated in NSW?

The Environment Protection Authority (EPA), Department of Primary Industries (DPI), including DPI Fisheries NSW have key roles and responsibilities in the regulation of the New South Wales timber industry.



### Public native forests

The [Forestry Act 2012](#) provides for integrated forestry operations approvals (IFOAs), which integrate the regulatory regimes for environmental planning and assessment, the protection of the environment and threatened species conservation.

The IFOAs provide the formal approval for and conditions that apply to native forest harvesting activities on Crown-timber land as defined in the Forestry Act, including State forests. An IFOA

applies to anyone carrying out forestry operations on State forests and other Crown-timber lands. Forestry Corporation of NSW (FCNSW) is the only organisation authorised to remove timber from these areas.

The IFOAs contain the terms of a licence under the *Protection of the Environment Operations Act 1997*, the *Threatened Species Conservation Act 1995* and the *Fisheries Management Act 1994*. Enforcement of the licences rests with the EPA or DPI Fisheries NSW.

IFOAs allow forestry operations in the regions of NSW Upper North East, Lower North East, Eden and Southern Regions of eastern NSW and the Brigalow and Nandewar, South Western Cypress, and Riverina Red Gum regions of western NSW.

### **Private native forests**

Under the [\*Native Vegetation Act 2003\*](#) (the Native Vegetation Act), forestry operations conducted for the purposes of private native forestry (PNF) – including operations on leases that are not Crown-timber lands under the Forestry Act – require an approved private native forestry property vegetation plan (PNF PVP) from the EPA. A PNF PVP is a legally binding agreement between a landowner and the EPA consisting of a satellite image or aerial photograph of a property and an agreement document. The image or photograph identifies the PNF PVP approval area and areas that are excluded from operations, such as rainforest, old-growth forest and drainage features.

In addition to a PNF PVP, private landholders may also require development consent from their local council under the *Environmental Planning and Assessment Act 1979* (EP&A Act).

Forestry operations in a PNF PVP area must be conducted in accordance with the Private Native Forestry Code of Practice (the Code of Practice). The Code of Practice establishes a regulatory framework for the sustainable management of private native forests by ensuring that operations improve or maintain environmental outcomes.

The Code of Practice is in four parts, with each part applying to a particular area within NSW:

- Northern NSW – land north of the Sydney CBD
- Southern NSW – land south of the Sydney CBD
- River Red Gum Forests
- Cypress and Western Hardwood Forests.

### **Plantations**

The DPI authorises new and existing plantations on both public and private lands under the *Plantation and Reafforestation Act 1999* (PR Act) and *Plantations and Reafforestation Regulation (Code) 2001* (the Plantations Code).

All plantations must be authorised before harvesting occurs, with the following exceptions:

- Plantations that have previously been accredited under the *Timber Plantations (Harvest Guarantee) Act 1995*. These are considered to be authorised under the Plantation Code.
- Plantations established before 14 December 2001, if establishment was in accordance with the requirements of EP&A Act (excluding any re-plantings less than 30 hectares) or any other relevant law. These areas must be harvested in accordance with the existing approvals.
- Plantations meeting the definition of ‘exempt farm forestry’ under the PR Act (i.e. plantations of less than 30 ha where any clearing for establishment would not otherwise have required approval under the Native Vegetation Act’. Harvesting of these areas may proceed as a Routine Agricultural Management Activity (RAMA) under the Native Vegetation Act.

The PR Act is a single legislative instrument to meet the requirements of forest plantation activities, streamlining the process of meeting legislative requirements under multiple pieces of NSW legislation. The PR Act promotes plantation establishment on essentially cleared land. The Plantations Code contains clear and comprehensive standards for establishment, management and harvesting operations on authorised plantations. The Plantations Code details requirements for:

- the level of permissible clearing
- protection of rivers and other drainage features
- protection of cultural sites
- roading and harvesting operations
- fire prevention/ safety provisions.

Plantations must be authorised under the PR Act before any logging in plantations over 30 hectares in size occurs, with the following exceptions:

- Plantations that have previously been accredited under the *Timber Plantations (Harvest Guarantee) Act 1995*. These are considered to be authorised under the Plantation Code
- Plantations established before 14 December 2001, if it was legally established in accordance with the requirements of the EP&A Act (excluding any re-plantings less than 30 hectares) or any other relevant law.

An operational plan is also required if more than 100 trees in any hectare in any year is harvested in authorised plantations. These plans must be prepared to the standards in the Plantations Code and submitted to the Director-General of DPI.

Plantations with an area less than 30 hectares are exempt from requiring an authorisation under the PR Act but can still do so. However, this does not exempt plantation activities, such as establishment and harvest, which occur in areas less than 30 hectares, from complying with other legislation such as the Environment Protection and Biodiversity Conservation Act 1999 and the Threatened Species Conservation Act 1995.

### **Raw logs from other sources**

Processors may also source logs from a number of other sources, including:

- State significant developments
- Local infrastructure projects
- Clearing as a result of land use change.

The type of approval required will depend on which of the above activities the raw log was sourced from. Approvals may include planning approval under the EP&A Act, an approval as a part of a state specific development or a broad scale clearing PVP under the Native Vegetation Act.

## **Identifying legal product from NSW**

Processors sourcing domestically grown raw logs should maintain good business practices, and gather what information is available to assure themselves that the raw log has been harvested in compliance with the relevant state government laws. For example, all commercial transactions are subject to Australian consumer law, which requires suppliers of goods to provide a proof of transaction. A proof of transaction includes a receipt or tax invoice, a copy of which may assist processors in undertaking their due diligence obligations.

## **Public Sources**

### **Public native forest**

For most raw logs sourced from Crown-timber land, information regarding the source of timber will be readily available to processors from FCNSW who are the only suppliers of timber from public native forests. When accepting deliveries from FCNSW, delivery dockets (see sample document at Attachment A) will be provided to processors containing the following information:

- the name of the logging contractor
- the region, location and compartment the log was sourced from
- the type and dimensions of the log
- the total volume of logs delivered.

FCNSW also provides monthly statements to processors which include all of the above information and the certification number if the operation is certified. Although it is not mandatory under law to obtain a FCNSW monthly report, it can assist processors in fulfilling their due diligence obligations.

### **Public plantation**

All timber from public plantation can only be sourced from FCNSW. Nearly all FCNSW plantations are authorised under the P&R Regulation. Processors must ask FCNSW for a copy of the operational plan that has been prepared in line with the P&R Regulation and approved by the Director General of DPI.

FCNSW will also provide a monthly report to processors outlining the areas the timber was sourced, monthly volume figures and whether the plantation is certified. Although it is not mandatory under law to obtain a FCNSW monthly report, it can assist processors in fulfilling their due diligence obligations.

### **Private and other sources**

The timber industry in NSW has developed a template form (see Attachment B) that may assist processors fulfil their due diligence requirements who source their raw logs from private native forests, private plantations and/ or other sources. The summary template contains fields for processors to record all the information required under the Regulation. Although completing and maintaining this form is not required under the Regulation, it may be a useful way for businesses to consistently record relevant information.

### **Private native forest**

A PNF PVP should exist for all private native forest logs received by a processor. In addition, landholders may need development consent under a Local Environment Plan made in accordance with the EP&A Act. If development consent is required, the processors should keep a record of the development application number.

### **Private plantation**

If a processor receives logs from a private plantation, they can check if it is:

- authorised as a complying plantation under the PR Act, or for non-complying plantations, that harvesting has been approved by the Minister; or
- accredited under the Timber Plantations (Harvest Guarantee) Act 1995; or
- issued with a Development Approval under *Environmental Planning and Assessment Act 1979*; or

- is exempt from farm forestry (see definition on page 6).

### **Raw logs from other sources**

If a processor receives a log from any other source, they should collect information about the area and activity where the log is sourced from. This could include the development application number, the application number for a state significant development or infrastructure project and the number of the broad scale clearing PVP.

## **Product sourced interstate**

In Australia, each state or territory is responsible for regulating the timber industry to meet a range of Commonwealth and state legislative and policy requirements. Processors who source raw logs interstate have a responsibility to understand the laws in force in the place of harvest when undertaking their due diligence.

As with the NSW state specific guidelines, the Australian Government developed state specific guidelines in collaboration with relevant government officials in other states. Each state specific guideline contains relevant information to allow processors to identify the information they can obtain in order to be confident that the raw logs they process present a low risk of having been illegally logged.

### **Victoria and Queensland**

NSW forestry regions are in close proximity to forestry regions in Victoria and Queensland, and there are important cross-border industry relationships for these States. For this reason, the State Specific Guidelines for Victoria and Queensland should be read, in conjunction with the State Specific Guidelines for NSW, to understand and apply the due diligence requirements of the State where the raw log is sourced.

The State Specific Guidelines for Victoria and Queensland are available on the Department of Agriculture website at [www.agriculture.gov.au/forestry/policies/illegal-logging/information-resources](http://www.agriculture.gov.au/forestry/policies/illegal-logging/information-resources).



## Who should I contact for further information?



### **Australian Government** **Department of Agriculture**

Australian Government  
Department of Agriculture  
GPO Box 858  
Canberra City ACT 2601  
Phone: 02 6272 3933  
[agriculture.gov.au/illegallogging](http://agriculture.gov.au/illegallogging)  
[illegallogging@agriculture.gov.au](mailto:illegallogging@agriculture.gov.au)



New South Wales Government  
Environment Protection Authority  
PO Box A290  
Sydney South, NSW 1232  
Phone: (02) 9995 5000  
[epa.nsw.gov.au/vegetation/nativeforestry.htm](http://epa.nsw.gov.au/vegetation/nativeforestry.htm)  
[info@environment.nsw.gov.au](mailto:info@environment.nsw.gov.au)



### **Department of Primary Industries**

Crown Lands Division of NSW Trade & Investment  
PO Box 2185  
Dangar NSW 2039  
Phone: 1300 886 235 (Australia wide)  
[www.crownland.nsw.gov.au](http://www.crownland.nsw.gov.au)  
[cl.enquiries@crownland.nsw.gov.au](mailto:cl.enquiries@crownland.nsw.gov.au)

## Further information and resources

Department of Agriculture illegal logging website – [agriculture.gov.au/illegal-logging](http://agriculture.gov.au/illegal-logging)

Information for processors – [agriculture.gov.au/illegal-logging/information-processors](http://agriculture.gov.au/illegal-logging/information-processors)

## **Disclaimer**

While reasonable efforts have been made to ensure that the contents of this guideline and the associated quick reference guide are factually correct, the Commonwealth of Australia does not accept responsibility for the accuracy or completeness of the contents and expressly disclaims liability for any loss or damage, however caused, that may be occasioned directly or indirectly through the use of, or reliance on, the contents of this guideline or associated quick reference guide.

This guideline and its associated quick reference guide is made available on the understanding that the Commonwealth of Australia is not providing professional advice. Before relying on this guideline or its associated quick reference guide, readers should obtain appropriate professional advice suitable to their particular circumstances.

Readers should also confirm that this is the most up-to-date available guideline by referring to the Department of Agriculture website.

# Attachment A – FCNSW delivery docket

**FORESTS NSW  
DELIVERY DOCKET**

29/10/2013 08:54 am No. 566000766

Customer **252108**

Region Central Region(462)  
Forest DINGO Compartment 67  
Location 67N Op Type  
ADFS Age Class 0

Harvester HARDWOOD HARVES  
Crew W HARDWOOD HARVEST

Haulier NEWELLS CREEK S  
Fleet # 0129  
Truck BC61JU Vehicle Type 6 Axle  
Trailer W09301 Total Tare Weight 15.50

**Scanned Logs**

Tag No.	Length	Diam	SPE	Product
GWYUEA /	48	43	BBX	Grader
GWYUB7 /	52	40	BBT	Quota Sawlog
GWYU51 /	50	40	BBT	Hardwood Harvest
GWYTQN /	59	39	BBT	Quota Sawlog
GWYU62 /	52	40	BBT	Hardwood Harvest
GWYULH /	124	51	BBT	Quota Sawlog
GWYUGC /	112	57	BBT	Hardwood Harvest
GWYUKG /	124	45	BBT	Quota Sawlog
GWYUJF /	124	45	BBT	Hardwood Harvest
GWYU3Z /	117	51	BBT	Quota Sawlog
GWYUC8 /	110	66	BBT	Hardwood Harvest
GWYTSP /	112	43	BBT	Quota Sawlog
GWYUFB /	99	37	BG	Hardwood Harvest
GWYU40 /	94	41	BBT	Quota Sawlog
GWYU73 /	111	41	BBT	Hardwood Harvest
GWYU95 /	75	48	BBT	Quota Sawlog
				Hardwood Harvest

Totals: Volume 25.5052 Count 16  
FINAL GROSS 44.00

Driver : [Redacted]  
[Load accepted by driver]

Customer signs to accept [Redacted]

Staff [Redacted] Pty Ltd

**ENTER**  
DATE 29/10 BY [Redacted]

Each Delivery Docket has a unique barcode and timestamp. This information can be used to cross check your delivery with Forestry Corporation NSW.

Information in this section relates to location the raw logs were harvested.

Information identifying the contracted harvester and haulier will be recorded in this section.

The Delivery Docket will provide information about each raw log you receive. This will include information to assist in the identification of the logs, such as; length, diameter, species and product type.

This information can be used to comply with due diligence requirements in *Subsection 19(1)* of the Regulation.

The exchange of raw logs between harvester and processor is recorded here.

# Attachment B – due diligence summary template

## Due Diligence Summary Template for Domestic Processors of Raw Logs

### Domestic Processor Details

Business or company name \_\_\_\_\_ ABN or ACN \_\_\_\_\_  
Street address \_\_\_\_\_  
Postal address \_\_\_\_\_  
Principal business activity \_\_\_\_\_  
Chain of Custody #\* \_\_\_\_\_

### Person responsible for maintaining the system

Name \_\_\_\_\_ Position \_\_\_\_\_  
Telephone number \_\_\_\_\_ Email \_\_\_\_\_

Areas where raw logs harvested / Supplier of raw logs (add as necessary)

Public/Crown Land

Name/trading name (leaseholder) \_\_\_\_\_ ABN/ACN \_\_\_\_\_

Address \_\_\_\_\_

Forest Agreement Region \_\_\_\_\_

Forest Management Certification #\* \_\_\_\_\_

Quantity of raw logs purchased (m<sup>3</sup>, number, tonnes) \_\_\_\_\_

Species of logs purchased \_\_\_\_\_

Forest Agreement Region \_\_\_\_\_

Forest Management Certification #\* \_\_\_\_\_

Quantity of raw logs purchased (m<sup>3</sup>, number, tonnes) \_\_\_\_\_

Species of logs purchased \_\_\_\_\_

### Private Land

Name (landowner) \_\_\_\_\_ ABN/ACN \_\_\_\_\_

Address \_\_\_\_\_ Phone \_\_\_\_\_

PVP/Council Approval Number documentation \_\_\_\_\_

Other authority to harvest \_\_\_\_\_

Quantity of raw logs purchased (m<sup>3</sup>, number, tonnes) \_\_\_\_\_

Species of logs purchased \_\_\_\_\_

Name (landowner) \_\_\_\_\_ ABN/ACN \_\_\_\_\_

Address \_\_\_\_\_ Phone \_\_\_\_\_

PVP/Council Approval Number documentation \_\_\_\_\_

Other authority to harvest \_\_\_\_\_

Quantity of raw logs purchased (m<sup>3</sup>, number, tonnes) \_\_\_\_\_

Species of logs purchased \_\_\_\_\_

Delivery dockets and/or records supporting this information are maintained on site.

This information in accordance with \_\_\_\_\_ State Specific Guidance

Signed \_\_\_\_\_ Date \_\_\_\_\_

\*Chain of Custody and Forest Management certification numbers to be recorded only if available.