



The Hon David Littleproud MP
Minister for Agriculture and Northern Australia
Deputy Leader of the Nationals
Federal Member for Maranoa

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Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation
Parliament House
CANBERRA ACT 2600

Via email: sdlc.sen@aph.gov.au

Dear Senator

I refer to your letter of 17 June 2021 in which you advise that the Senate Standing Committee for the Scrutiny of Delegated Legislation is seeking advice regarding the Export Control (Wood and Woodchips) Rules 2021 (Rules).

Whether a code of practice for the state would satisfactorily or substantially protect environmental and heritage values would depend on the findings of a scientific assessment of the code of practice based on the National Plantation Principles. The principles, endorsed by the Australian Government and all states and territories, set the framework for a consistent and scientific basis for sound plantation management. The specific factors included in the scientific assessment are those outlined in the principles: environmental care; safety; planning; access; establishment and maintenance; timber harvesting; forest protection; and providing for monitoring and review.

Similar considerations apply when the minister approves a state code of practice as amended under subsection 2-9(2) of the Rules. In such cases, the minister is required to be satisfied that subsection 2-7(3) or 2-7(4) are met. These considerations are also relevant when the minister decides to revoke the approval of a state code of practice under subsection 2-12(1) of the Rules, where the minister reasonably believes that the code of practice does not, or will not, satisfactorily protect environmental and heritage values in the state.

I consider that it is appropriate for the Explanatory Statement to include further detail regarding the decision-making process of the minister, such as the consideration of the recommendations of the scientific assessment made against the principles. I will request the Secretary of the Department of Agriculture, Water and the Environment make arrangements for changes to the Explanatory Statement to be made to incorporate the further guidance and detail.

It is my strong preference that the Rules not be amended to include high-level guidance in relation to the circumstances in which a minister may require a state to amend its approved code of practice under section 2-10. If an unforeseen circumstance arises in the future, guidance included in the Rules may restrict the minister's authority to require an approved code of practice to be amended. An example of when the minister may require a state to amend its approved code of practice, is in instances where the code does not adequately address the elements of the National Plantation Principles.

It is also my strong preference that the Rules not be amended to provide that the approvals and revocations of state codes of practice are made by legislative instrument rather than by notifiable instrument. I consider that this would introduce delays in what is already a lengthy process of scientific assessment of a code of practice and would generate unnecessary uncertainty for Australia's plantation sector. The Preamble of the National Plantation Principles notes that provided that social and environmental objectives are met, governments will keep regulations to a minimum. Each code of practice is subject to a scientific assessment to determine whether or not it meets the aims of the National Plantation Principles. I consider that the ministerial decision, taking the scientific assessment into account, is sufficient. This is the process that has been in effect since December 1996 when amendments were made to the previous regulations made under the old export control framework – the Export Control (Unprocessed Wood) Regulations.

I thank the committee for their consideration of the Rules to better regulate Australia's wood exports.

Yours sincerely

DAVID LITTLEPROUD MP

cc: Assistant Minister for Forestry and Fisheries, Senator the Hon Jonathon Duniam