

Forest practices plans: information for landholders and applicants

This leaflet provides a general overview of the legal requirements for carrying out forest practices. It is relevant for you if:

- you are a private forest landowner planning to carry out forest practices on your land or you are an applicant for a forest practices plan (FPP) and you have already established that you need an FPP (check the *Forest Practices Regulations 2007* on the Forest Practices Authority's (FPA) website)
- you have contracted an Forest Practices Officer (FPO) to prepare your plan (this can be arranged by contacting a forest company or a consultant from the list of consulting FPOs on the FPA's website).

1. What are forest practices?

- harvesting and regenerating native forest
- harvesting and/or establishing plantations
- clearing forests for other purposes
- clearing and conversion of threatened native vegetation
- constructing roads and quarries for the above purposes
- harvesting tree ferns.

2. What are forest practices plans?

An FPP is a legal requirement under the *Forest Practices Act 1985* if you intend to carry out forest practices, apart from a few exceptions detailed in the *Forest Practices Regulations 2007*. FPPs contain prescriptions and a map detailing how the planned forest practices will be conducted. These prescriptions include relevant details on the location of roads, planned harvesting systems, reforestation provisions, tree stocking standards, and measures for the protection of natural and cultural values. Details of operational phases, such as roading or harvesting, and the individuals responsible for those phases are listed in the FPP.

FPPs must be in accordance with the *Forest Practices Code*, which provides guidelines and standards designed to ensure reasonable protection of the natural and cultural values of the forest when forest practices are undertaken.

3. The forest practices plan process

1. Prepare an FPP (this is generally done by an FPO)(Section 4)
2. Apply for local government permit (if required) (Section 5)
3. Notify local government and neighbours of intent to conduct forest practices (Section 5)
4. Submit FPP to certifying FPO for certification (Section 5)
5. Pay the FPP application fee to the FPA (note that a separate Private Service Levy may also be payable to Private Forests Tasmania (Section 6)
6. Proceed with the FPP (note that appeal rights exist if the FPP is refused or amended (Sections 7 and 8)
7. Arrange regular supervision by an FPO or other competent person to ensure operations comply with FPP
8. Lodge a Certificate of Compliance with the FPA after each stage of FPP and on completion of FPP (Section 10).

4. Preparing forest practices plans

Anyone is entitled to prepare an FPP, but they are generally prepared by FPOs or consultants who have the expertise necessary to undertake the complex assessments required under the *Forest Practices Code* and other legislation. The FPA trains and authorises FPOs and has developed planning tools to assist in preparing an FPP.

The FPA's specialists must be notified if significant natural or cultural special values are identified in the process of preparing the FPP. The specialists, often in conjunction with experts from other agencies, provide advice on managing these special values, such as threatened species. This may result in restrictions, such as harvesting being modified or areas being excluded from operations.

Local government must be consulted if there are landscape protection provisions in the local planning scheme; if the town water supply may be affected; or if the plan involves new or upgraded access to local government roads.

5. Certifying forest practices plans

FPPs must be certified by an FPO who has been trained and authorised by the FPA as a certifying FPO. Certifying FPOs will ensure requirements are met prior to certifying the FPP. A local government planning permit may also be required for forest practices planned for private land. However, you do not need a local government planning permit to implement your FPP if your land has been declared a Private Timber Reserve.

Forestry operations cannot commence until the FPP has been certified and, if required, a local government planning permit has been granted.

Notification of planned operations must be sent to neighbours and local government at least 30 days before operations are due to commence. Relevant information within forest practices plans should be made available to interested parties. Note that an interested party may apply to the FPA for FPP details under the Right to Information legislation.

6. Forest practices plan application fee

The *Forest Practices Regulations* prescribe an application fee for FPPs. This fee helps covers the costs incurred by the FPA in providing advice on the preparation of FPPs, conducting research and developing planning tools. Landowners and FPP applicants are encouraged to request information about the application fee from the FPO they have contracted to prepare the FPP as the process for estimating the fee is complex. The fee varies according to the area, forest type and operation prescriptions involved in the plan. For example, the fee for collecting timber for firewood on 20 hectares could range between \$67 and \$154; whereas the fee for felling trees and converting land for agricultural use or a subdivision on 200 hectares could be as much as \$7,680. There is a minimum fee – where the calculated fee is less than the minimum fee, you will be charged the minimum fee.

You can estimate the cost of the FPP prior to lodgement with the FPA by checking the FPP Fee Estimator, available on the FPA's website at <www.fpa.tas.gov.au>. The FPA invoices the applicant for each FPP and payment must be made within 30 days.

Please be aware that you may also be invoiced by Private Forests Tasmania for a Private Service Levy of \$14.00 per hectare. For more information on this levy, please contact Private Forests Tasmania on 03 6336 5300.

7. Appeal if forest practices plan refused or varied

Applicants who are aggrieved by the refusal or variation of their FPP can appeal the decision through the Forest Practices Tribunal.

Landowners that have had their Development Application for carrying out forest practices refused by the local government or do not agree with the conditions imposed on a permit by the council, can appeal through the Resource Management Planning Appeals Tribunal.

8. Compensation if forest practices plan refused

Where an application for an FPP is refused by the FPA because of the presence of threatened native vegetation communities or threatened species, the affected landowner may be entitled to apply for compensation. The *Nature Conservation Act 2002* sets out the processes and criteria for compensation.

9. Can members of the public object to a forest practices plan?

There is no formal mechanism for members of the public to object to an FPP if forest practices occur in accordance with a certified FPP on land that has been approved for forestry use. However, concerns can be raised directly through the FPP applicant or forest company. Tasmania's major forest companies and Forestry Tasmania have signed the Good Neighbour Charter for commercial forestry in Tasmania, which is a commitment to promote cooperation and address issues between the industry and its neighbours.

Where forestry is a discretionary activity within the local government planning scheme, the Development Application is advertised by the council. Any person may then make a representation. Appeals against a local council's decisions are heard by the Resource Management and Planning Appeals Tribunal. Where the land is a Private Timber Reserve, a Development Application is not required and therefore the general public does not have the right of appeal against any proposed FPP.

10. Implementing forest practices plans

FPPs have commencement and end dates and must be implemented within the specified timeframe.

Applicants must lodge a certificate of compliance, which details the degree of compliance of the operation with the FPP, with the FPA on completion of each stage of the FPP. A final certificate of compliance must be lodged within 30 days of the FPP's expiry date. The compliance certificates must be completed by the FPO who has completed the compliance inspection. The FPA recommends that landowners should ensure that their forest operations are regularly inspected by a competent person, such as an FPO. Corrective actions are much easier to take whilst the operators and machinery are on site.

11. Breaches of forest practices plans

Alleged breaches are identified in various ways: by the supervising FPO; through the certificate of compliance; by FPA staff; by members of the public; or through the independent assessments conducted by the FPA. Depending on the nature of the breach, the FPA may issue a notice to cease operations and repair damage, or impose a fine or refer the matter for prosecution. The *Forest Practices Act 1985* provides for penalties of up to \$120 000 per offence. Prevention is always much better than the cure – regular inspections by an FPO will minimise the risk of breaches and ensure that corrective actions are taken in a timely manner, thus avoiding the risk of serious breaches resulting in costly remedial work, fines or prosecution.

12. Responsibilities as landowner

Landowners who are signatories to an FPP must not undertake any activity or give any directions to anyone operating under the FPP that might lead to a breach of the FPP.

13. Responsibilities as applicant

Applicants for an FPP have the following legal responsibilities:

- to pay the FPP application fee to the FPA within 30 days of receiving the invoice –note that failure to pay the fee may result in the FPP being revoked
- to ensure, along with other parties involved such as contractors and processors, that operations are carried out in accordance with the provisions of the *Forest Practices Code* and the FPP
- to lodge a Certificate of Compliance with the FPA no later than 30 days after the completion of each Discrete Operational Phase (DOP) as well as within 30 days after the FPP expiry date. The Certificate of Compliance reports on the degree of compliance of operations with the FPP and must be signed and lodged by an FPO who has undertaken the compliance inspection. Legal action may be taken by the FPA if certificates are not lodged as required.

- to ensure that the operation does not continue past the expiry date of the FPP. Requests for extensions of the period of plan can be approved by formal variation, but this must be approved before the expiry date of the FPP.

More information needed?

The FPA's website contains many useful documents in the section 'Information for Landowners' <www.fpa.tas.gov.au>. Particularly relevant is the booklet *A guide to planning approvals for forestry in Tasmania*.