

SUBMISSION ON THE DRAFT PROTECTION OF THE ENVIRONMENT OPERATIONS (GENERAL) REGULATION 2022



Nature Conservation Council

The voice for nature in NSW



14 April 2022

NSW Environment Protection Authority
4 Parramatta Square,
12 Darcy Street,
Parramatta NSW 2150

Via email: POEOGenReg.review@epa.nsw.gov.au

Dear Madam/Sir,

**Submission on the Draft Protection of the Environment Operations (General) Regulation
2022**

Thank you for the opportunity to provide feedback to this important review.

The Nature Conservation Council of New South Wales (NCC) is the state's peak environment organisation. We represent over 160 environment groups across NSW. Together we are dedicated to protecting and conserving the wildlife, landscapes and natural resources of NSW.

NCC is concerned that the *Draft Protection of the Environment Operations (General) Regulation 2022* (POEO), in its current form, will promote the destruction of NSW's native forests for the purposes of electricity generation. This is unsustainable and in conflict with the objectives of the POEO Act for two reasons:

1. by creating a market for thinning and pulp-logs, the regulation will incentivise intensified native forest logging operations which retain fewer trees, thus harming biodiversity and threatened species, as well as causing needless erosion; and
2. by classifying living native trees as waste, the regulation will cause highly emitting biomass electricity generation projects to displace genuine clean energy projects, resulting in a net increase in NSW's greenhouse gas emissions.

Section 135 of the regulation bans the burning of native forest biomaterial for electricity generation. This is a crucial goal, because there is a real risk that biomass power stations drive an increase in the volume and intensity of native forest logging.

The regulation currently has a loophole that excludes pulp logs as well as any tree removed in a thinning operation from the definition of '*native forest biomaterial*'. This loophole means that millions of living trees that make up the fabric of our forests are eligible to be logged through forestry operations and burnt to generate electricity. It also creates an economic driver for logging operations to maximise damage to forests. Trees that would otherwise be left standing in selective logging operations will be cleared, chipped, and burned.

The proposed Verdant Power Station (formerly known as Redbank power station) in the Hunter Valley is a current example of this, with the owner Verdant Earth Technologies detailing in its Modification Development Application how it plans to source 600,000 tonnes of native forest biomaterial to burn every year from native forestry operations ⁱ. Biomass fuel to power Verdant would come from a range of sources within a 300km radius of the power station ⁱⁱ.

Wood biomass also emits up to 50% more CO₂ than coal when burnt, due to the high water content of biomass. While current carbon accounting processes classify biomass as a zero carbon fuel source, this is strongly contested by the best available science, especially in the case of native forest biomass ⁱⁱⁱ. Classifying biomass as zero carbon is flawed for several reasons, including because it ignores the emissions associated with logging forests and transporting the fuel. It is also flawed because carbon absorption through regrowing forests lags the combustion by decades, and logged forests store far less carbon than old growth forests.

If this project is approved under the current draft regulation, it will lead to increased and more intensive native forest logging by creating a market demand for low value, high volume native forest products from forestry operations.

To ensure that any biomass power stations that are approved in the future in NSW do not use unsustainable timber logged from our native forests as feedstock, NCC recommends that the following amendments are made to the draft POEO regulation.

Recommendation 1: *Amend Clause 134 under "Part 3: Burning of bio-material in electricity generating works" by removing parts (vi) and (vii).*

Inclusion of (vi) and (vii) of Clause 134 provides Forestry Corporation and private native forest operators permission to clear younger and smaller trees which aren't suitable for sawmilling to be woodchipped and burnt for energy. It incentivizes forestry operators to log trees which are usually left standing in logging operations by providing a market for them. Trees considered 'pulp wood' are still crucial parts of the forest and play a critical role as habitat, feed trees and for the health of the forest ecosystem. Intensification of logging will compound and worsen impacts of habitat loss for threatened and vulnerable species.

Recommendation 2: *Amend part (3) of Clause 136 to ensure that the true value of a tree is considered before it is granted exemption to be logged and burnt for electricity.*



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This would include providing definitional clarity to what is considered 'higher value use' by amending 136 (3) to the following: "In this section- higher value use includes the role of living trees and woody debris in native forest as habitat, for carbon storage, for its role in the hydrological system or as mulch or wood chips for the purposes of— (a) erosion and sediment control, or (b) landscaping the land from which the timber was obtained."

Thank you for the opportunity to participate in the consultation.

Your key contact point for further questions and correspondence is Wilson Harris, available via wharris@nature.org.au and 0479 100 461. We welcome further conversation on this matter.

Yours sincerely,

Dr Brad Smith
Policy and Advocacy Director
Nature Conservation Council

ⁱ <https://portal.singleton.nsw.gov.au/RedDocServ24/default.aspx?DocID=EhaOICYTTaw%3d>

ⁱⁱ Ibid.

ⁱⁱⁱ DeCicco, J. M. & Schlesinger, W. H. 2018. 'Opinion: Reconsidering bioenergy given the urgency of climate protection' PNAS, 115:39:9642-9645

<<http://bit.ly/37JmXRL>> & <<http://bit.ly/2ZGN1IZ>>