

SUBMISSION ON CLIMATE CHANGE AND BIODIVERSITY

The ongoing operations of the Regional Forest Agreement's forestry management regime and is the result of ongoing compliance auditing and on-ground monitoring of forestry operations in the southern region since the Forestry & National Park Estate Act 1998 was voted through the NSW Legislative Council is the subject of this submission. On the evening of the signing of the Regional Forest Agreements the community lost the right to effect what happened to its native forest environment; though it didn't mean that community concern had evaporated.

In 1992 The National Forest Policy Statement was adopted as the guiding vision for national native forest management. The Forestry & National Park Estate Act 1998 (FNPE Act) was created as the enabling legislation for the roll out of RFA's throughout the state's forested zones. First, Comprehensive Regional Assessments (CRA's) were undertaken to inform the government of what forest was extant in the state, what the community wanted for its forest, and what was the best outcome for conservation and forest industries. Millions upon millions of taxpayer dollars were funnelled into consultants and workshops to produce a plethora of reports aiming to provide an up-to-date snapshot of the whole issue of native forest conservation and timber production. The timeframe for the CRA's meant that comprehensiveness became a misnomer - the quality of the reports produced left much to be desired from a scientific, environmental and social point of view. ALL reports begin with a disclaimer that the information therein cannot be relied upon as factual and the key conclusion from the bulk of the reports was that there was 'not enough scientific knowledge available about forests'. For example:-

1. "The modelling project has highlighted some significant areas or species where there still exist gaps in quality data. As discussed throughout the report, a large number of the priority fauna species were lacking enough valid systematic records to enable presence-absence modelling. Although there were generally more presence-only records for each, some species still had insufficient records for valid modelling of any type. Such species tended to be those that are cryptic or difficult to survey. The lack of flora records was even more evident, which resulted in limited modelling. In the future, it is recommend that further effort is put into systematic targeted surveying of these priority species to enable better presence-absence modelling."

(MODELLING AREAS OF HABITAT SIGNIFICANCE FOR VERTEBRATE FAUNA AND VASCULAR FLORA IN THE SOUTHERN CRA REGION. project number NS 09/EH February 2000 NSW NPWS).

2. "The previous report (SKM. 1998) concluded that the methodology for estimating the effects of logging management on catchment water yield provided a reasonable "best guess" that was unlikely to be much improved even with the expenditure of considerable effort. This statement applies equally well to this study. Within the limitations of current data availability the methodology represents the current best understanding of the different factors that influence water quantity and quality from forested catchments. However, the absolute magnitude of the estimates are subject to considerable uncertainty."

(ESFM PROJECT: WATER QUALITY AND QUANTITY FOR THE SOUTHERN RFA REGION. project number NA 61/ESFM November 1999 Sinclair Knight Merz).

It is notable that this latter report makes no mention of climate change, even though nine years earlier the Intergovernmental Panel on Climate Change completed its report on the greenhouse effect.

Once the CRA's were in, options were given to the public, and the public given a chance to submit their preferences. The government decided which option, then Bob Carr and John Howard signed the RFA's, ending with Southern in April 2001. A 20 year 'forestry management' template was in place. The science was ignored and the Community & Environment were overridden by the hardwood timber industries interests.

Next, the Integrated Forestry Operations Approvals were created and signed off in May 2002. The IFOA contains all the rules and licence conditions that native forestry operations are allowed to operate under. This assessment has noted the initial five-yearly review report commissioned by the NCC: ***“Improved Regulatory Arrangements for Water Quality and Threatened Species in NSW State Forests: Five year Review of the Upper and Lower Northeast and Eden Integrated Forestry Operations Approvals Report*** prepared by Paul Winn, 29 October 2004, Nature Conservation Council” and refers it to the Inquiry, to be incorporated into this current review’s considerations.

“Managing Australia’s forests in a sustainable manner calls for policies, by both governments and landowners, that can be adapted to accommodate change. Pressures for change may result from new information about forest ecology and community attitudes, new management strategies and techniques (such as those that incorporate land care and integrated management principles), and new commercial and non-commercial opportunities for forest use. These pressures may affect the forests themselves.” (National Forest Policy Statement, Cmwth 1992, p2.).

The effects and rate of human-induced climate change have increased dramatically since the Act was assented to in 1998. Climate change was given scant consideration during the Comprehensive Regional Assessment (CRA) process. Further, the significant carbon and water storage aspects of native forests have been inadequately addressed. Conditions placed on logging to ameliorate impacts under the FNPE Act are increasingly inadequate as climate change escalates. Climate change will dramatically increase other threats to species in the region, through increased spread of invasive species, increased fire frequency and severity, increased spread of forest dieback, and reduced stream flows. The cumulative impact of all these threats, plus industrial logging operations operating under the RFAs, have resulted in a major negative impact on threatened species and ecosystem health.

Other authorities’ catchment planning agencies have almost unanimously concluded that forests are more valuable left standing in water catchments than sold as timber. Forest Managers accounting and information systems fail to assess the true value of carbon and water resources that are stored in native forests and FNSW juggles its statistics and figures to hide its’ real Greenhouse Gas emissions. The value of these stored resources far exceed the royalties received from logging operations, even when carbon is conservatively valued at a price of twenty dollars a tonne.

If the policy objective was of commercial realisation of profit from the use of native forests then this objective is a dismal failure. The native forest industry is currently running at a loss but the annual figures are being aggregated with the plantation figures to hide this fact.

Given the new research by Professor Brendan Mackey at The Australian National University, and the many declarations by international scientists, it seems negligent and in fact criminal to continue the current management regime, as enabled by the Act.

‘The study found that Australia’s 14.5m hectares of undisturbed eucalypt forest holds 9.3 billion tonnes of carbon in its wood and soil, offsetting about 460m tonnes of carbon emissions each year for the next century.

“The potential amount of avoided emissions is much larger, and therefore there is much more to be gained from protecting them from logging. It means the risk of logging are bigger than we thought.”(Prof Mackey, SMH, 5/8/08)

The FNPE Act did not incorporate the critical issues of climate change or water

catchment protection and is therefore an inadequate instrument to determine forest management.

If the objectives of The Forestry and National Park Estate Act were to increase the endangered flora and fauna species of NSW, to jeopardize the water supplies of forested catchment areas, to increase our carbon emissions, and to totally deforest many native forest areas - then yes, the objectives are secured. Unfortunately this is what has happened as a result of the FNPE Act, the RFA's and the IFOA's.

The whole Regional Forest Agreement system is severely inadequate to protect forest species and forest habitats. The conservation targets of almost all nationally-listed fauna species and many nationally-listed flora species were not achieved through the RFA's – substantial additional conservation action is still required to meet minimum JANIS benchmarks. Using the NSW Government's own conservation analysis and data produced during the Comprehensive Regional Assessment, it is evident that only one of the 20 nationally-listed forest fauna species met their conservation targets after the RFA's and many nationally-listed flora species have fallen dramatically short of their targets.

The RFA's have not been properly implemented, review timeframes have not been met, Milestones have not been met, and key components of sustainability monitoring have not been conducted. The prime example, among many, is that this Forestry and National Park Estate Act 1998 review is five and nearly six years overdue.

In the Forestry and National Park Estate Act 1998 it states that the purpose of the IFOA's is: "...for the protection of the environment and for threatened species conservation." This objective has quite clearly not been met. **The number of threatened and endangered species has risen dramatically since the FNPE Act was signed, in 1998 and many threatened and endangered flora and fauna species are at extreme risk from current logging operations.** The Reserve system gazetted to date, along with the off-reserve protection measures of the IFOA's, are neither comprehensive, representative, or adequate to meet the needs of threatened species survival.

DATA ON THREATENED AND ENDANGERED SPECIES

Australia's State of the Forests Report
Committee

Threatened Species Scientific

	plants & animals	plants	all animals
1998	81	599	234
2000	-	1236	332
2003	959	1246	365
2006	1287	1300	384

In 2007 the Threatened Species Scientific Committee's figure for all species was 1697. This figure, when compared to the 1998 figure of 833 is the most indicative of the FNPE Acts effect on our environment, absolute failure to 'protect' threatened species and obvious contribution to the increase in endangered flora and fauna. Within the forest, coastal, heath and non-marine aquatic environments that make up the forest-dominated vegetation communities of the South Coast, are over 400 species of native mammals, birds, reptiles and amphibians. These represent 20%, or

one-fifth, of Australia's total native mammal, bird, reptile and amphibian species. Included are 270 birds (36% of Australia's birds), 72 mammals (27% of Australia's mammals), 40 reptiles (5% of Australia's reptiles) and 22 frogs (11% of Australia's frogs). There may be many species occurring in the South Coast which have not yet been discovered and could be added to this list.

Sixty of these species are listed as threatened (endangered or vulnerable) by the NSW Threatened Species Conservation Act. This is 15% of the total known native species in the South Coast. The list includes endangered species like the Eastern Bristlebird, Broad-headed Snake, Southern Brown Bandicoot, Green and Golden Bell Frog, Smoky Mouse, Hooded Plover and Regent Honeyeater. Many of these species are forest-dependant or forest users.

The CSIRO noted that:

"reductions in the populations of a number of species have occurred since first settlement, notably those of the Koala, several species of small macropods, and the native quolls."

Cocks, K.D., Ive, J.R. and Clark, J.L. (editors). 1995. Forest Issues: Processes and tools for inventory, evaluation, mediation and allocation. CSIRO, Canberra. P.11 The damage caused by the forestry workers interpretation of the IFOA prescriptions is systemic and across the board.

Despite numerous legitimate breaches referred to DECC by the community, there has not been a prosecution for breaches of the Threatened Species Licence for the last five years. The community was given assurances by the government that: "The agencies which currently have enforcement and compliance powers will continue to have those powers and continue to use them to ensure that the licences are adhered to." (NSW Legislative Assembly Hansard, 12 November 1998, Minister Yeadon).

The Department of Environment and Climate Change's Forest Policy and Regulation unit is severely understaffed, having only one person to police the whole of NSW. It was a condition under The FNPE Act that DECC 'continue to enforce the conditions' of the Act.

"A contravention of the terms of a relevant licence makes the person carrying out the forestry operations liable for offences for which the licence provides a defence (eg. damage to critical habitat of threatened species under the NP&W Act 1974; offence of polluting waters under the PEO Act 1997)." (note on p21, FNPE Act 1998)

The conditions on logging under The Act are inadequate, frequently breached and very poorly enforced. The government has not 'ensured the adoption of ESFM practices', environmental safeguards have not 'improved' and DECC has not 'ensured the maintenance of existing regulatory controls'.

Recent responses to Forest Auditing Breaches have resulted in an apparent unenforceable lack of compliance with the FNPE Act. "...there is some difficulty in making a determination on the suitability of trees selected for retention after a harvesting event." (Letter: DECC to South East Forest Rescue(SEFR), 12/2/08). This absurd situation is wholly due to the IFOA being riddled with grey-wording, myriad loopholes and allowances the forestry industry has white-anted into the prescriptions; making conservation bottom priority and Department of Primary Industries output high priority.

The promised maintenance of the enforcement of the FNPE Act has not materialised and has been seemingly budgeted to redundancy status. On ground assessment evidence suggests that non-compliance rates are now running at four per hectare of forest logged, that is: over 10% of all areas logged are in breach. The output to date of regulatory enforcement actions in no way reflect this rate of non-compliance.

It is unacceptable that the enforcement task has been downgraded to DPI self-

reportage, as is evidenced by the most recent letter to SEFR from DECC, and that DECC is now merely the mouthpiece for FNSW.

It is a corruption of due process that DECC accepted, and took no further enforcement action against FNSW, when told; "Forests NSW did acknowledge that whilst some of the trees marked for retention did not strictly meet the requirements of Hollow-Bearing, an adequate number were retained across the landscape when unmarked trees were included in the count." (Letter: DECC to Whan 16/2/09). This is completely inappropriate for any other objective other than conflict of interest. There is no where in the IFOA allowing unmarked trees to be used in habitat tree retention counts.

The Inquiry is referred to all reports and correspondence by these reporters and South East Forest Rescue, held in the DECC files, alerting the regulatory body to systemic breaches of the IFOA logging conditions.

It is unacceptable for the Minister of Environment and Climate Change to conclude that section 32 of the Act has been effective, when considering how many times the powers conferred by this section have been called upon to remedy any threatened or apprehended breaches since the date of assent. The FNPE Act has failed.

Given the dramatic advances in current scientific data concerning climate change it is incomprehensible that Forests NSW is allowed to continue devastating remnant natural forests. Numerous nationally-listed species in NSW are increasingly threatened by habitat destruction and climate change (including species such as the Spotted-tailed Quoll, Glossy Black Cockatoo, Greater Glider, and Sooty Owl), but the forestry operations exemption from the Environmental Planning and Assessment Act (EP&A Act 1979) and the Threatened Species Conservation Act (TSC Act 1995) leaves the situation frozen in time, stopped at 1998, when climate change was not considered.

The NSW Scientific Committee made a determination in 2007 that; "the loss of hollow-bearing trees is a key threatening process", and yet there has been no real government action to stop the ongoing loss of these trees during forestry operations - hundreds of hollow-bearing trees per week are routinely being destroyed. Representations have been made to the Minister recommending changes to forestry operations prescriptions to ameliorate this environmental impact and no change has been made to on-ground forestry activities.

FNSW pays lip service to the current prescriptions -which are inadequate, and on the ground there is little or no adherence to these prescriptions by logging contractors.

FNSW is under the mistaken impression that the RFA's give a blanket exemption from environmental requirements for forestry activities. FNSW still must comply with its obligations under the RFA's in order to get an exemption from the EP&A and TSC Acts requirements. In the Wielangta Forest Federal Court decision the judge ruled that as Forestry Tasmania had not complied with the RFA it was not exempt from the EPBC Act. This assessment notes that if this Federal Court decision was brought down in NSW at this time, then all forestry operations would have to cease, due to the Integrated Forestry Operations Approval not applying, having not undergone its due process reviews.

Third party appeal rights have been removed in NSW and there is no avenue for the community to enforce the law directly, despite the failure of the NSW Government to enforce it properly itself.

For example:

In relation to the endangered Hasting River Mouse, the conditions contained in the Integrated Forestry Operations Approval for this species have been weakened for

certain core areas for the Hasting River Mouse at the behest of the Forests NSW to increase access for logging.

In relation to the endangered Spotted-tailed Quoll, FNSW were recently found illegally logging a Spotted-tailed Quoll exclusion zone in Forestland State Forest in northern NSW. FNSW admitted the fact, but claimed it was a 'mistake'.

The South Coast Forests cover the NSW South Coast from north of Nowra to south of Narooma, and inland almost to Queanbeyan and Canberra. Most of the natural, terrestrial habitats in the South Coast are part of wider ecosystems dominated by forests. These forest-dominated ecosystems cover 793,102 ha of public land in the South Coast region. Of this area, 372,796 ha are State Forest, 338,083 ha are National Park and 82,223 ha are vacant Crown Land. Within the forest, coastal, heath and non-marine aquatic environments that make up the forest-dominated vegetation communities of the South Coast, are over 400 species of native mammals, birds, reptiles and amphibians. These represent 20%, or one-fifth, of Australia's total native mammal, bird, reptile and amphibian species. Included are 270 birds (36% of Australia's birds), 72 mammals (27% of Australia's mammals), 40 reptiles (5% of Australia's reptiles) and 22 frogs (11% of Australia's frogs). There may be many species occurring in the South Coast which have not yet been discovered and could be added to this list. The South Coast forests also contain a wide diversity of old-growth forest types, from tall wet forest to dry open forest. The tall wet old-growth forests are majestic, with trees over 50 metres high (equivalent to a 12 story building) and 10 metres in girth. Old-growth forests have been identified under the NSW Government's Interim Assessment Process to be likely to cover almost 60,000 hectares on State Forest estate, or over 16% by area of State Forests in the South Coast region. Forests which are biologically productive, with nutrient-rich soils or on flatter terrain, are even rarer. A CSIRO report states: "Of the fauna still extant [in the Batemans Bay forests], a strong association exists between the abundance of fauna and forest fertility" Cocks, K.D., Ive, J.R. and Clark, J.L. (editors). 1995. *Forest Issues: Processes and tools for inventory, evaluation, mediation and allocation*. CSIRO, Canberra. P.11

In another study of a large part of the South Coast forests, the CSIRO found that: "Tree associations that characterised the most productive sites and, on average, the most accessible land were. least represented in National Park and. most extensively disturbed by logging or clearing." Braithwaite, W., Belbin, L., Ive, J., and Austin, M., CSIRO. 1993. *Land use allocation and biological conservation in the Batemans Bay forests of New South Wales*. Pages 4-21 in *Australian Forestry* Vol. 56 (1).

The South Coast contains a diversity of rainforests which are widespread throughout the region, including rare littoral rainforest on the coast, cool-temperate rainforest, warm-temperate rainforest and sub-tropical rainforest. Included are many rainforest species at the northerly or southerly extent of their ranges. Some cool temperate rainforest contains trees potentially five thousand year old (Pinkwood trees, *Eucryphia moorei*; pers. comm. Alex Floyd, 5 July 1999).

The South Coast contains a number of magnificent wilderness areas loved by bushwalkers across the State. A number of these are currently not protected; the Brogo/Tuross extensions in Wandella State Forest, Tuross in Badja State Forest,

Deua in Dampier State Forest, Buckenbowra in Monga and Buckenbowra State Forests, and Ettrema in vacant crown land near Nowra.

In south east NSW (Eden, Southern RFAs) the annual net areas logged have rapidly increased and yields have fallen. In other words, the industry is having to deforest ever great areas to maintain the same levels of production. This is not a 'sustainable policy objective'.

Demonstrably unsustainable timber volumes were committed for 20 years. The 'FRAMES' industry modelling system used to derive these volumes substantially over-estimated available timber volumes. Consequently, even before the 20 year period expires, there will be a dramatic short-fall in timber.

To achieve the unsustainable volumes sought for the first 20 years, the system has had to dramatically over-cut for 20 years and thus result in much decreased volumes available thereafter. This is clearly reflected in the industry modelling, which shows a volume reduction of almost 50% after 2018.

For example, in the Eden Region, in 2008, FNSW was over quota by 1,311 cu metres and have been over quota for each of the previous nine years by a total of 18,000 cu metres and again there is no enforcement of the quota system from DECC.

Notably, in 2003 the NSW Government re-issued timber supply contracts, without conducting the promised timber review, for a further 20 years (thus extending the contracts out to 2023). Therefore, timber supplies have been committed outside the 20 year timeframe, without a wood supply review or any required review. These contracts have been extended well past the point at which timber supplies will fall in 2018.

Royalties in SE NSW are now less, in real terms than they were 15 years ago and the Government agency, Forests NSW is making less in royalty revenue than it expends in managing woodchipping operations.

Lastly it is a significant indication of how seriously the government takes community involvement when it becomes apparent that this ministerial review was unannounced except for a letter to NCC asking for input within a 28 day timeframe.

"It is significant that comprehensive community involvement will continue under this bill."(NSW Legislative Assembly Hansard, 12 November 1998, Minister Yeadon)

CONCLUSIONS AND RECOMMENDATIONS

Large areas of forest eco-systems that are auspiced as production forests by Forests NSW have been degraded and changed by logging and associated practices such as thinning, roading, drainage works and burning.

Native forests are damaged and degraded by current logging practices, these practices are economically unprofitable, and environmentally unsustainable.

Current prescriptions and legislation to protect native forests are extremely inadequate and have negligible enforcement powers.

The FNPE Act does not adequately protect Australia's native flora and fauna.

There should be no exemption for forestry operations which are demonstrably unsustainable, for which key agreements relating to sustainability reviews have been ignored and/or wood supply contracts signed outside timeframes.

Government owned and managed native forest logging practices have resulted in illegal logging, destruction of old-growth trees in special protection zones and multiple systemic breaches of licence procedures.

The almost complete consensus of public opinion (97%) is the requirement to leave the land in a better state than it was found and to eliminate or drastically reduce all native forest logging immediately.

In concurrence with the Stern Report, action to avoid further deforestation should be an urgent priority. Accordingly, if no action is taken, the health of native forests and therefore the Australian public will be severely detrimentally affected.

There are significant economic, environmental and social benefits to end native forest logging and to implement a swift transition of logging operations into the existing plantation estate.

The FNPE Act 1998 did not take Climate Change into account and is therefore invalid.

Policy objectives must be changed to prioritise native forest protection in its role of water catchment, health, carbon capture, and habitat for threatened species in perpetuity.

All native forest logging must cease.

All native forest lands held under Forests NSW must be transferred to the Department of Environment and Climate Change and be remediated.

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