

**COMMERCIAL USE OF FOREST PRODUCTS
IN THE WET TROPICS WORLD HERITAGE AREA****1. BACKGROUND****Potential benefits**

For the purposes of this paper, commercial use of forest products includes the planting, management or harvesting of trees or plants (or parts thereof) for commercial benefit. Commercial benefits may derive from products such as timber, fruit, nuts, seeds, cuttings, flowers and foliage, pharmaceuticals, essential oils, cultural heritage artefacts and biotechnology products. Commercial use of forest products may also provide benefits for the environment and the local community such as rehabilitation of degraded areas, plant materials for nursery propagation, employment, cultural revitalisation, natural food sources, new medicines, biological products, research and educational activities.

Current legislation

Section 56 of the *Wet Tropics World Heritage Protection and Management Act 1993* (the Act) prohibits destroying a forest product (Australian native plant) unless the person has a licence, permit or authority under the *Wet Tropics Management Plan 1998* (the Plan)¹ or the activity is an allowed activity under the Plan. The Plan allows for commercial use of any forest products if the impacts are considered minor and inconsequential under s28. The Plan may specifically allow for a permit to be issued for seed collecting under s33(h). Section 62 guidelines are used to guide permit assessment of seed collecting.

Undesirable plants are generally highly invasive weeds and are listed in Schedule 2 of the Plan. Section 26(a) of the Plan prohibits the planting, propagating, killing or disposing of a Schedule 2 plant. However, s33(i) may allow a permit to be issued for the killing or disposing of a Schedule 2 plant. This section aims to ensure that Schedule 2 plants are killed without endangering native vegetation and disposed of safely so they do not spread further. The Plan does not regulate the planting and propagation of native species or exotic plants not listed in Schedule 2, nor the harvesting of exotic species not listed in Schedule 2. Section 41 allows the Authority to enter into a Cooperative Management Agreement under which a person agrees to contribute in some way to achieving the primary goal.

Regulation 3C, under *World Heritage Properties Conservation Act 1983 (Cwlth)*, prohibits the commercial use of forestry resources in the Wet Tropics WHA, unless an exemption is granted by the Australian Government Minister. DEH has advised that the term 'forest resources' applies to both native and exotic plant species. This regulation is still in force² despite the Act's repeal under the *Environment Protection and Biodiversity Conservation Act 1999*. Where there may be a significant impact on World Heritage values, a referral under the *Environment Protection and Biodiversity Conservation Act 1999* may also be required for any application for commercial use of forest products.

Section 17 of the *Nature Conservation Act 1992* sets out the management principle for national parks and s17(c) states that a national park is to be managed to ensure that the only use of the area is nature based and ecologically sustainable³. Section 39(c) of the *Nature Conservation Regulation 1994* then provides a category of permit to take, use, keep or interfere with cultural or natural

¹ or other authority or licence under the *Mineral Resources Act 1989* or by Governor in Council under another Act.

² under the *Environmental Reform (Consequential Provisions) Act 1999* Schedule 6.

³ *nature-based*, in relation to the use of a protected area, includes scientific, educational, spiritual, intellectual, cultural, recreational and biodiversity under the *Biodiscovery Act 2004*.

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resources⁴. The issuing of a permit for taking plant parts in a national park must be consistent with the management principles outlined in the Act. Commercial uses are not considered to be nature based.

The *Biodiscovery Act 2004* stipulates that only minimal quantities of biological materials can be harvested and defines minimal quantities as those which will cause no more than a 'minor and inconsequential' impact.

The *Vegetation Management Act 1999*, through Schedule 8 of the *Integrated Planning Act 1997* (the IPA), requires a permit from the Department of Natural Resources and Mines (NR&M) for clearing of native vegetation on freehold, leasehold and other State land. Forest practices on freehold lands are exempt. Forest practices (as defined under the IPA) include planting trees, or managing, felling and removing trees in native forest if they are done consistent with the relevant code. The code requires maintenance of biodiversity and ecological processes. It is possible that some potential commercial use of forest products, particularly on State or leasehold lands, may require notification and permit from NR&M.

The rights bestowed on Native Title holders under s211 of the *Native Title Act 1993* do not extend to activities for commercial gain.

2. POLICY POSITION

Where it is otherwise lawful, the commercial use of forest products from species native to the Wet Tropics Bioregion is to be allowed in the WHA if the activity:

- is considered to be minor and inconsequential under s28 of the Plan; or
- is subject to a seed collecting permit granted under s33(h) of the Plan; or
- is subject to a Cooperative Management Agreement under s41 of the Plan.

Commercial use of forest products is restricted to the planting, cultivating or harvesting of species native to the Wet Tropics Bioregion. An exception may be made for the commercial harvesting of existing exotic forest products (such as Caribbean pine plantations), where otherwise lawful, subject to a permit under s33(i) of the Plan or through a Cooperative Management Agreement under s41 of the Plan.

Any planting or cultivation for future harvesting of species native to the Wet Tropics Bioregion is to be limited to existing cleared or degraded areas which require active rehabilitation. Any cultivation and subsequent harvesting of forest products must provide a net benefit for the integrity of the WHA and not involve clearfelling of vegetation.

3. INTERPRETATION

The proposed commercial use must be lawful under other Commonwealth and State legislation (see 'Background' for details).

While the *Wet Tropics World Heritage Protection and Management Act 1993* defines forest products as 'native plants', any commercial use of forest products allowed will be restricted to

⁴ Reasons for issuing such a permit may include scientific purposes or other purposes.

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species native to the Wet Tropics Bioregion. It is not considered beneficial for World Heritage values to use 'native plants' from other areas in Australia for commercial cultivation or harvesting.

It is expected that the majority of commercial use of forest products in the WHA will only involve minor and inconsequential impacts. Such minor and inconsequential commercial use may include the collection of seed or cuttings for propagation, bush tucker, biodiscovery samples, art and craft materials, floral adornments or fruits and nuts.

Applications for commercial use of a scale or type which may cause adverse impacts on World Heritage values can be allowed through two mechanisms under the Plan.

1. A Cooperative Management Agreement may be negotiated which contributes to achieving the primary goal for WHA management – achieving the protection, presentation, conservation, rehabilitation and transmission to future generations of integrity of the WHA. The restoration of natural self-sustaining ecosystem processes is the desired long term outcome.
2. A permit for seed collecting may be granted according to the seed collecting guidelines agreed under section 62.

While some commercial use of forest products in the WHA may be supported by this policy, such use is also subject to various Commonwealth and State laws which may prohibit commercial use of forest products in the WHA (see Background).

Cleared or disturbed areas requiring active rehabilitation are those areas where managed planting and rehabilitation will significantly assist any natural regeneration. Rehabilitation may include some sustainable use of forest products for commercial purposes.

Commercial planting and cultivating of exotic species and species not native to the Wet Tropics Bioregion will not be allowed in the WHA. However, harvesting of existing plantations of such species may be permitted for the purposes of rehabilitating these areas with species native to the Wet Tropics Bioregion.

4. IMPLEMENTATION

Amend the *Wet Tropics Management Plan 1998* to prohibit planting and cultivation for commercial purposes of all exotic species and species not native to the Wet Tropics Bioregion.

Investigate possible means by which the Australian Government Minister may exercise the power to make exemptions to allow commercial use of forest products in the WHA under Regulation 3C of *World Heritage Properties Conservation Act 1983*.

Investigate possible means to allow the collection of forest products for rehabilitation purposes within the protected area estate under the *Nature Conservation Regulation 1994*.

Apply current guidelines for assessing minor and inconsequential impact (Guideline 1, Section 62 Permit Assessment).

Apply current guidelines for seed collecting (Guideline 5, Section 62 Permit Assessment).

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Development of Cooperative Management Agreements for commercial use of forest products in the WHA must address the following criteria:

1. The proposed commercial use must specifically contribute to the Primary Goal.
2. Any planting or cultivating of forest products must only occur on cleared or disturbed land which requires active rehabilitation. An assessment must be made of the existing level of clearing or disturbance where commercial cultivation is proposed in order to determine whether the site would recover naturally or would require active rehabilitation.
3. An assessment must be made of prudent and feasible alternatives for the type of commercial use outside the Area.
4. There must be long term environmental benefits from any planting, cultivating and harvesting of forest products. Benefits may include forest rehabilitation, creation of wildlife corridors, weed control and providing seed and cuttings for rehabilitation elsewhere.
5. Rainforest Aboriginal people must be consulted about any proposal within their traditional lands in accordance with protocols under the Regional Agreement.
6. Consideration must be given to social benefits which contribute to the role of the WHA in the life of the community. Benefits may include employment, cultural revitalisation, biological products and art and craft materials. Community participation in WHA management is desirable, particularly for Aboriginal Traditional Owners who are living in the WHA.
7. An assessment must be made of the type and scale of harvesting proposed and the long term impacts of the harvesting on biodiversity. For instance, the harvesting of fruit and nuts, floral products or didgeridoo timber is likely to be at a scale which allows for maintenance of biodiversity to sustain ecosystem processes. However, timber harvesting requires the felling of trees and may damage the biodiversity which has been rehabilitated.
8. The long term security of both WHA biodiversity and the landholder's commercial use will need to be guaranteed to ensure that commercial use can be monitored and conditions for approval be enforceable over extended timeframes in the order of 20 to 60 years and beyond. Equally, the landholder would require security to sustainably harvest forest products over the same periods. Mechanisms would also need to be developed to measure and monitor the operation and its benefit to World Heritage management.

5. APPROVAL AS POLICY

Board meeting 62
22 August 2005

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