



Submission by the  
Forest Industries Association of Tasmania  
to the  
Department of Justice  
in respect to the  
Review of the Planning  
System of Tasmania





The Forest Industries Association of Tasmania (FIAT) would like to thank the Department of Justice for the opportunity to comment on the review of the Planning System of Tasmania.

The Forest Industries Association of Tasmania (FIAT) is an industry association formed in 1983 to represent the interests of processors of Tasmanian forest products. FIAT was formed out of a predecessor Association, the Tasmanian Timber Association. FIAT and TTA collectively have provided representational services to the Tasmanian timber industry for in excess of 60 years. Our members' activities are diverse and include:

- the production of veneers, hardwood and softwood timber, pulp and paper
- woodchip production and export
- plantation and native forest management.

FIAT's 18 member businesses include all of the State's larger processors of forest products. They utilise a significant proportion of the crown sawlog output as well as all of the veneer produced in the State. FIAT Members' activities account for more than 75% of the gross value of production in the forest and wood products industry in Tasmania.

Included within the FIAT membership are the State's largest industrial forestry Companies that account for the vast bulk of plantation development and management enterprises on private land in Tasmania as a consequence we have a significant interest in the creation and application of planning Schemes.





FIAT's role is described in our Annual Report as follows: -

***“Role***

In addressing its first objective, FIAT's role is characterised by helping to create the right external environment within which industry has to operate. This has two main dimensions - the policy environment and the public image of the industry in the eyes of the community.

The policy environment centres on government legislation and regulations which determine the limits to what industry can do. The policy environment must be tackled at both the Federal and State Level.

Industry's public image rests on public opinion and the various factors which influence that opinion. This is important because public opinion has a strong bearing on the development of Government policy.

In addressing its second objective, FIAT's role is to facilitate discussion and joint action among its membership, and to project membership position in wider forums as appropriate.





### **Forest Industry Contribution to Tasmania**

A survey was conducted of the major processors in the State to gain a greater understanding of the economic contribution that the forest industry makes to Tasmania. The information collected was then broken down into local government areas. Appendix 1 details the results of this survey. It is clear that the forest industry contributes significantly to the economic fabric of Tasmania and is regarded as a major industry, as such it is important that all councils and planning schemes are consistent in their treatment of the forest industry and industry related developments.





## **General Comments**

FIAT makes this submission to suggest ways in which planning system decisions may be streamlined and improved in relation to forestry. These suggestions are based on recent experience dealing with the development of draft planning schemes, where there same problems have been encountered across multiple councils. This has resulted in costly hearings due to the employment of a barrister to represent our case, and frustration on behalf of the RPDC because they have had to hear the same objections each time. This seems especially pointless considering that our objections were largely approved of by the RPDC in all cases. Here we outline the main problems we have encountered in the planning process and suggest a method of streamlining the process by creating a planning directive covering the relevant aspects. We also comment on the role of Private Timber Reserves, and suggest that all elected members of councils receive education in the area of planning within a prescribed time period. A more detailed analysis of the relationships between planning schemes and forestry has already been undertaken by the Local Government Forestry Consultative Committee, this report “Planning issues, Options to improve the consistency and integration of planning systems that relate to forestry and local government” is attached at the end of this document (appendix three).





## **Problems Frequently Encountered with Planning Schemes**

Forestry is a highly regulated industry at both the state and national level; there are no less than 15 acts or policies applying to forestry operations (appendix two).

Draft planning schemes have often included components that conflict directly with Tasmanian legislation or subordinate legislation, including in particular the *Forest Practices Code*. At a federal level Planning schemes have also conflicted with the spirit and intent of the National Forest Policy Statement, and the Permanent Native Forest Estate policy.

### ***Forest Practices Code***

The forest practices system through the Forest Practices Code provides the standards which must be met to provide reasonable protection for the cultural and natural values of the forest. The system is administered by the Forest Practices Authority and applies state-wide to all land. A Forest Practices Plan is required for the following forest practices, including land clearing:

- Harvesting and regenerating native forest
- Harvesting and or establishing plantation
- Clearing forests for other purposes
- Clearing and converting threatened native vegetation communities
- Constructing roads and quarries for the above processes
- Harvesting tree ferns





### ***National Forest Policy***

In 1992 the Australian, State and Territory Governments determined to enact a National Forest policy Statement (NFPS) that outlined the jointly agreed manner in which they would co-operate in ensuring the sustainability and economic viability of Australia's forests, both native forest and plantation. The NFPS was ultimately signed by Tasmania on 12 April 1995. The NFPS indicates that *“there is a need for State and Local Governments to simplify planning procedures and to ensure that land use planning controls and land rating systems do not discriminate against plantation development.”*

### ***Permanent Native Forest Estate Policy***

In the promulgation of the Tasmanian Regional Forest Agreement, Tasmania agreed to the creation of a Permanent Forest Estate Policy which was in turn implemented at 80% of the 1996 forest estate. That policy has recently been amended by way of the Permanent Native Forest Estate Policy through the Tasmanian Community Forest Agreement with the native forest estate retention level being increased to 95% of the 1996 native forest estate. In both cases there were additional safeguards established through the policies for protection of forest communities on a bio-regional basis.





FIAT maintains that it is essential the Local Government Planning schemes be consistent with State and Federal Government policy and regulation. Considerable confusion arises where there is incompatibility between regulation by Local Government and the legislative and policy positions of State and Federal Governments. This confusion can be overcome by planning schemes referring to and adopting Government regulation. FIAT recommends that a planning directive be written to this effect.

### **Private Timber Reserves**

Private Timber Reserves play an important role in streamlining planning processes and offering resource security for landowners. Where a Private Timber Reserve is not in place, there is a duplicated requirement for the approval of a forestry operation through both the Council planning system and the Forest Practices Board's requirements. The concern is that, not only does this lead to duplication and waste of resources, but such separate approvals sometimes contain conflicting conditions. The attached document "Planning issues, Options to improve the consistency and integration of planning systems that relate to forestry and local government", goes into more detail on the issues surrounding Private Timber Reserves. Private Timber reserves currently act to streamline planning processes and ensure there are no conflicting requirements asked of landholders. For these reasons alone it is imperative that Private Timber Reserves continue to be allowed.





### **Education of Elected Council Members in Planning**

In support of the recommendations made by the legislative council select committee, FIAT asks that education in the area of planning be made mandatory for all elected members of councils within a prescribed time. In our opinion this will make the planning system more credible and less open to interpretation, therefore allowing the planning process to run more smoothly.

### **Conclusion**

FIAT maintains that it is essential the Local Government Planning schemes be consistent with State and Federal Government policy and regulation. FIAT recommends that a planning directive be written to ensure planning schemes refer to and adopt Government regulation especially the Forest Practices Code. It is imperative that Private Timber Reserves continue to be allowed as they streamline the planning process and benefit both councils and landholders. To ensure elected members of councils understand the planning system education in the area of planning should be made mandatory within a prescribed time.





## Appendix One

FOREST INDUSTRY CONTRIBUTION TO STATE ECONOMY 2003/04				
FIAT - June 24, 2005				
Expenditure \$				
Council <sup>1</sup>	GS Expenditure	Wages	Rates	Expenditure per Council
King Island	\$45,004			\$45,004
West Coast	\$623,989	\$478,269	\$8,311	\$1,110,568
Circular Head	\$22,839,759	\$6,663,846	\$131,105	\$29,634,711
Waratah/Wynyard	\$18,369,996	\$2,467,638	\$155,122	\$20,992,756
Burnie	\$72,138,131	\$23,348,228	\$516,608	\$96,002,968
Central Coast	\$14,061,979	\$1,337,766	\$34,619	\$15,434,363
Devonport	\$39,427,113	\$20,196,349	\$66,600	\$59,690,062
Latrobe	\$7,736,931	\$6,086,212	\$114,542	\$13,937,685
Meander Valley	\$20,331,732	\$1,897,204	\$31,684	\$22,260,620
West Tamar	\$12,248,526	\$3,700,160	\$17,986	\$15,966,672
Georgetown	\$14,464,738	\$6,027,610	\$226,137	\$20,718,485
Launceston	\$291,258,442	\$29,449,111	\$403,806	\$321,111,359
Dorset	\$10,149,026	\$7,006,442	\$25,577	\$17,181,045
Kentish	\$4,110,044	\$84,667	\$21,626	\$4,216,336
Break O'Day	\$5,987,279	\$1,886,370	\$13,224	\$7,886,873
Northern Midlands	\$11,224,579	\$2,411,791	\$10,200	\$13,646,570
Central Highlands	\$13,991,912	\$1,225,489	\$23,380	\$15,240,781
Southern Midlands	\$1,565,501	\$66,493	\$6,400	\$1,638,394
Derwent Valley	\$18,738,543	\$5,734,778	\$257,621	\$24,730,941
Glamorgan/Spring Bay	\$19,235,431	\$2,317,480	\$16,347	\$21,569,258
Sorell	\$3,313,300	\$194,615	\$1,000	\$3,508,915
Tasman	\$635,317		\$5,000	\$640,317
Clarence City	\$13,834,053	\$1,698,867	\$4,500	\$15,537,420
Brighton	\$629,635	\$150,095	\$0	\$779,730
Glenorchy City	\$31,394,032	\$3,879,458	\$148,516	\$35,422,005
Hobart	\$218,626,431	\$21,667,279	\$12,755	\$240,306,465
Kingborough	\$18,012,713	\$654,246	\$1,900	\$18,668,859
Huon Valley	\$22,285,762	\$5,392,164	\$134,257	\$27,812,183
<b>Total</b>	<b>\$907,279,898</b>	<b>\$156,022,625</b>	<b>\$2,388,823</b>	<b>\$1,065,691,346</b>

<sup>1</sup> The expenditure in any particular Municipality may be impacted by payment for goods such as logs to the head office of Forest Company whilst the contractors live regionally and approx 40 country sawmillers expending an estimated \$60million/yr was not included

### Combined Expenditure of:

Artec	Gunns Ltd
Auspine	Huon Valley Timber
Australian Paper	McKay Timber
Britton Timbers	Morgan Timbers (Tas)
Clennett Industries	Neville Smith (Tas)
Corrina Sawmills	Norske Skog (Aust)
Exeter Sawmills	Pinepanels
Forest Enterprises Australia	Porta (Tas)
Forestry Tasmania	Rayonier
Frenchpine	Tasmanian Special Timbers

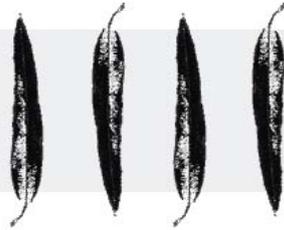




## Appendix Two

Taken from “A guide to planning approvals for Forestry in Tasmania.”

Prepared by the Local Government Consultative Committee. Available on the Forest Practices Authority Website [www.fpa.tas.gov.au](http://www.fpa.tas.gov.au)



## LEGISLATION AND POLICY GOVERNING FORESTRY IN TASMANIA

All forest practices require approval under the *Forest Practices Act 1985*. Some may also require approval under the *Land Use Planning and Approvals Act 1993*. Other Acts also apply; see Table 2 below. Approval under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* may be required in some situations.

**Table 2 Main Acts and policies applying to forestry in Tasmania**

Act/policy	Description	Act/policy applies to			
		State forest	Other public land	Private land	Declared PTR
<i>Forest Practices Act 1985</i>	Establishes the framework for regulating forest practices across all tenures; requires development and implementation of the <i>Forest Practices Code</i>	✓	✓	✓	✓
<i>Land Use Planning and Approvals Act 1993</i>	Implements the Resource Planning and Management System to achieve sustainable outcomes from the use and development of the state's natural and physical resources		✓	✓	

More information can be found on the Tasmanian law website <[www.thelaw.tas.gov.au/index.w3p](http://www.thelaw.tas.gov.au/index.w3p)>

**Table 3 Additional Acts and policies applying to forestry in Tasmania**

Tasmanian Act/policy	State forest	Other public land	Private land	Declared PTR
<i>Forestry Act 1920</i>	✓			
<i>National Parks and Reserves Management Act 2002</i>		✓	some*	
<i>Aboriginal Relics Act 1975</i>	✓	✓	✓	✓
<i>Crown Lands Act 1976</i>		✓		
<i>Fire Service Act 1979</i>	✓	✓	✓	✓
<i>Environmental Management and Pollution Control Act 1994</i>	✓	✓	✓	✓
<i>Threatened Species Protection Act 1995</i>	✓	✓	✓	✓
<i>Workplace Health and Safety Act 1995</i>	✓	✓	✓	✓
<i>Inland Fisheries Act 1995</i>	✓	✓	✓	✓
<i>Agricultural and Veterinary Chemicals (Control of Use) Act 1995</i>	✓	✓	✓	✓
<i>Regional Forest Agreement (Land Classification) Act 1998</i>	✓	✓	✓	✓
<i>Nature Conservation Act 2002</i>	✓	✓	✓	✓
Permanent Native Forest Estate Policy	✓	✓	✓	✓

\*applies to private land declared as a Conservation Area



**Appendix Three**

**A REPORT FROM THE LOCAL GOVERNMENT -  
FORESTRY CONSULTATIVE COMMITTEE ON**

**PLANNING ISSUES**

**Options to improve the consistency and  
integration of planning systems that relate to  
forestry and local government.**



Forest Industries Association  
of Tasmania



October 2003

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## **1. Introduction**

The relationship between local government and the forestry sector has been raised as an issue of concern. A number of resolutions were passed at the May 2001 LGAT Annual Meeting that led to the establishment of a Local Government Forestry Consultative Committee (LGFCC). This Committee first met in August 2001 and subsequently programmed its work to cover the broad areas of planning, social issues, infrastructure, water and communications. This paper explores the options to improve the consistency and integration of planning systems that relate to forestry and local government.

In accordance with the terms of reference for the LGFCC, these “planning” investigations will:

- seek to identify the nature and scope of issues of concern;





- review the efficacy of existing mechanisms for local government involvement and consultation on forestry matters;
- develop mutually agreeable solutions for improving existing mechanisms or for developing new mechanisms; and
- confine its work to the forestry sector and to areas of direct responsibility to local or State government.

The focus has therefore been to explore the opportunities for improving the integration of planning practices between the Forest Practices System and the Resource Management and Planning System. This recognises the provisions of the current Tasmanian legislative framework and the desire to achieve equitable outcomes for all land uses.

This Planning Issues paper was developed by a Planning sub-committee of the LGFCC that consisted of representatives from the Local Government Association of Tasmania, the Forest Practices Board, the Resource Planning and Development Commission and a number of local Councils. The sub-committee met on a number of occasions during 2002 and forest industry representatives provided further comment. The paper was then considered and ratified by the LGFCC during 2003.

The Planning Issues paper attempts to accommodate the range of views within both the local government and forestry sectors in a balanced manner. It is an attempt to portray these views and develop options to improve the ongoing working relationships. It is therefore intended to act as a framework for further discussion and to facilitate comment from the relevant organisations and agencies. It is intended that more specific recommendations will be developed after such comments are assessed.

## **2. Background**

### **2.1 The existing Forest Practices System**

The decision as to whether land may be used for the purposes of forestry is made by the Parliament with respect to the dedication of State Forest, and by local government under planning schemes with respect to private land. Private land may be declared as a Private Timber Reserve (PTR) under the *Forest Practices Act 1985*, but only if forestry is not a prohibited use under the relevant planning scheme.





The provisions of the *Forest Practices Act 1985* and the Forest Practices Code control forestry activity on all land. Proposed forestry activity on land that is not State forest or PTR may be subject to assessment under the *Land Use Planning and Approvals Act 1993* through local planning schemes.

The *Forest Practices Act 1985*:

- ensures that all forest operations are conducted in accordance with the Forest Practices Code
- provides for the issue of that Code
- provides for the creation of Private Timber Reserves
- provides for the constitution of the Forest Practices Tribunal

The *Forest Practices Act 1985* is administered by the Forest Practices Board. The Board fosters a cooperative approach to forest management and encourages the “self-regulation” of forest operations by the industry. The Board includes a member who has expertise and knowledge of local government.

While the act encourages “self regulation”, it is more accurate to say that it is based on co-regulation. That is, it promotes self-management of performance by industry, but with independent oversight, auditing and enforcement by the Forest Practices Board. In this way it operates similarly to the federal tax system in that the Board independently sets standards, monitors and formally audits performance and enforces the Act where necessary. It goes further by requiring minimum competency standards from those that it accredits to undertake the planning of forest operations. The Board reports on compliance and performance through its Annual Report to Parliament.

The Forest Practices Code is a set of guidelines for forest operations. It provides a set of standards that aim to protect environmental values during the forest operations. The Code is reviewed regularly, with provisions for public input, to ensure that it is up to date and relevant.

The forest industry is responsible for the planning and supervision of its operations through accredited Forest Practices Officers to ensure compliance with the Code and the Act. The two major forestry



organisations within the State (Gunns and Forestry Tasmania) have environmental management systems in place which have been externally certified to ISO14001.

Forest management is primarily delivered by Forest Practices Officers who carry out the day-to-day supervision of forest practices, within a regulatory framework monitored by the Forest Practices Board. These are trained forest officers, accredited on a regular basis by the Forest Practices Board to minimum competency standards, and employed throughout the forest industry. The larger companies employ such officers as permanent members of staff, while smaller companies/contractors employ consultant Forest Practices Officers.

Forest Practices Officers have responsibilities and powers under the Act to ensure that forest operations comply with the Forest Practices Code. Forest Practices Officers are subject to regular accreditation and training processes administered by the Forest Practices Board. They are supported by a team of scientists and specialists employed by the Forest Practices Board. Penal sanctions can be applied against a Forest Practices Officer for unsatisfactory performance. These sanctions include suspension and loss of accreditation.

The Forest Practices Board conducts independent audits to assess whether appropriate standards are being achieved. The results of these audits are publicly reported through the Board's Annual Report to Parliament. Failure to reach the standards can lead to substantial penalties.

**A Certified Forest Practices Plan (FPP) is required before any harvesting or reforestation work starts. Plans are required for roading, quarries, harvesting, clearing of trees and plantation establishment. The Forest Practices Code provides for information within plans to be made available to interested parties. Requests for information are directed through the landowner, and there may be a fee charged to cover the costs of providing a copy of a Forest Practices Plan.**

The Forest Practices Code provides that a notification of intent to conduct forest operations must be sent to the Council and to all landholders within 100 metres of the boundary of the proposed forestry activity. This notification should be given at least 30 days prior to the commencement of operations and includes information on proposed roading, harvesting and reforestation operations. Specific consultation with local government is required under the Code for:





- areas with landscape protection provisions in planning schemes
- operations which potentially affect water quality in a listed town water supply catchment
- construction of a new access or major upgrading of an existing access for timber harvesting onto local government roads

Major timber processors (i.e. those companies harvesting more than 100,000 tonnes p.a.) must lodge a 3 Year Plan detailing the proposed location of harvesting, volumes of timber and transport routes. Councils are now provided with such plans prepared to a consistent format from Forestry Tasmania and the larger private companies. The Forest Practices Board has overseen a process of developing 3 Year Plans that provide simple, consistent, useful information relevant to Councils.

**On 20 July 2000, a "Good Neighbour Charter for Commercial Tree Farming in Tasmania" was signed. This was signed by all the major forestry companies in Tasmania and basically states the industry's good intent in working with and consulting with the owners of neighbouring properties to plantations. It provides high level contact details to lodge and resolve any concerns or complaints in regard to the implementation of the charter.**

The *Forest Practices Act 1985* was amended to provide that from 1 January 2002 all tree clearing (over 1 hectare or 100 tonnes or on vulnerable land) is subject to the Act, irrespective of whether the land is being cleared for plantation forestry, for residential subdivisions or for agriculture. The impact of this amendment is that all tree clearing is subject to the controls of the Forest Practices Code and therefore incorporates the established practices and procedures associated with Forest Practices Plans. The Board exercises this control within the context of the Permanent Forest Estate Policy that forms the only State-wide strategic context for the conservation of forest communities.

## **2.2 The existing Private Timber Reserves system**

The rationale for Private Timber Reserves (PTRs) is to provide security of land use for forestry on private lands. This is in recognition of the long-term nature of any investment in a "tree crop" compared to other forms of agriculture. By having land declared as a PTR, a landowner is providing a commitment to the long-term management of the land for the purposes of establishing forests, or growing and harvesting of timber.

In return, the landowner is given the relative security of not having such an investment being subject to different planning controls that may exist for forestry at the future time of harvest – that is, when the long-term





investment matures. This recognises the unique problem which faces forestry as a long term investment, compared to most other agricultural crops where planting and harvesting are accomplished within much shorter, usually annual, timeframes, or where harvesting and land preparation does not normally attract special planning provisions.

A PTR cannot be granted over land for which forestry is a prohibited use under the planning scheme. PTRs were introduced by the State government to ensure a consistent, State-wide approach to the regulation of forest practices, rather than having a range of different outcomes under a large number of planning schemes across (currently 29) municipal areas. They also provide security for investors in forestry against longer-term changes in planning requirements and remove the apparent duplication inherent in requiring both a planning permit and a certified Forest Practices Plan.

A planning permit from a Council is not required for forestry operations on land that is declared a PTR. A certified Forest Practices Plan under the *Forest Practices Act 1985* is required. In reality, many forestry applications for plantations are approved by Councils, prior to a PTR being issued. This is because the approval of PTRs generally takes longer than the time required to obtain an approval under a planning scheme.

It is important to note that a PTR is a caveat on a title and not a prescriptive document. The Forest Practices Plan is the document that prescribes and authorizes the forestry activity.

Under Sec 20(7) of the *Land Use Planning and Approvals Act 1993*, nothing in any planning scheme affects forestry operations on land declared as a PTR. The forest practices planning requirements of the *Forest Practices Act 1985* provide all the necessary approvals. These forest operations include forest establishment, the growing of timber, harvesting and all associated clearing, burning off, road construction etc.

Under Sec 12(1) of the *Forest Practices Act 1985*, the Forest Practices Board can determine what other activities can be undertaken on a PTR. Such activities must be compatible with the use of the land as a PTR and may include grazing under established trees, nature based recreation, hunting, beekeeping and scientific studies. Other unrelated development proposals are subject to the normal planning approval processes of the local Council.

When a landowner applies to the Forest Practices Board for a PTR, Private Forests Tasmania undertakes the preliminary administrative processing of the application on behalf of the Board. An inspection of the property and evaluation of natural and



cultural values are required to ensure that the land is suitable for forestry. The application is advertised in the newspaper and Council is notified. There is then a period in which "prescribed persons" can object to the application. This includes a local or State authority, neighbours within 100 metres or a person who has a legal or equitable interest in the land to which the application relates.

A PTR cannot be declared and shall be refused as a PTR if the Board (see Section 8(2) of *Forest Practices Act 1985*) is satisfied that:

- (a) the application has not been made in good faith and honestly;
- (b) the land is not suitable for declaration as a private timber reserve;
- (c) a person who has a legal or equitable interest in the land, or in timber on the land, would be disadvantaged if the application was granted;
- (d) by virtue of the operation of any Act, the owner of the land is prohibited from establishing forests, or growing or harvesting timber, on the land: or
- (e) it would not be in the public interest to grant the application; or
- (f) an owner of land referred to in paragraph (d) of the definition of "prescribed person" in Section 7(4) would be directly and materially disadvantaged if the application was granted.

Applicants and prescribed persons have the right to appeal if aggrieved by a decision of the Board relating to the approval or refusal of a PTR. Appeals are heard by a Tribunal convened under the Act and chaired by a legal practitioner.

### **2.3 The existing local government planning approval system**

All forest operations outside of State Forests and PTRs come under the jurisdiction of the Resource Management and Planning System (RMPS). This is a suite of complementary legislation that governs all land use and development within Tasmania. The Crown is also bound by the provisions of the RMPS. The objectives of this system are:

- (a) *to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity; and*
- (b) *to provide for the fair, orderly and sustainable use and development of air, land and water; and*
- (c) *to encourage public involvement in resource management and planning; and*
- (d) *to facilitate development in accordance with the objectives set out in paragraphs (a), (b) and (c); and*
- (e) *to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.*

A key element of this system is "sustainable development" and this is defined as follows:





“sustainable development” means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural well-being and for their health and safety while –

- (a) *sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations; and*
- (b) *safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
- (c) *avoiding, remedying or mitigating any adverse effects of activities on the environment.*

Local government is primarily responsible for the implementation of the *Land Use Planning and Approvals Act 1994*, (LUPAA) and subsequently for the preparation, implementation and maintenance of local planning schemes. All planning schemes are required to be consistent with the objectives of the RMPS. Planning schemes deal with new development proposals and seek to manage potential land use conflict in an efficient and equitable manner.

Council areas vary widely across the State and as such local interpretation and implementation varies within the constraints of the LUPAA. Councils are democratic bodies and retain the right to develop land use policies that are locally specific and which meet the needs and aspirations of local communities.

The development of all local planning schemes is publicly accountable and they are ultimately approved by State government as being consistent with the RMPS before they can be implemented. Further decisions made in accordance with the planning schemes may be (in the case of discretionary uses) subject to a public appeals process and independent third party review (i.e. by the Resource Management and Planning Appeals Tribunal).

In implementing its planning scheme, forestry is treated by Council like any other land use or development. It is assessed against the relevant scheme provisions and a permit, if required, is issued with or without conditions or refused as appropriate. Failure to enforce the planning scheme makes Council liable to prosecution.

Forestry, as a land use within a planning scheme, may be a permitted "as of right" use (exempted from requiring a permit), a permitted use (for which a permit would be issued with or without conditions), a discretionary use (where Council has the discretion to approve or refuse the application) or it may be prohibited.

Private Forests Tasmania has compiled an inventory of all the planning scheme provisions across the State as they relate to forestry. It is evident from this that there is a great deal of variety in how forestry is dealt with. Most planning schemes require a permit for forestry activities within Rural zones, though there are many instances where it is a P1 or "as of right" use in such zones.





While local government planning schemes are part of the broader State RMPS, they tend to take a fragmented and local approach to forestry. The Forest Practices System, takes a broader State-wide approach and, as a result, has operated somewhat independently of these planning schemes. To date, this has led to the development of an established process for allocating suitable lands for forestry purposes (by way of State legislation and the RFA) and then managing those lands (by way of the Forest Practices Code). There are however some unresolved issues (mainly relating to private land) that can only be suitably accommodated by improving the relationship between the forestry and local government planning systems. This is essentially the subject of this report.

The draft planning directive for the format and structure of planning schemes (issued by the RPDC in March 2002) requires permits to be obtained for any use and development of land. This means that there would be no "as of right" uses within planning schemes that are prepared in accordance with the directive. The Resource Planning and Development Commission is now assessing the draft planning directive with a view to making a recommendation to the Minister on whether it should be issued. One impact of this directive is that permits will be more often required for new agricultural and forestry uses, where these are currently "as of right" uses in Rural zones.

The Minister for Primary Industries, Water and Environment has also recently written to Councils to seek ways of using the planning system to better protect high conservation vegetation communities – specifically non-forest vegetation. He has also canvassed the intention to establish a mechanism whereby landowner management agreements that cover the management of threatened vegetation communities will interact with the planning system. This is so the existence of such certified agreements can exempt landowners from development controls.

The planning schemes themselves are different and interpret the aims and intents of the RMPS for local areas. How they regulate development (including forestry) does vary between different municipal areas, reflecting the different issues that they face and the particular views of local Councils. For example, planning schemes in rural areas will deal more comprehensively with forestry as a potential land use compared to planning schemes covering urban areas.

## **2.4 Other policy considerations**

Within Tasmania, natural resource management and land use planning in general is dealt with by way of a variety of legislation, policies, guidelines and agreements. While the RMPS embraces most of this within an integrated framework, there is still considerable work to be done to more effectively coordinate these various planning and management systems.

The State government has endorsed the Tasmanian Natural Resource Management Framework – and related legislation is now in place. This was developed to provide the State with a systematic way of integrating natural resource management (NRM), to ensure consistency and efficiency in natural resource





outcomes. It is to provide a strategic framework within which the Tasmanian government and community can facilitate the integration of the activities of a wide range of entities that are involved in the management of natural resources. Its operation is to include, and not replace, the formal systems by which the State government currently regulates natural resource use.

The Tasmanian NRM Framework states that the RMPS “will continue to provide the overarching legislative framework for natural resource management and for planning and development control. The NRM Framework will help to integrate the elements of this system, inform decision making and deal with those aspects of NRM that are not driven or delivered through legislative means”. The NRM Framework and its enabling legislation are based on the Objectives of the RMPS.

Land use outcomes will therefore be driven by the existing regulatory controls and by various means of encouragement or incentives. The NRM Framework provides the context within which these outcomes can be arrived at. Reduced regulation is being promoted where it is possible to achieve the best NRM outcome and community activities such as Landcare are encouraged. The Framework sets out the overall principles that should inform decision making, these being:

- an ecosystem approach
- balanced decisions in accordance with the objectives of the RMPS
- integrated management within regions and across industry sectors, government agencies and specific issues
- priorities based on best available information
- that prevention is better than cure
- partnerships between all levels of government and community
- we are all responsible for managing natural resources sustainably

There is now a need to facilitate and secure the commitment of stakeholders and their communities of interest to the NRM strategies that are to be developed for the State's three NRM regions. This strong level of commitment and ownership is central to the successful implementation of the overall Framework. More specifically, the above mentioned principles now need to be taken into account in reviewing the relationships between local government planning processes under the RMPS and forestry planning and management processes under the *Forest Practices Act 1985*.

While Councils are very interested and often closely involved in the forestry activities on State Forests, the main impact on local government has been forestry operations and the expansion of plantation development on private lands. The recent background to this is as follows.

In 1997, Tasmania signed the Regional Forest Agreement (RFA) with the Commonwealth. Tasmania is also a party to the National Forest Policy Statement and the 2020 Plantations Vision. In 1998 the Tasmanian government set targets for both thinning of native forest and new plantation establishment on State forest to maintain the productive capacity of Tasmania's forest lands in the wake of the



significant withdrawal of resources and inclusion of forest lands within the conservation reserve system. The RFA established a forest reserve system (about 40% of forests protected) and a complementary management system for forests outside reserves.

The RFA provides for secure long-term access to those remaining wood resources that are not included in the reserve system. Both Commonwealth and State governments are strong supporters of an expanded plantation program as a means of effectively implementing the RFA. The private sector has also actively expanded the plantation estate as part of company business strategies to establish a competitive scale resource base.

Through the RFA, the State government developed a Permanent Forest Estate Policy. The current policy sets a minimum threshold percentage that must be retained and below which native forest vegetation cannot be cleared for conversion to other land uses. All forested land in Tasmania has been classified according to the type of forest community it contains, where it occurs in the State and how much existed in 1996. The minimum thresholds are set for three levels: State, regional (e.g. IBRA bio regions) and forest community. The State-wide threshold is currently 80% and at least 50% of each forest community type within each region in 1996 must be retained. These thresholds are currently being reviewed by the State Government, with the threshold for public land having already been agreed to be at least 95% retention. A moratorium on conversion is currently in place for rare, vulnerable and endangered forest communities and this is to be further strengthened as part of the review of the Permanent Forest Estate. The Permanent Forest Estate Policy is overseen by the Forest Practices Board. It provides the only effective State-wide strategic framework for the protection and conservation of forest communities.





A combination of this government policy and community criticism has resulted in a trend toward plantation establishment on cleared farmland. Such a trend is also supported by the availability, productivity and cost of such land, together with the need for shorter lead times to establish cleared sites suitable for the private investment market. There is also a trend in many areas of farmers wanting to ‘leave the land’ and this has also acted to ensure a ready supply of farmland for plantation purposes.

### **3. Roles and Responsibilities**

A clarification of the relative roles and responsibilities of State and local government is fundamental to any discussion about a more integrated approach to the efficient management of forestry. The following list summarises these existing roles and responsibilities as they relate to forestry and government.

#### **3.1 Roles of State Government:**

1. Determines the legislative framework for natural resource management and the State’s planning systems.
2. Sets State-wide objectives for nature conservation, land use planning policy and sustainable forest management (including the maintenance of a permanent forest estate)
3. Oversees State-wide priorities for economic development and major infrastructure
4. Consistent with 1 and 2, makes land use decisions for public land – through the dedication of public land for various purposes, including conservation (reserves) and wood production (State Forests)
5. Provides a mechanism for long-term security of land use for forestry on private land – through Private Timber Reserves
6. Sets and enforces uniform environmental standards for the State – under the *Forest Practices Act* and the *Forest Practices Code*



7. Provides for the statutory review and approval of planning schemes – issues State Policies, directives and guidance to ensure planning schemes are consistent with State goals and objectives

### 3.2 Roles of Local Government:

1. Determines the overall strategic direction for local municipal areas
2. Determines appropriate land use and development standards on private land – through planning schemes and its role as a statutory planning authority
3. Provides and maintains local public infrastructure, such as roads and bridges
4. Increasingly has a role in promoting and facilitating local economic development and sustainable natural resource management

### 3.3 Combined Roles:

1. Ensures that forestry activities are consistent with State-wide and regional priorities
2. Ensures that relevant information on forestry activities and other planning activities is available to the public
3. Provides opportunities for public concerns to be taken into account and for disputes to be resolved.

Another way of comparing the different roles and responsibilities between State and local government in relation to forestry is to compare the objectives within relevant (that is, local government and forest practices) legislation. This provides the framework within which the respective agencies must operate. For example the functions and objectives of the Forest Practices Board are contained within the *Forest Practices Act 1985* and roles of Councils are set out in the *Local Government Act*. Local government has a clear role to represent community views and to act in the best interests of its local community – including both the rights and interests of private forest owners and their neighbours.

These different roles need to be understood and respected within the decision-making processes that relate to forestry proposals. For example the RPDC regulates planning at a State level and ensures that planning schemes implement State objectives and policies. The Forest Practices Board regulates the forest industry by setting technical standards, both at a local and at a more strategic State-wide level, and ensuring compliance with these standards. Local Councils represent the views of their local communities and are responsible for implementation of State legislation and policy through planning schemes.

## 4. Current Issues





The following list of issues is based upon those that are most frequently raised in respect to forestry matters in a local government context. They have been compiled by the LGFCC sub-committee and are very briefly presented in no particular order.

#### **4.1 Regulation of forest practices**

The Forest Practices System has been criticised for its “self-regulated” nature. As previously mentioned, the current system of regulating forest practices would be better described as co-regulation, in the sense that corporate industry does not regulate itself. The system provides for the Forest Practices Board to provide an independent monitoring and auditing of operations. The Board has the power to impose fines or prosecute when serious breaches occur. It also oversees the operation of trained Forest Practices Officers within the forest industry to certify and monitor the Forest Practices Plans in accordance with the Forest Practices Code.

There have been concerns raised in regard to this perceived self-regulation of the forest industry and these views include:

- The current system of regulation does not give sufficient regard to other competing land uses.





- The Forest Practices Officers are often employees of the company conducting the forestry operation and therefore cannot offer independent advice.
- The Forest Practices Board should be more remote from industry and have more public accountability or scrutiny.

The counter arguments to these views, are that:

- The current regulatory approach is efficient and minimises any unnecessary bureaucratic costs. It encourages the industry itself to accept responsibility and accountability for its own improved environmental performance. In this regard, it is felt to be an example of modern thinking about enlightened and efficient regulatory systems.
- Tasmania's system is one of enforced self-regulation or co-regulation, and is in no way voluntary. It is more accurately described as a co-regulatory approach than self-regulatory. It is a much more rigorous and comprehensive system than currently applies to other major forms of rural land use, such as agriculture. There are many checks and balances to ensure sustainable decisions are made.
- The Forest Practices Board comprises a range of expertise (including local government and nature conservation) and it operates in a transparent and independent manner. Under the Act, the Board is required to work closely with industry in order to foster a cooperative approach to sustainable forest management. A partnership approach is preferred to one that is more adversarial and punitive in nature. Again this concept is in keeping with modern regulatory thinking.
- The system provides a consistent and responsive State-wide framework for forest regulation, which recognises the specific and unique characteristics of forestry as compared to other rural land uses but has comprehensive criteria that ensures adequate consideration of those uses.

#### **4.2 Community consultation**

A particular concern of local government is how it can relevantly deal with community complaints about forestry operations. The Council may be contacted first in this regard as there is a general expectation within the community that the





local Council will be able to deal with most problems relating to land use conflict or traffic impact. Complaints to Councils about forest practices are normally forwarded on to the forestry company concerned or the Forest Practices Board. Other complaints, not related to forestry practices are usually dealt with by the Council.

At this point it is worth noting the resource implications on Councils if they had an increased role in the approval and subsequent compliance process for forestry applications. Councils would be very concerned if they inherited significantly increased workloads in dealing with complaints and ongoing concerns about forestry practices. Councils would also have to acquire both the capacity and the forest management skills to properly address these concerns and this is not a realistic option.

The issue here is the need for a clear process of dealing with and resolving any community complaints that are made. The perceptions are that there are difficulties in knowing who to complain to and there are people who are sceptical about whether anything will be done.

There is also a perception that insufficient regard is given to the concerns of immediate or surrounding neighbours in determining whether a PTR should be approved. There is provision in the Forest Practices Code to take neighbours' concerns into account at the stage of developing a FPP and so the system is





designed so that it is not necessary to deal with it at the PTR stage. The forest industry has sought to negotiate neighbour related issues and resolve them on a case by case basis through the Good Neighbour Charter. Dealing with neighbour issues in such a way has not been seen as an appropriate matter for highly prescriptive or potentially litigious codification.

As a general principle, there should be sufficient safeguards in place to prevent a landowner from having a significant adverse impact upon his neighbour. This is the fundamental purpose underlying the implementation of the Council's planning scheme. It remains to be determined how such safeguards can be best provided for within a combination of the planning scheme, the Forest Practices Code, the forestry legislation (relating to the administration of PTRs or FPPs) or some other instrument (such as the Good Neighbour Charter). This is an ongoing and evolving process of continuous improvement, of which this paper is a part.

The Good Neighbour Charter itself is a commitment of good will on the part of the industry to deal with the concerns of neighbours in a positive and reasonable way. This certainly goes part of the way in dealing with some public consultation issues. It however remains at the discretion of the industry as to how it is applied, and at present it only applies to plantation forestry, and not operations in native forest. Where there are neighbourly concerns, the majority are mutually resolved through negotiation. However it is still a concern to some people that there are no formal appeal or dispute resolution procedures for neighbours or third parties. This is a





broader issue that extends beyond just forestry activity in that similar complaints could be made about a wide variety of other rural and agricultural practices or wherever a development is a permitted use.

There appears to be a significant role for better community education to ensure a more informed debate and a heightened awareness of public and property rights and mechanisms for regulatory protection.

#### **4.3 Third party appeal rights**

There are concerns that the general public, other than immediate neighbours, has no right of appeal in regard to a PTR decision. Only those people who are determined to be a “prescribed person” under the Act, and statutory authorities such as Councils, have a right to object to or appeal against a PTR application. This is different to a Council planning decision for a normal discretionary matter in that anyone may object and subsequently appeal the Council decision.

It is also relevant to note that in most cases forestry is a permitted land use (or even an “as of right” use) within the Rural zones of planning schemes. In such cases, forestry is not subject to third party appeal rights.

The fundamental decision as to whether land may be used for forestry purposes is made within the planning schemes of local Councils. A PTR is a long-term



ratification of this as it must be consistent with the relevant zoning of the planning scheme. This decision of Council (to grant forestry a permitted status within the planning scheme) is interpreted as upholding the broad public interest and representing the general views of the local community. Nevertheless, permitted forestry applications are still assessed for other potential land use conflicts and conditioned accordingly.

It should also be born in mind that a PTR is not a licence to operate like a planning permit is for most activities. The actual “licence to operate” is the Forest Practices Plan.

A resolution of the Local Government Association of Tasmania Conference in 2001 is that – "the general public should have a right of objection to an application for a PTR and a right of appeal against a decision to grant a PTR". This is based on a view that the granting of a PTR is equivalent to an amendment to a planning scheme in that future forestry applications are excluded from having to meet the scheme’s requirements.

#### **4.4 The capacity to deal with specific local issues**

The Forest Practices Code itself is a generic instrument that provides broad and comprehensive controls on forestry practices. A previously expressed concern is that, as a generic guideline, the Code cannot necessarily accommodate specific





local issues. However, Forest Practices Plans are prepared on a site by site basis and take into account the particular circumstances of every local situation. There are many elements of the Forest Practices Code that require professional judgement in interpretation by trained and qualified Forest Practices Officers. As such, the Forest Practices Code sets mandatory minimum standards together with guidelines for best practice.

An example of this is that Forest Practices Plans are prepared on a site by site basis with a broad range of natural and cultural values being evaluated in detail during the planning process. These values include a detailed visual analysis, detailed flora and fauna evaluation, and a detailed analysis of the geological, soil and water and cultural values of the site. It therefore provides a more thorough and comprehensive approach to local management than is required for any other rural land use.

There appears to be a need to clarify the roles of the various regulating authorities in dealing with local circumstances. Councils generally do not want the responsibilities associated with enforcing Forest Practices Plans and they do not usually have the expertise or desire to do so. Councils do however want to be able to address more strategic issues and other potential local impacts that are not necessarily covered by the Forest Practices Plans.





The main concern for Councils is that PTRs are exempt from the Council planning process and conditions cannot be imposed on particular forestry operations to address local issues. Such local issues can be raised at the 3 Year Plan briefings and other areas of specific or common interest can be identified for further investigation.

These local issues can sometimes be accommodated within the Forest Practices Plans themselves. However, Council planning permits for forestry would normally include a range of conditions that would not be covered within Forest Practices Plans. Examples of these are transportation times, particular transport routes, warning signs, good neighbour issues and some locally specific landscape requirements. Some of these issues relate to matters that are not covered by the Forest Practices Code. The Forest Practices Act 1985 limits the matters that the Code can deal with. For example, an issue such as safety concerns regarding log trucks using Council roads is outside the purview of the Code.

Another factor here is that Councils are also more accessible to local communities and have a greater knowledge of local conditions (with respect to private land) than Forest Practices Officers or the Forest Practices Board. The usual Council view is therefore that it is best able to determine relevant conditions on such issues and would like to have a legal opportunity to do so. Councils feel that once a PTR has been granted, this opportunity has been effectively lost.

Nevertheless, it is noted that Councils do have a legal ability under the *Forest Practices Act 1985* to object to the granting of a PTR and, under the Forest Practices Code, are required to be consulted with respect to the preparation of company 3 Year Plans and certain Forest Practices Plans. These latter provisions provide opportunities for negotiated solutions or for Forest Practices Plans to include appropriate conditions that might address Council concerns.





#### **4.5 Duplication of approval and appeal processes**

From a forestry perspective, the Forest Practices Code applies a level of transparent management and regulation that does not exist for other rural land uses such as agriculture. It is also backed up by sound scientific and professional expertise. The Code applies provisions in regard to native vegetation and fauna, ground disturbance, watercourse and soil protection etc, which are not applied to other similar rural land use activities. The forest industry believe that local government planning processes should formally recognise and pick up the provisions of the Code rather than impose inconsistent provisions in planning schemes or planning permits.

From a Council perspective, it is felt that this duplication can be avoided once it is seen that there is a distinctive difference between the initial land use planning decision and the need to control the ongoing operations of that particular development. As long as the planning permit (which determines the use of a particular parcel of land) is designed to be consistent with the Forest Practices Plan (which determines an operational management regime) there should be virtually no duplication of effort.





However, a forestry sector concern is that this consistency is not guaranteed and that Councils may choose to involve themselves in forest operational matters through the planning permit process.

There is also a potential duplication of roles between the Forest Practices Tribunal (FPT) and the Resource Management and Planning Appeals Tribunal (RMPAT).

This is in the sense that the RMPAT may be determining planning permits for forestry applications and the FPT may be making determinations on land use issues beyond forestry. Under the current system, the two separate tribunals could theoretically be judging the same private land forestry proposal. In doing this, the RMPAT would be involving itself (inappropriately?) in technical forestry matters and the FPT would be involving itself (inappropriately?) in complex land use issues unrelated to forestry.

It may be possible to incorporate the FPT within the RMPAT. They both have the same Chairman and the RMPAT is able to incorporate other members with specific forestry expertise. This may be an overly simplistic solution and the current situation (of having two separate tribunals) reflects the fact that there are two different systems (ie the Resource Management and Planning System and the Forest Practices System). It is probably appropriate that there are different tribunal arrangements for as long as these two systems are separated.

#### **4.6 Strategic planning**





There is broad consensus on the need to better integrate the strategic requirements of forestry, tourism, conservation, transport and land use planning, together with many other issues. This is not currently done adequately enough and all sectors of government, industry and the community would benefit from the degree of greater certainty that more coordinated strategic planning exercises would bring.

Such strategic planning needs to be driven by a desire for particular outcomes.

One opportunity is to utilise the Tasmanian NRM Framework that is being implemented. This Framework may be a means by which an improved coordinated strategic planning process can evolve over time, together with an investigation into the relationship of the RMPS with such natural resource dependent industries as forestry.

Some of the issues that relate to strategic planning and natural resource management in the broader sense include:

- There is a continuing need for better natural resource information. Good planning and management decisions can only be made if they are based on relevant and accurate data. During recent years, there have been major advances in the quality of vegetation mapping (due to the RFA and TASVEG), but further improvements should be continuously pursued. These improvements should be utilised by the flora specialists of the Forest Practices Board so that Forest Practices Officers can be kept better informed.
- Local government has in recent years seen the need to become much more involved in the preparation of local NRM strategies, many of which are based upon desired vegetation management outcomes. This is due to the need to improve the basis for coordinating land use and developing suitable responses





to local land and water degradation problems. Local government has been a primary driver of this process (albeit it being largely funded from Commonwealth sources). An issue is how to effectively integrate this work into the established State-based planning and resource management systems.

- Such local NRM strategies are all being done in very different ways and are (as is relevant to this report) dealing with forestry and native vegetation clearance issues quite differently. While they all take full account of the State based vegetation management systems and the information that is available, the recommendations are developed in comparative isolation. It is hoped that, over time, the State's NRM framework and associated regional NRM strategies will greatly improve the coordination of vegetation management activities.
- The conservation needs of vegetation management strategies (as contained within broader NRM strategies) can only be effectively addressed in a regional and strategic manner. Under the RFA, a policy has been set to maintain a Permanent Forest Estate, which prescribes the minimum area of native forest that should be retained – at both State and bio-regional levels. The policy is currently being reviewed with a view, amongst other things, to providing adequate protection for priority (threatened) forest communities.
- Assessing, in any strategic sense, the merits or otherwise of the visual (and cultural) landscape is extremely difficult. There is a subjective element that will always result in everyone having different personal opinions on the value of visual amenity. Forest Practices Plans incorporate an assessment of landscape values, but they do not consider such issues from a regional perspective – mainly because of the almost complete absence of any relevant regional strategies to assist in this regard. The only way to address this would be to complete a prior landscape assessment of a catchment or municipal area. This then raises a whole range of separate issues, such as what methodology for assessing visual importance should be used, what form should any regulation take, and how do you present the assessment in a clear and concise manner to the general public. While there are examples of such assessments (eg the Draft Meander Valley Landscape Assessment Strategy and the Planning Guidelines for Urban Skylines and Hillfaces) they cannot be done in isolation from other competing community values, including the ongoing need for development to occur within affected areas.

#### **4.7 Resource security**

Resource security and certainty of rights to harvest are the major benefits of PTRs from the forestry sector perspective. Forestry as a long-term undertaking and investment, requires special provisions if equity of outcome is to be achieved.

Forestry is a rural land activity, that is quite unlike agriculture in that it takes a



minimum of 10-12 years, and often up to 35-40 (or in the case of native forests perhaps 60-70 years or longer) before a single crop rotation is completed. Special provisions are required to provide the same security for forest investments that other crop investments routinely enjoy.

A much greater level of insecurity arises if separate operations within the crop management cycle are subject to separate planning approval requirements. That is, plantation establishment, thinning and final harvesting might each be separately designated as developments requiring planning consent or permit. Once approval has been achieved for the forestry land use, it is felt to be quite inappropriate that each subsequent operation is subject to similar processes. The inability of the Council planning system to unequivocally guarantee future security of land use and investment is the essential logic behind the establishment of PTRs.

A particular concern within the forestry sector in this regard is the inconsistent approach between Councils to the forestry sector. Different Councils are seen as having very different attitudes to future forestry development within their municipal areas. One Council might be encouraging such development, while its neighbour actively discourages it. Such views might also change over time. This presents significant difficulties in ensuring a coordinated regional or State-based forestry development strategy.

A number of other issues or concerns have been raised in the past in regard to PTRs and the need for resource security. They include:





- The need for long term resource security may not necessarily preclude the need for a planning permit. A possible analogy is that people who build buildings all have a long-term view and require their right to use their investment preserved into the long term. On the other hand such static uses do not trigger a subsequent review unless related to some significant change in use – such as a building extension or a redevelopment to a new use not contemplated in the initial permit. While forestry is therefore not the only land use that seeks long term security or certainty in the planning approval process, it is one of the few where ongoing regular foreseeable management activities may separately require permits, eg plantation establishment, thinning, harvesting etc.
- Resource security should not be used to justify incorrect or inappropriate land use planning decisions. Ensuring there is a secure resource for the forestry sector needs to be balanced against the needs of other industries and the adverse impacts that might be caused. If the use of the land for forestry does cause adverse impacts over time, then the Forest Practices Code, as implemented by the Forest Practices Plan, should address this.
- If a plantation exists and is being managed in an ongoing fashion, then it may have existing use rights under the planning scheme. Similarly, if a planning permit for forestry is issued and the land is being managed for this purpose in an ongoing fashion, then in theory the permit remains current. However, what often happens now is that when a landowner decides to harvest a plantation that is not a PTR, then they need to apply for a permit. It may be appropriate that further legal advice is obtained in this regard so that clarification can be sought on such matters as whether there is a need to define a managed plantation compared to native forest or regrowth. If the issue of existing rights could be unequivocally confirmed it may effectively reduce the need for having PTRs. It should however be noted that this uncertainty of existing use rights and the ongoing requirements for planning permits for forestry (harvesting of plantations) was a key reason why Parliament created PTRs in the first place.
- PTRs only exempt forestry operations on the PTR from LUPAA but they do not insulate forestry from changes in the Forest Practices system. As this progresses and is reviewed, the Forest Practices Code has become more environmentally restrictive and may increasingly limit the ability of landowners to maximise their income over time, even within a PTR.
- The general notion that security comes from a specific exemption from LUPAA is arguable. The security comes from the fact that the land is dedicated in perpetuity as a timber reserve and that this is noted on the title. The PTR insulates the owner from subsequent planning decisions that might effectively reverse the initial consent by inappropriate application to ongoing operational management. This means that that landowner has the right to





manage their long term forestry investment without the impact of changes in planning schemes.

#### **4.8 Planning schemes**

The local planning scheme as administered by the Council is the primary tool in determining land use for a municipal area. Forestry is mostly dealt with as a separate land use within the planning schemes – that is, most planning schemes distinguish between forestry and other “agricultural” uses. Forestry is therefore seen to be different to the ongoing agricultural regime of planting and harvesting crops.

It is however sometimes contended that this should not be so and that plantations, in particular, are “tree crops”. This is somewhat consistent with the State Policy on the Protection of Agricultural Land 1999 which defines “agricultural uses” as meaning “animal and crop production and includes intensive tree farming and plantation forestry”.

There is an argument that if an area of land has been managed for forestry purposes for a considerable period of time or a previous permit has been granted, then this forestry activity should be considered an ongoing land use just as agriculture is. Therefore, when there are normal changes within the regular operational agricultural or forestry regime, it would not be necessary to obtain a new planning permit.

Agricultural activity is usually a permitted use within Rural zones or it may not require a permit – either because of existing use rights or it being a P1 (“as of right”) use. Where new agricultural activity is being proposed (ie where agriculture has not previously been recently practised on the land), then a planning permit would be necessary (unless it is a P1 use within that zone). Once agricultural activity is an established practice on the subject land then a variety of crops could be grown and harvested, or other related activities undertaken, provided they are contained within that use class’s definition in the planning scheme. In such a manner, planning schemes do not state what crop a farmer may grow on their land, but an application is usually necessary for a new forestry proposal (ie where forestry has not previously been recently practised on the land) – because they are contained within different use classes within the planning scheme.





Local government is often uncomfortable about forestry operations on PTRs and State forests being exempt from the specific provisions of planning schemes. It is argued that most other developments are subject to the same Council planning approval process and that any exemptions from the planning schemes should be kept to a minimum. Consequently, a resolution of the Local Government Association of Tasmania Conference in 2001 called for – "the State government to amend the Land Use Planning and Approvals Act 1993 to allow forestry operations on Crown land to be brought under the control of the planning scheme".

Some of the other relevant issues in regard to planning schemes are:

- Some planning schemes are quite old (up to 15-25 years old) and have not been sufficiently reviewed to accommodate the changing pressures of forestry on private land – some older schemes do not even have forestry as a defined land use, only “land clearing”. Consequently, many planning schemes provide little guidance by way of standards or criteria on which to assess forestry applications.
- Planning schemes often have a fairly poor natural resource management basis on which zoning boundaries and development standards have been determined. This would have been mainly due to there being insufficient NRM information available at the time of preparation. This in turn limits the potential to implement State and regional vegetation management and bio-diversity strategies – although conditions can still be applied to accommodate these if necessary (see recent government instructions to local government to do exactly this).
- Forestry is usually a permitted use within the Rural zones of most planning schemes and, as previously mentioned, sometimes does not require a permit at all. In such situations there are no opportunities for objections to be lodged and no discretion to refuse the application. This is of course the same for any other permitted use – such as is usually the case for agricultural activities.
- Forestry, as defined within most planning schemes, is not separated out into the harvesting and the reforestation activities. The different regimes might include harvesting without any reforestation, or harvesting and regeneration back to native forest, or harvesting and conversion to plantation, or it may involve the





establishment of a plantation on already cleared land. Many forestry plans on private land involve the clearance of native vegetation and this raises vegetation management issues that do not exist for most other agricultural activities. A clear understanding is needed of the differences between the harvesting and regeneration of native forest, versus clearing for conversion to another land use.

- There is a lack of consistency between planning schemes and the way in which they are interpreted and administered that creates the impression that the “rules” change depending upon the particular Council or they may even change within municipal areas if a Council administers more than one scheme. This is the situation for all development and may reflect the different local characteristics of local municipal areas and the different approaches and currency of planning schemes. Nevertheless, developers (including the forest industry) interpret this as changing standards and unnecessary complexity and inconsistency.
- A planning permit issued by way of a planning scheme and a Forest Practices Plan regulate different things. The permit focuses on the assessment of a particular (in this case) forestry proposal and whether it is an appropriate land use on a particular parcel of land. It does not need to be a means of regulating the ongoing management of that activity for which there is a separate forest practices regime. The permit’s conditions should therefore be designed to be consistent with the requirements of the Forest Practices Plan.
- Most Councils do not have the resources, skills or desire to assess the particular ‘on ground’ environmental issues relating to forestry applications and subsequent operations. Such assessments are conducted as part of the certified Forest Practices Plan and there is no need for the Council planning approval process to duplicate this. This facilitates a complementary approach that enables the Council to focus on strategic land use planning and related community issues.
- Planning schemes are not regarded as providing the necessary level of resource security needed by forestry. Planning schemes are amended and replaced during the life of the forestry operation – though this will not effect any existing permit for a forestry operation. Nevertheless, the planning scheme does itself need to provide a certain level of security, not only for forestry purposes, but also for other landholders and the broader community. This is so that they know what type of future land use might occur in certain areas and how potential impacts will be dealt with. In this context however, the difference between a land use, and the activities over time which are involved in that land use, needs to be kept in mind. Many forestry concerns relate to activities, rather than land use, and hence are more suited to management through a code of practice than through a planning scheme. New residents need to be aware that rural areas might be subject to a variety of neighbouring agricultural or forestry related activities.





- There is an argument that if the planning scheme shows “forestry” as a permitted use, then there should be no significant objections to a PTR being created. This is quite clear for very prescriptive planning schemes that are based on zoning, but may not be so obvious for performance based schemes that require a specific application to be assessed before it can be determined whether it is permitted, discretionary or prohibited. Such performance-based planning schemes are increasingly being used by many Councils. These planning schemes enable a more sophisticated assessment focusing on outcomes – that is, the emphasis is, not on what is being done, but on the actual results that are achieved. The Forest Practices Code achieves this aim for most of the relevant issues involved, and in a more consistent and predictable manner. The difficulty in theory for the performance based planning schemes is that the Council may not be able to state whether a potential forestry application is a permitted, discretionary or prohibited use until an actual application is reviewed. For a PTR application, the Council response would probably be that such a forestry use is only permitted (or discretionary) provided all the performance standards in the planning scheme are complied with.
- Within the Forest Practices system, it is expected that planning schemes will effectively address the need to establish the “public interest” as provided for in Section 8(2) of the *Forest Practices Act 1985*. This role needs to be better recognised within planning schemes, with particular account taken of the points made above relating to performance based schemes.

The RPDC is currently undertaking a Simplifying Planning Schemes Project that is being progressed in two phases. Phase 1 involves the development of a template for Councils to use when preparing new planning schemes. This will provide for a consistent format for new planning schemes. Phase 2 will continue this theme of planning reform by building on the Common Key Elements Template by including standard provisions and schedules, and by developing a framework for the strategic planning that underpins planning schemes. There is an opportunity for this planning reform to incorporate some of the shortcomings listed above.





## **5. Discussion**

### **5.1 Three Year Plans**

Better communication between all relevant parties would clearly improve relationships. This has certainly occurred in recent years and there are a number of forums that enable representatives of the forest industry and Councils to discuss relevant issues. The most important of these is the 3 Year Planning process required under the *Forest Practices Act 1985*. This provides a regular, consistent and structured forum to raise any issues of concern. All parties should give strong support to this process continuing in the future.

The 3 Year Plan meetings involve a general discussion on all future forestry proposals across municipal areas. The focus tends to be mainly on road usage and the impact of log trucks on the Council road asset. The forest industry is just as legally entitled to use public roads in the same way as any other prospective user. However many of these roads have never seen such heavy traffic before and the use of such roads is often a significant planning issue. Relevant conditions are sometimes included within planning permits, but it is more usual for repair or maintenance arrangements to be negotiated.

Such arrangements could be improved by better communication with the affected local communities. To assist this, it would be helpful if some generic information could be provided for the use of Councils that spells out the legal ability of Councils to control safe road usage and the willingness of Councils and the forest industry to consult and negotiate road improvements and repair.

These 3 Year Plan meetings provide the best opportunity to maintain and improve the relationships between the forest industry and local government. They provide a good overview of most forestry activity that is to occur within municipal areas in the immediate future. The discussions facilitate ongoing contact arrangements and can address a wide variety of issues over and above those relating to Council roads. This includes for example forestry operations taking place within town water supply catchments and any measures that might be available to minimise potential impacts. The meetings also benefit the industry by raising local issues that the respective company might not be aware of.

### **5.2 Planning Schemes**

The ongoing improvement and strategic development of local planning schemes is critical. There are a number of current initiatives at both State and local levels that are driving this process forward. However, it needs to be emphasised that planning schemes should be prepared to a reasonably consistent format so that forestry related issues can similarly be addressed in a consistent manner. This entails carrying out the necessary strategic natural resource management investigations and incorporating appropriate performance standards. Consistency with the Forest Practices Code is a necessary outcome.





There is generally a poor understanding within both the community and industry of how planning schemes operate. People have different expectations as to their rights within the planning system or how restrictive or flexible the provisions of a scheme might be. Councils need to generate a greater awareness within the community about the potential for forestry activities to occur as a result of planning applications. It would be useful for Councils to produce public information sheets that detail how and under what circumstances forestry applications would be processed in accordance with their planning schemes. A generic sheet could be produced from which others could be adapted to suit local conditions.

In reviewing the current "planning" arrangements, a clear distinction can be made between the pure planning function that relates to land use allocation and that of ongoing forest management or the forest practices that are being utilised. This distinction reflects the different roles and responsibilities of State government and local government, particularly in regard to private land. Local government has the regulatory role of being the State's statutory planning authority, while the Forest Practices Board regulates ongoing forest practices.

In this sense forestry, as a land use, would not be treated any differently to other forms of development. The obvious analogy is that of building approvals. A planning permit is first obtained for the development and then the building approvals can be obtained privately. The Building Code is analogous to the Forest Practices Code. Similarly, agriculture as a land use could be compared in this manner if it too was controlled by a code of practice. An initial agricultural development requires a planning permit (unless it is an "as of right" use), but the subsequent farm management practices are not regulated by Council.

### **5.3 The relationship between planning schemes and the Forest Practices System**

Many of the current concerns relate to the overlap between the planning and management type roles of State and local government respectively. It is desirable that this overlap be removed as much as possible and a clear distinction made between the role of a statutory planning authority under the RMPS and the need for ongoing sustainable forestry practices to be effectively regulated. That is, there should be a clear distinction between the "planning" and "management" regulatory functions.

This may never be a totally clear distinction. A list of relevant issues could be compiled (eg road use, water quality, biodiversity, visual impact, noise etc) and some attempt could be made to separate out those that are dealt with by the planning authority and those that are covered by other jurisdictions. The issues and the level of interest that they will generate will vary from one site to another and over time. The main criteria are most likely going to be the level of off-site impacts. The permit conditions that a Council most often imposes are ones that seek to minimise the impact that a forestry proposal is going to have on surrounding lands and further afield. These of course need to give due recognition





to the compliance with existing codes of practice, including of course the Forest Practices Code.

These codes of practice essentially define their own area of influence. They can also change and be improved over time and Councils should certainly contribute to this process. Council's area of influence (as the local planning authority) may be more strategic in certain areas (eg visual impact) or, as stated above, relates more to off-site impacts.

In assessing a prospective planning permit, a draft Forest Practices Plan is usually required so that the details of the forestry proposal are known. Upon the approval of the planning permit it may then be necessary to amend the draft Forest Practices Plan. A draft Forest Practices Plan is submitted to allow incorporation of additional planning requirements as determined by the local Council. The draft plan, when submitted to Council is ready for certification but cannot be certified until it is complete with relevant and reasonable Council requirements incorporated. Sufficient technical information is provided that enables the planning scheme's performance standards to be appropriately considered and to ensure that regional vegetation strategies have been taken into account. A standard guideline should be produced that stipulates the level of information necessary to obtain a planning permit from a planning authority for a forestry development. This would facilitate a consistent approach being adopted by Councils.

In the case of forestry, the future land use has been determined where a State Forest or PTR is in place. In other situations it is the role of the planning authority to determine the appropriate future land use through the normal planning approval process. This determination of land use is not done solely by the planning scheme on its own but requires a planning application to be lodged and a suitable permit considered.

#### **5.4 The relationship between planning schemes and Private Timber Reserves**

The NRM Framework endorses the RMPS as the overarching legislative framework for NRM across the State. This report has not investigated the options for any statutory provisions that might be required to effectively incorporate forestry within the RMPS. However, one outcome that might be considered is that PTRs could only be created after a planning permit for forestry has been first issued.

Local government and the forestry sector have quite different views on such a proposal. Each comes from their own perspective. It is obviously necessary for both local government and forestry sectors to appreciate each other's needs in this regard.

From a local government perspective, the decision to exempt PTRs from the statutory planning approval process should only be made once a normal statutory land use allocation process has been completed. The fact that forestry, as a land





use, is not prohibited within a planning scheme, is not sufficient to justify the subsequent exclusion from planning approval having to be obtained. This is certainly not the case with any other type of land use (except of course for “as of right” uses).

From a forestry sector perspective, there is a need to reserve land under PTRs for future forest development. Many PTRs are created in advance of any specific harvesting proposal and are used for longer term investment planning. It will therefore be necessary in many instances for a PTR to be allocated prior to a Forest Practices Plan being prepared. Consequently, it would not be possible for a planning application to be prepared (that includes the FPP information) prior to the PTR being determined.

The forestry sector contend that the procedure for the development of a Forest Practices Plan provides for relevant public consultation and third party appeal rights similar to those that exist for all developments. This process is consistent with a Council planning permit process. The existence of a prior PTR does not reduce the rights of relevant persons to participate in the planning process. A requirement of the Forest Practices Code is that local government and landholders within 100 metres of the boundary of the planned practices are notified with respect to planned forest practices. The objective is to encourage effective communication and consultation with respect to proposed forest operations. It may be possible to identify other opportunities where Councils must be consulted with respect to local government issues.

From a Council planning perspective, the existence of a PTR reflects (and protects) the “existing use” rights held by the landowner. The consequence of requiring a planning permit prior to a PTR does not impact on the PTR’s primary purpose of providing long term resource security. Once a PTR is in place then future planning permits for associated forestry activities would not be necessary. The notion that a PTR’s security comes from the fact that the land is dedicated in perpetuity as a timber reserve – not necessarily because there is an exemption from the planning legislation. To further strengthen this relationship between the planning permit and the ongoing PTR, it may be possible to “condition” the PTR in some way. Such conditions would be limited to matters that are outside the normal scope of the Forest Practices Code.

All of these issues should be read in the context of the PTR system being long established and that there will be less new PTRs created in the future. There are about 350,000 hectares of PTRs in Tasmania, covering more than one third of the total private forest estate. These PTRs would not be affected by any changes to the current system.

It is also relevant and important to keep in perspective that the existing situation is largely in keeping with State government policy and that any proposals to alter the extant position should be done in a manner consistent with these policy considerations.





#### **5.4 Improved coordination opportunities**

Finally, the current initiatives in improving natural resource management at a State and regional level offer many opportunities to better coordinate the planning and management processes associated with rural land use in general. These in turn should link such processes into an integrated framework that encompasses natural resource management, the RMPS and other relevant statutory mechanisms.

This holistic approach at a State and regional level should be encouraged so that land use decisions are based on the best available knowledge and in a consistent and accountable manner. This process of improving the quality of land use decision making will continue over time and both local government and the forestry sector should maintain a high level of involvement in the ongoing development of the State's NRM Framework. It should be recognised that there is always room for continuous improvement and that existing systems are always subject to review.

### **6. Options for Consideration**

From the previous sections on current issues and the subsequent discussion, a number of options can be suggested for changes to improve the current system and procedures. The following options are only briefly mentioned in the sense that they are included for initial consideration. The status quo option has not been listed as a specific option. At this stage, only a limited assessment of the implications of change has been made. Comment is being sought on the relative advantages, disadvantages and viability of each option. There may be other options that have not been included – suggestions are welcome.

Comment is now being sought on the respective merits of these options.

Some options that relate to **education and communication** issues are:





## 6.1 Better communication

An obvious and overarching need is that Councils and the forest industry need better lines of communication that recognise the benefits to both parties of genuine consultation. Guidelines could be developed or memoranda of understanding signed off that meet the expectations of the affected parties. These would firm up the adopted procedures of notification and consultation. The Forest Practices Board and Councils should publicly support each other's role (see section 3 above) and work collaboratively to get good outcomes. Such initiatives could be developed as an extension of the existing consultations that occur as part of the current 3 Year Plan processes.

## 6.2 Greater public awareness

There is a general lack of public understanding about how the local government planning schemes and forest practices system actually work. There are many complicated issues and perceptions are often quite incorrect. The RFA has not been well explained. Reasonably comprehensive public information material should be produced that clearly explains the existing arrangements in a very objective and clear manner. This would be in accordance with the relevant recommendations within the Final Recommendations Report of the Inquiry on the Progress with Implementation of the Tasmanian Regional Forest Agreement (December 2002 – see Rec. 4.1). The material should ideally be badged by both forestry and local government interests.





Some options for improvement that relate to the **Forest Practices System** are:

### 6.3 Better use of the 3 Year Plan process

The existing 3 Year Plan process provides an opportunity for a more structured forum that is conducted annually and places all future forestry proposals into context. This consultation with the local Council is very important, particularly in regard to roading issues. These roading discussions have occurred in the past in regard to individual proposals (with satisfactory outcomes negotiated in most cases), but could be done better on a regional basis in conjunction with the 3 Year Plan process.

The forestry industry is able to provide coordinated briefings and standard maps that can be overlaid. This can provide Councils with an almost complete picture (only the larger operators are required to submit 3 Year Plans) of future forestry activity within their municipal area. Councils should encourage this process to occur in future, and thus pursue any opportunity to better plan for the longer term upgrading of public infrastructure. Some Councils have not taken this consultation opportunity very seriously, despite the fact that it provides a range of tangible benefits. At the same time forestry organisations should use this opportunity to better inform Council planners about future forestry operations.

### 6.4 Better public understanding of the Forest Practices System

The RPDC's Final Recommendations Report of the Inquiry on the Progress with Implementation of the Tasmanian RFA found that there is a need for better communication of information about the Forest Practices System to the public. The public often has unrealistic expectations regarding the Forest Practices System and the roles of the Forest Practices Board and local government. Better information could assist people in directing enquiries to the appropriate organisation. People making complaints are often frustrated when told that they have contacted the wrong organisation and feel that someone is "passing the buck".

### 6.5 Common objectives for RMPS and Forest Practices System





Legislative changes could be made to incorporate the RMPS objectives within the *Forest Practices Act 1985*. This could be done without compromising the independence of the Forest Practices system, in a similar manner to the marine farm planning system. It would effectively connect the Forest Practices system to the RMPS in a more consistent way and yet still recognise their different functions – these being, that the Council planning system within the RMPS controls the allocation of land use and the Forest Practices system controls the subsequent forestry management on the land. The implications that would or might result from this may still need to be investigated and further legal advice will also be necessary.

Some options for improvement that relate to **Private Timber Reserves** are:

#### 6.6 Planning permit required prior to a PTR

It could be a mandatory requirement that a planning permit, where otherwise required for forestry, be first obtained as a condition of achieving a PTR. This may or may not be a consequence of incorporating the Forest Practices system within the RMPS as outlined above. This might then also enable any of Council's concerns (not covered by the Forest Practices Code) to be addressed and to better incorporate the "public interest" criteria through the application of the planning scheme. The need for a PTR would be restricted to long term resource security, rather than as a means of not having to go through the normal development application process.

An issue here will be maintaining consistency between the requirements of the Forest Practices Code and any planning permit that is issued. The permit's conditions could be limited to matters that are outside the scope of the Code and not deal with matters that are more effectively addressed within a Forest Practices





Plan. Any framework for establishing such a process would need careful consideration.

#### 6.7 Conditions associated with PTRs

Councils could be more closely involved in the assessment of PTR applications, so that local concerns are identified early in the process and able to be addressed by way of conditions on the PTR. It is recognised that it would be inappropriate to impose all conditions at the time of a PTR application when harvesting may not occur for 10-20 years (or in some cases up to 60-100 years). Most issues are better addressed closer to the time of commencement of the forestry operations. These could be identified at 3 Year Plan meetings and then incorporated in specific Forest Practices Plans.

The current procedures do not allow for the Forest Practices Board to include conditions on a PTR approval. Alternative arrangements (over and above the requirements of the Forest Practices Plan) could be provided by way of management agreements between the State government and the landowner or as covenants on title (eg Part 5 Agreements under LUPAA). The various steps in this process and the respective responsibilities of the relevant agencies (Council, Private Forests Tasmania and the Forest Practices Board) and the landowner would need to be analysed in more detail and, if regarded as feasible, further explained in a much clearer way.





## 6.8 Opportunities for mediation

The adversarial nature of the PTR appeal process could be reduced. Submissions could be regarded more as representations than objections, with a view to using mediation as the process of resolving any concerns that might exist. The inclusion of conditions (as suggested above) may be a solution, rather than refusal. The ability to include conditions would assist the mediation process and potential consensus based outcomes.

Councils should make better use of the provisions that enable them to comment/object to PTR applications. This, together with the 3 Year Plan process, would enable Councils to have any concerns addressed at an early stage.

One option that relates to the general **forestry sector** includes:

## 6.9 Ongoing improvement to the Good Neighbour Charter

The Good Neighbour Charter could be subject to a process of continual periodic review and improvement. There are obligations on industry to be more creative and proactive in resolving issues, engaging in mediation and being able to demonstrate that neighbour concerns are actually taken into account. The Good Neighbour Charter could be extended to apply to all forestry operations rather than just to plantation establishment.





Some options that relate to general **local government responsibilities** include:

#### 6.10 Public road usage

The legal situation in regard to roading responsibilities needs to be more clearly defined, and the existing provisions of the Local Government (Highways) Act should be referred to in this regard. The public should be more aware of Council's legal limitations on controlling the use of vehicles travelling on public roads. The production of relevant public information material would raise the general awareness of Council's responsibilities. To further assist this, some mutually acceptable procedures could be developed that ease the negotiations between local communities (as represented by Council) and forest companies about the need for road improvements and improved arrangements to accommodate log trucks on local roads.

#### 6.11 Referral to local government required on certain issues in the Forest Practices Code

The Forest Practices Code requires local government to be consulted in certain situations before certification of Forest Practices Plans (see 2.1). The list of such situations could be extended to include a range of others – such as where





operations are proposed within a certain distance of a residence. This would provide an increased opportunity for Councils to comment on specific forestry proposals that might be of concern.

Some options for improvement that relate to **planning schemes** are:

#### 6.12 Ongoing improvements to planning schemes

Councils must improve the overall standard and consistency of planning schemes on an ongoing basis. There are many older schemes that have not been kept up to date. The standard templates that are being developed by the Resource Planning and Development Commission might assist in this regard. Phase 2 of this project will propose a more consistent approach to strategic planning (which underpins the development of new planning schemes) and this will also support this ongoing improvement of existing planning schemes.

#### 6.13 Greater public understanding of planning schemes and potential forestry activity

There is a need for a better explanation of planning schemes to the general public. Most people are not exposed to planning schemes until confronted with a development application that they wish to submit, or object to. Conflict arises when a person's expectation is not matched by the reality of the planning scheme. Better information on the provisions of the existing planning scheme should be provided to purchasers of land so that they are more aware of the potential for neighbouring forestry activity (including the existence of any PTR's and State forest in the vicinity). The current review of the existing system of Councils providing Sec.337 certificates could take this into account.





#### 6.14 Forestry provisions within planning schemes

Councils could be more involved in the planning for future forestry proposals on private land. This would involve giving a greater emphasis to strategic land use planning and setting policies that will underpin the preparation of new planning schemes. This could result in the inclusion of performance standards that complement those of the Forest Practices Code. The Forest Practices Code could be formally recognised in planning schemes as the appropriate set of rules governing the relevant requirements, noting that Councils will not be able to provide the level of forestry assessment or regulation that is currently provided under the Forest Practices system. This might reduce any inconsistency where the two systems attempt to deal with the same issue (eg landscape issues).

#### 6.15 An NRM basis to planning schemes

Planning schemes need to be consistent with any State-wide and regional vegetation management strategies, particularly when these form part of any existing local or regional NRM strategy. Planning schemes are recognised in the Tasmanian Natural Resource Management Framework as being one of the critical mechanisms for delivering integrated environmental management outcomes. This would also encourage different planning schemes to be more consistent, including the adoption of commonly used schedules or performance standards (as derived from local and regional NRM strategies) and which take into account the Forest Practices Code.





Some options for improvement that relate to **natural resource management** are:

#### 6.16 Preparation of vegetation management strategies

There is a need to better integrate the work being carried out at a State and local government level to develop vegetation management strategies that provide a more strategic approach for land use decisions. The NRM strategies currently being developed and the current review of the Permanent Forest Estate Policy (including the thresholds for priority forest communities) will assist in this regard.

#### 6.17 Relationships between NRM and land use planning

The need to develop an overall and effective planning process that integrates NRM and land use planning should be pursued. Forestry is one example of this need, in that it bridges these two areas. It relies on comprehensive NRM information (particularly relating to vegetation management) and any decision to proceed with a forestry proposal is a land use decision that is often made in the light of other competing land uses. How NRM is effectively implemented through the statutory planning process could be thoroughly investigated within the newly established NRM Framework.

#### 6.18 Visual landscape management

As part of the need to coordinate the various NRM and planning systems, the whole issue of better visual landscape management could be further investigated. A landscape plan should be one that addresses land use issues in the broad sense





and not just forestry issues. There appears to be an opportunity to combine the visual management system used for forestry with other systems or methodologies. This is to some extent more than just a visual issue and includes aspects relating to cultural landscapes, heritage, tourism, public recreation, residential amenity, touring routes etc. These are usually considered when assessing the visual impact of potential forestry operations, however commonly agreed protocols or outcomes would benefit all stakeholders.

#### 6.19 Support for NRM

The local and regional NRM strategies that are being prepared are supported by all levels of government. This active involvement should be used to explore opportunities to improve existing land and water use practices, further develop the positive relationships between different industry/community sectors and assist in the resolution of land use conflict. This places the relationship between local government and the forestry sector within a broader context and facilitates more consistent and integrated decisions.

*Comment is being sought on the relative merit of all these possible options – plus any others. Comment is also being sought on how any ongoing joint approach between local government and the forestry sector might be best implemented. Following the receipt of such comment, the document will be reviewed and specific recommendations developed.*





Forest Industries Association  
of Tasmania