Submission

to the

Review of the Private Native Forestry Code of Practice.

Compiled by John Edwards
For the Clarence Environment Centre Inc
Introduction

The Clarence Environment Centre (CEC) has maintained a shop-front presence in Grafton for 30 years, and has a proud history of environmental advocacy. The conservation of Australia's natural environment, both terrestrial and and marine, has always been a priority for our members, and we believe the maintenance of healthy ecosystems and biodiversity is of paramount importance.

As an organisation we have received countless complaints about logging activity on private properties. We have been unable to investigate most of these cases to confirm whether or not the logging is in breach of the Code of Practice, because of the secrecy provisions that are in place.

We strongly believe there is no justification for those secrecy provisions given forestry is highly destructive and with a high potential to cause erosion and weed invasion. Everyone lives in a river catchment, and anything a landowner does on their property has the potential to impact on everyone downstream in that catchment. The community at large are also impacted through degradation of visual amenity, and logging's contribution to climate change.

To that end we are making this submission, putting forward what we believe are crucial actions designed to ensure the industry is made truly sustainable over the long-term.

This submission is based on one case study where logging contractors broke every rule in the book. It was thoroughly investigated by professional ecologists with the Clarence Environment Centre, in cooperation with the Environment Protection Agency, which has confirmed our findings.

Regrettably, we believe this was not an isolated occurrence, with actual and anecdotal evidence suggesting that this type of rogue behaviour is widespread across the industry.

Recommendations:

1. A Property Vegetation Plan must only be approved after the assessment of a comprehensive Environmental Impact Assessment, which includes an independent flora and fauna survey and assessment by a suitably qualified ecologist. This would bring the farming community in line with any other development, even building a backyard shed requires an assessment if native vegetation loss will result.

2. No logging approval should be granted in areas identified as having high conservation value. Instead, a mechanism should be introduced whereby the landowner can access funding to manage those conservation values. This could include the trading of carbon credits. All such agreements must be made in perpetuity, and not something that can be undone through a change of ownership or political agenda.

3. The status of neighbouring properties must be taken into consideration. If any of those properties are managed under a Voluntary Conservation Agreement (VCA) for example, that property owner is under contract to the Minister to maintain biodiversity values, which likely includes habitat continuity across the landscape. Heavy logging or clearing of neighbouring properties could find the VCA holder in breach of that contract.

4. The definition of what constitutes a “rocky outcrop” must be refined. Even the EPA inspectors agree that the convoluted combination of area size, rock sizes and percentages of rock cover, that supposedly defines a rocky outcrop, is completely unworkable.
5. Because of the critical shortage of tree hollows, something that has resulted in about 50% of all tree-hollow dependent species being listed as threatened with extinction, all hollow-bearing trees must be protected. The current 5 or 10 per 2 hectares is not good enough, and unless action to preserve them and provide for large, healthy recruitment habitat trees, there will be no saving many of the species that depend on them.

6. Penalties for breaching the code must be severe and enforced. A pre-logging Environmental Impact Assessment would identify protected areas, and help ensure that contractors and landowners are aware of them. Right now, those responsible for the blatant logging breaches identified below, may well get off with a warning if they have no prior record, and the maximum penalty we understand is a paltry $5,000. We recommend that there be a substantial fine applied for every breach, i.e. multiple breaches of the same code clause, must result in multiple fines.

7. Buffer zones for headwater streams and gullies must be substantially increased, the current 5 or even 10 metre buffers are clearly insufficient to prevent erosion.

8. We believe that the rubbish dumping, or failing to clean up garbage (truck and skidder tyres, oil cans, and vehicle parts, should also be made an offence under the Code. Right now the EPA, the body responsible for both logging regulation, and pollution, have informed us that there is no law to stop landowners dumping whatever they like on their own properties. This is ridiculous. As previously pointed out, whatever the landowner does on their land has the potential to adversely impact on everyone downstream.

We thank the Minister for this opportunity to comment.

Yours sincerely

John Edwards
Honorary Secretary
A case study showing Private Native Forestry in NSW as an industry out of control, and destroying biodiversity

Introduction.

This case study involves a property located between Coaldale and Copmanhurst, in the Clarence Valley, consisting of a series of elevated Kangaroo Creek sandstone ridges, separated by deep gullies, with exposed sandstone outcrops and cliff-lines. It is a part of a string of such outcrops lying between Glenreagh and Mount Neville, near Casino.

The unique vegetation communities supported by this Jurassic sandstone geology is recognised in the Northern Rivers Regional Biodiversity Management Plan which maps those areas as “centres of endemism” (see at right). Red shading depicts high levels of endemism and green circled areas are areas recommended for priority conservation efforts.

There are large numbers of flora species that are endemic to Kangaroo Creek sandstone, and this property is no exception, with at least two listed Threatened Ecological Communities (TEC) identified on the holding:

1. **Dry Rainforest**: There is likely more than 20 hectares of Dry Rainforest TEC on the property, in at least 4 separate gullies.

The other listed TEC is:

**Swamp Sclerophyll Forest**, a much smaller area measuring perhaps only 1 hectare, which is fed by sandstone 'outwash' (see image at right). Further studies will be required, but these perched swamps have regularly been found to support populations of the endangered giant Coastal Petaltail Dragonfly (*Petalura litorea*), a species which has been confirmed at several other Stockyard Creek sites.
Another very rare but unlisted community, is the **Brown Bloodwood – Sandstone Mahogany association**. That community was first noted and described during the NRAC surveys of vacant crown lands in the mid 1990s, and received a preliminary determination as a TEC some 15 years ago, but the final determination was not granted because of political pressure relating to the Shannon Creek dam construction at the time.

The Brown Bloodwood, *Corymbia trachyphiola ssp trachyphiola*, occurs in only a few locations in northern NSW and south-eastern Queensland, while the Sandstone Mahogany, *Eucalyptus psammmitica*, a RoTAP listed species, is endemic to Kangaroo Creek Sandstone communities in the Clarence Valley. So far, the Community is only know to occur at Shannon Creek, a small area within the Tallawudjah Nature Reserve, and here, where there is possibly as little as 20ha.

Also a number of rare and threatened species were identified during an audit of logging operations on the property in September 2018. They include:

**Acacia ruppii (Rupp's Wattle):**

An endangered species that is only known to occur on sandstone derived soils in a very restricted range in the Clarence Valley, between Copmanhurst, Coaldale and the Pinnacles.

**Ancistrachne maidenii**

A Vulnerable grass species, again restricted to sandstone, but much more widespread.
**Angophora robur**  
(Broad-leaved Sandstone Apple)  
Endemic to Kangaroo Creek Sandstone from Glenreagh to Coaldale, the species is listed as Vulnerable under both the State's *Threatened Species Conservation Act* and the Federal *Environmental Protection and Biodiversity Conservation Act*.

**Boronia chartacea**  
A RoTAP listed species that only occurs sporadically in sandstone areas between Conglomerate State Forest west of Woolgoolga to south of Casino.

**Bursaria cayzerae**  
Another Clarence Valley endemic species, the *Bursaria cayzerae* was only described and named within the past 5 years, and was nominated by OEH for listing as a threatened species, but was determined not to be eligible for listing, despite its meeting many of the IUCN's Red List criteria.

**Cassytha racemosa**  
A Devil's Twine  
This species is again confined to a very restricted range between Pillar Valley and Coaldale and is recognised as a RoTAP species.
**Dodonaea crucifolia**

Another Clarence Valley endemic species that has only recently been described, being previously identified as *Dodonaea hirsuta*. While not yet listed as threatened, I believe it would meet the criteria for listing given the low numbers, restricted range and the amount of populations growing outside of conservation reserves.

**Grammitis stenophylla**

*Narrow-leaf Finger fern* (see below) is listed as an endangered species. While occurring in eastern Queensland and NSW, it is said to be “nowhere common”. However, surveys of the dry rainforest has recorded its occurrence in considerable numbers on this property.

**Olearia stillwelliae** pictured left is another RoTAP species endemic to Kangaroo Creek Sandstone.

The *Plectranthus Species* pictured at right is very likely un-described, and rare. Also occurring in small numbers in rainforest on the property.

While not listed as threatened, the *Podocarpus spinulosa* (pictured left), is another species which occurs as a disjunct population at a very few locations in the North Coast bioregion.

* * * *
Forest Nectar Index

As can be seen by the Forest nectar mapping for the Northern Rivers Regional Biodiversity Management Plan (see right), the Clarence Valley is by far the most significant tree nectar producing area, which is reflected in the high levels of nectivorous birds and mammals that occur in the region (Dark maroon hatching indicates “high” nectar).

Soil structure

The very nature of the sandstone derived soils in the area, coupled with over 100 years of frequent fire events has left the steep slopes of all the Kangaroo Creek sandstone outcrops in a highly erodible state.

This is particularly so along water courses and drainage lines, where the practice of regular “burning off” has killed those fire resistant rainforest species that originally occurred there. Fortunately, the deeper ravines on the subject property have been largely spared the ravages of fire and remain in pristine condition.

*   *   *

All of this biodiversity is under threat from logging across the region, because under the Private Native Forestry Code of Practice, there is no requirement for the property owner or the logging contractor, to undertake any environmental impact assessment. If such an assessment was required, logging on this property would never have received approval.

As shown in the following audit report, the logging industry has no regard for the Code, or the environment.
Below we have copied some of the relevant clauses from the Private Native Forestry Code of Practice, and highlighted some of the alleged breaches on the table from the Code of Practice below.

The EPA's investigations added a number of other breaches relating to the pollution of waterways, under the POEO Act, such as filling in gullies and creeks for machine access, failure to provide siltation control measures, driving logging machinery through wetlands etc.

**Logging Audit**

**Stockyard Creek Area, Clarence Valley**

Below we have copied some of the relevant clauses from the Private Native Forestry Code of Practice, and highlighted some of the alleged breaches on the table from the Code of Practice below.

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### Private Native Forestry Code of Practice for Northern NSW 6 Table C:

<table>
<thead>
<tr>
<th>Landscape feature</th>
<th>Operational conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Endangered ecological communities listed in the Threatened Species Conservation Act 1995 at the date the private native forestry PVP is approved by the Minister</td>
<td>Forest operations may only occur in endangered ecological communities as part of an approved Ecological Harvesting Plan approved by the Chief Environmental Regulator of the Environment Protection Authority, except that existing roads may be maintained.</td>
</tr>
<tr>
<td>Endangered populations listed in the Threatened Species Conservation Act 1995 at the date the private native forestry PVP is approved by the Minister</td>
<td>Forest operations must not result in any harm to an animal that is part of an endangered population, or result in the picking of any plant that is part of an endangered population, except that existing roads may be maintained.</td>
</tr>
<tr>
<td>Vulnerable ecological communities listed in the Threatened Species Conservation Act 1995 at the date the private native forestry PVP is approved by the Minister</td>
<td>Forest operations must not occur in vulnerable ecological communities, except that existing roads may be maintained.</td>
</tr>
<tr>
<td>Rainforest</td>
<td>Forest operations must not occur within rainforest, except that existing roads may be maintained.</td>
</tr>
<tr>
<td>Old growth forest</td>
<td>Forest operations must not occur within old growth forest, except that existing roads may be maintained.</td>
</tr>
<tr>
<td>Wetlands</td>
<td>Forest operations must not occur in any wetland or within 20 metres of any wetland, except that existing roads may be maintained.</td>
</tr>
<tr>
<td>Heathland</td>
<td>Forest operations must not occur in any heathland or within 20 metres of heathland, except that existing roads may be maintained.</td>
</tr>
<tr>
<td>Rocky outcrops</td>
<td>Forest operations must not occur on any rocky outcrop or within 20 metres of a rocky outcrop, except that existing roads may be maintained.</td>
</tr>
<tr>
<td>Cliffs, caves, tunnels and disused mineshafts (excluding open pits less than 3 metres deep)</td>
<td>Forest operations must not occur within 10 metres of cliffs, caves, tunnels or disused mineshafts, except that existing roads may be maintained.</td>
</tr>
<tr>
<td>Steep slopes</td>
<td>Forest operations must not occur on slopes greater than 30 degrees, except that existing roads and tracks may be maintained and new roads and tracks may be constructed subject to conditions in clause 5.1(18) of the Code.</td>
</tr>
<tr>
<td>Aboriginal object or place as defined in the National Parks and Wildlife Act 1974</td>
<td>Forest operations must not occur: within 50 metres of a known burial site within 20 metres of an Aboriginal scarred or carved tree within 10 metres of a known Aboriginal object or place (this requirement does not apply to Aboriginal objects or places that may lawfully be destroyed).</td>
</tr>
<tr>
<td>Areas containing items identified as heritage items in an environmental planning instrument</td>
<td>Forest operations must not occur within 10 metres of a listed heritage site.</td>
</tr>
</tbody>
</table>
Conclusion:

A significant failing of the Private Native Forestry Code of practice is that there is no requirement to undertake any biodiversity impact assessment, or even search for any high conservation values, and the above biodiversity survey is clear evidence for the need for such an assessment.

In our opinion, no logging should ever be allowed in these sandstone areas.

However, a logging PVP was approved for the above property subject to conditions of the Private Native Forestry Code of Practice and Regulation without, we are informed by EPA inspectors, any agreed offsets.

The Clarence Environment Centre (CEC) undertook an audit of that logging operation in August-September 2018, which revealed an operation that clearly ignored every condition of the mandatory Code of Practice, to the point where no merchantable tree was off limits. That survey also identified that the current logging operation on the property had taken place over a number of years, but that a 'last-minute' surge of logging had occurred in the month prior to the sale of the property. It was that late surge which accounted for almost all of the observed breaches.

How that final burst of activity is measured against the Code's Clause (3): “A harvesting operation must not occur in a previously harvested area until stocking levels meet the minimum stocked plot requirements in Table B.”, is unclear, as are many other clauses which have likely been breached, but have not been investigated through this audit. Certainly, recently logged areas were 'done over' again in that last month, with many of the logged trees probably left previously because they were hollow-bearing.

Subsequently, the Environment Protection Authority (EPA) was called in, and a team of 3 investigators spent at least 4 days compiling a lengthy list of breaches, confirming all the CEC's findings and more. Because of the size and inaccessibility of much of the property, except by foot, the audit covered only a small percentage of the logged area. Nevertheless, below are just a few of the scores of breaches identified by the CEC.
Audit results

The audit was undertaken on the above property in Late August, 2018, mostly on foot as much of the harvesting has occurred in steep inaccessible Country. Therefore the audit was not comprehensive.

It is clear that logging has been ongoing on the property for years, latterly to feed a bush sawmill on the property. It also appears that prior to selling the property in August, the previous owners, or their logging contractor, have done a hasty 'whip' around to harvest every last millable tree, often with scant regard to the regulations set down in the 2013 PNF Code of Practice.

In the audit we collected evidence of:

- **Widespread logging of rocky outcrops.**
  In a landscape dominated by Kangaroo Creek Sandstone ridges, there are large areas that fit the description of 'rocky outcrops' (the page 51 definition notwithstanding) where, according to Table C, “Forest operations must not occur on any rocky outcrop or within 20 metres of a rocky outcrop”.

  The tree, at right, that had been felled in this particular case was a listed threatened species (RoTAP), Sandstone Mahogany (*Eucalyptus psammitica*). However, we acknowledge that under the PNF code of practice, logging contractors are not required to search for threatened species, a major short-coming in our opinion. Below are just two of many such cases recorded in the survey,

While on the subject of threatened species, some ridge-tops where this logging of rocky outcrops took place, not only support the very rare ecological community, the Brown Bloodwood (*Corymbia trachyphloia*) – Sandstone Mahogany (*Eucalyptus psammitica*) association, which is only known to occur at three locations in the Clarence Valley, and nowhere else in the world, but also the vulnerable Broad-leaved Sandstone Apple (*Angophora robur*).

However, despite *A. robur* being listed for protection in Table J, the PNF Code does not require pre-logging assessments, so threatened species are rarely protected under the Code. We observed many *A. robur*, a species that has no value as timber, that had either been damaged or deliberately pushed over during logging.
• **Hollow-bearing trees being logged** while retained habitat and recruitment trees regularly fell well below the required numbers (Table D), with many retained trees sporting serious basal damage from previous logging, and subsequently fire, meaning they will be unlikely to survive another fire event. There has been no marking of habitat or recruitment trees, which prompts the question, How can the requirements of Table D be fulfilled? Many of the retained old-growth trees are so damaged that there appears to have been no consideration of Section 4.2.5. which stipulates “Preference should be given to trees with well developed spreading crowns and minimal butt damage.” The log at right is one of many lying adjacent to the log dumps, indicating old-growth trees have been harvested, the useless hollowed out or rotted lower section discarded to salvage a few meagre metres of log from the upper trunk. Also its girth was greater than any other standing tree within sight, Among those discarded logs we noted Bloodwoods and Needlebarks, trees not valued for their timber, so these would have represented very low quality timber.

• **Tracking through swamps with heavy machinery and illegal harvesting of trees within the swamp**

The Table C clause that states: “Forest operations must not occur in any wetland or within 20 metres of any wetland, except that existing roads may be maintained”, means that numerous trees, such as those above, and the tracking to get to them was done illegally. Not only have trees been logged from within the wetland, but no buffer zone was marked as is stipulated under “General Conditions”, page 20.

• **Logging on the bank of a mapped creek.** If the Code's Clause 4.4.1 is considered, which states: “Forest operations must not occur in riparian exclusion zones”, the harvesting of other trees such as the recently cut stump at right, standing directly above, and just one meter from the clearly visible creek is also illegal.
• **Widespread destruction of bush rock.**
While the removal or destruction of bush-rock is a listed Key Threatening Process under the Threatened Species Conservation Act, it is unclear how this is applied to PNF, and the code makes no mention of bush-rock.

Nevertheless, the code does specify (Table C) that: "*Forest operations must not occur on any rocky outcrop or within 20 metres of a rocky outcrop, except that:*
  i. *existing roads may be maintained*
  ii. *existing snig tracks may be used.*

In this instance we found kilometres of **newly formed tracks** made by heavy logging machinery, seemingly wandering aimlessly up and down steep slopes and across rocky outcrops, in a vain search for trees which, in many cases, weren't there. The ecological damage caused in the process has been significant.

• **Logging on overly steep slopes.**
The image at right doesn't truly show how dangerously positioned these logged trees were. The slope clearly exceeded regulations and perched down-slope on the top of crumbling cliff. We doubt any Workplace Health and Safety inspector would approve.

This particular logging broke almost every rule, overly steep slope, rocky outcrop, cliff-top, riparian buffer incursion (the second order stream is in a ravine, some 15 to 20m directly below),

At right, another case of logging on excessively steep land, closer to 40 degree than the allowable 30 degrees. In this case the breach is compounded by the fact that hundreds of metres of snig track across rocky outcrops on a sandstone ridge was required to reach just 4 trees, all bearing hollows (i.e. old-growth) and all on rocky outcrops.
• **Logging within 10 metres of cliffs:** The images below are examples, two of many recorded during the audit.

![Logging within 10 metres of cliffs](image)

• **Failure to leave roads in a fit state.** Heavy use by logging machinery and trucks has no doubt resulted in the current state of all roads and tracks in the property. The table C section under "Dispersible and highly erodible soils", which are evident in the image below, states: "Measures must be taken to immediately stabilise any erosion of roads or snig tracks."

![Failure to leave roads in a fit state](image)

Kilometres of road, which have clearly been impacted by logging traffic, have been left in a highly erodible state, mostly with no side drains or other means of diverting water from the road surface. The above erosion was the result of very meagre rainfall that fell across the district at the end of August.
Logging of Old-growth forest:
There are several hectares of sandstone cliffs and gullies which have been logged. An inspection of the logged 'crowns' found that a majority of those contained limbs with hollows which, as explained under S42 of the code - "Protection of habitat and biodiversity", "must be retained in accordance with Table D", i.e. 10 per 2 hectares etc. We have commented on the fact that the number of retained habitat trees across most of the logging area falls well short of that required. However, in this particular area, numerous old-growth (unmerchantable) trees remain, and that, coupled with an absence of old stumps, or other evidence of historical logging, suggests this area constituted an old-growth forest, in which, according to Table C, "Forest operations must not occur …,",

We do not know how S4.1.2, which states: "Old growth will be identified according to the protocol approved by the Minister and available at www.epa.nsw.gov.au/pnf", affects the legality of this logging. However, the fact that almost all felled trees were in breach of the rocky outcrop, or steep slope, protocols described above, simply compounds the overall illegality of the operations.

It should be noted that it takes over 200 years for Blackbutt trees to form hollows. We will not see those trees replaced for more than 3 human lifetimes.

Minimum log size. We noted a high number of stumps from recently logged trees that measured less that 40cm in diameter (see at right). This appears to be a ridiculously small log. Is there a minimum size that can be logged under a PVP? (Note: nowhere did we find forest where thinning would be a recommendation).
Then there is waste, the property is littered with whole logs, trees cut down and discarded because, presumably, they are not good enough. While this does occur during any harvesting event, the sheer number in this case suggests either a 'cowboy' approach to tree selection, or a high level of operator incompetence.

Constructing snig tracks over creeks

There are numerous cases of snig track construction across creeks and gullies, and at no stage has any consideration been given to the requirements of S5.2.2 of the Code. The image at right is of a recently constructed snig track, and despite ongoing drought, the surface of the crossing is muddy. The next heavy rain will wash the entire mess downstream, because no actions have been taken to comply with clause S5.2.2.(7) which requires: “All areas disturbed during crossing construction and use, including approaches, must be rehabilitated following completion of use. Rehabilitation includes the reshaping of the crossing to conform as closely as possible to the original ground surface. If groundcover is not likely to recover naturally, sowing with a suitable sterile seed or endemic native seed/fertiliser mix must be undertaken to establish effective groundcover”.

Construction of snig tracks on slopes in excess of 25°

EPA investigators using the latest measuring equipment identified a number of instances where snig tracks had been constructed on slopes greater that 25°, with no erosion control measures taken.

Trees felled across mapped creeks and gullies.

The has been widespread occurrences of trees being felled across mapped waterways, despite Clause 4.4.(2)(e), stating operators must ensure, “felling is directed away from the drainage line/riparian exclusion zone”, and: “Where harvesting is occurring adjacent to riparian buffer zones, all tree felling should employ directional felling to minimise as far as practicable disturbance to vegetation within the riparian buffer zone”. 

The cut stump shows that no attempt was made to fall the tree to either side as directional felling requires.
And Finally, straight out vandalism:

We noted along some tracks, evidence of destruction of track-side vegetation. There was no reason for this, and despite S4.3 which covers the subject of “Minimising damage to retained trees and native vegetation” a machine operator has driven along knocking over and uprooting trees, including numbers of at least one threatened species, listed in Table J – *Angophora robur*, and trees that are supposed to be protected under S4.2, *Allocasuarina torulosa*.

There are of course other residual impacts perpetrated by these rogue operators which, unfortunately are all too common, such as littering and pollution. Rubbish has been left lying around everywhere, including, machine parts, beer cans of course, and truck and skidder tyres. The new owner's request that tyres be removed before the take-over was only partly complied with, and subsequently multiple tyres have been found at two locations at the bottom of escarpments where, presumably, someone decided it would be fun to roll them down.

Another common site is discarded oil drums, empty grease containers, used oil filters and the like, clearly indicating that vehicle servicing was done in-situ, and large brown stained dead zones leaving no doubt as to where used engine and hydraulic oil was dumped.

This latter, were were informed is not illegal, and that what people dump on their own property (the loggers owned the property in question at the time) is their business.

* * *

This litany of environmental vandalism is something that is occurring over and over again, with the regulatory authority under resourced and apparently unable to undertake regular compliance monitoring.

In this instance we were informed that the perpetrators face a maximum penalty of $5,000 if they were a company, significantly less for an individual, and if the perpetrator has no former record, they might only receive an official warning. Frankly this simply isn't good enough, the breaching was done deliberately, with no consideration of the Code whatsoever.

As of November 2018, the case is on-going, and it should be stressed that the investigating officers have undertaken their investigation in a thoroughly professional and diligent manner. However, whatever the outcome, in my opinion the environment and the entire community are the losers in this instance

Compiled by John Edwards
Clarence Environment Centre
8th November, 2018