

**INQUIRY INTO PERFORMANCE OF THE NSW
ENVIRONMENT PROTECTION AUTHORITY**

Name: Name suppressed

Date received: 27/08/2014

Partially Confidential

Dear Environment Protection Authority (EPA) Inquiry Panel,

I appreciate you taking this as my submission into the Environment Protection Authority (EPA) Inquiry. My comments and observations relate to your inquiry that involves Royal Camp State Forest and the logging of Koala high use areas by Forestry Corporation of NSW and the EPA's inability to fine, prosecute or enforce compliance of regulations regarding logging activities in Royal Camp State Forest.

As way of background, I'm originally from the Pacific Northwest in America and I researched logging activities up there and met with Bill Hermann, President of the Evergreen Partnership to discuss concerns I had about logging in areas that were against regulation such as adjacent to streams. He confirmed there were 'cowboy loggers' that didn't care about the regulations and that there wasn't a strong conviction within the regulatory body to address issues of non-compliance. He said that there was about a 10 year supply of wood left and then the a large section of the timber industry would have to be retooled and workers re-trained for other jobs. Seven years later, government gave payouts to retrain loggers in different industries. Regulations in Washington State are written in the Timber, Fish and Wildlife Agreement which I have read.

I lived near National Forests in the USA like I live near State Forests in NSW, Australia now. My experience with logging in the USA's National Forests is that there is systemic issues with compliance in leaving stream buffers causing heavy siltation of streams. This resulted in several wild river salmon runs to become extinct affecting commercial and recreational fisheries. Supporting documentation (<http://www.nwcouncil.org/history/Extinction>, <http://www.epa.gov/wed/pages/staff/lackey/pubs/illusion.htm>).

The saddest result was the extinction of the unique genetics to the wild salmon using those rivers for spawning which is lost to us forever. I also became concerned when Supreme Court Judge Dwyer put a moratorium on logging old growth forest due to the listing of the Spotted Owl and Marbled Murrelet as endangered. I noticed logging near my house in Old Growth and went to talk with the Rangers responsible for enforcing compliance in that particular forest. The Ranger told me that there was a contract with road contractors that needed to be met on a certain deadline or they would have to pay for it anyway.

I wrote letters to government but never heard back about my concerns that there was clearing in Old Growth to build roads. The National Forests are run by the Department of Agriculture and there was escalated road building while the government decided what to do about the need to keep the old growth habitat for the survival of endangered species reliant on old growth systems. Through research I discovered that a deal was in the works with President Clinton to protect remaining old growth in roadless areas. This is why National Forests escalated road building in old growth areas going against the federal court injunction so they would not be designated as off limits when the deal was finalised. This behaviour by the public official with National Forests that impacted on the protection of threatened native species really affected me. He was breaking the law and getting away with it.

I lived adjacent to Old Growth and there was a Spotted Owl that would sit on my hammock while I read books. I appreciated this magnificent animal and the Old Growth Forest I was living near. At the same time, it was reported that loggers were hunting the endangered Spotted Owl, killing them and impaling them on poles for the public to see that they did not want old growth to be protected so they could keep their jobs. The research I did then told me that the logging industry did not comply with the Timber, Fish and Wildlife Agreement and the government body responsible for making sure there was compliance to these regulations failed and it seemed supported non-compliance of regulations.

The reason I mention this is to give you background to my experience with logging practices in the USA and now NSW Australia.

My introduction to logging practices in NSW was by meeting with David Wilson and Flavio from Forests NSW in Doubleduke State Forest to show me their logging practices in NSW. They showed me their mapping and harvest plans and the strict prescriptions they need to adhere to.

After meeting with David Wilson I felt relieved there is strong regulations in NSW and that selective logging is the practice here excluding high conservation value and endangered ecological communities. I have read the Integrated Forest Operations Agreement (IFOA's) and numerous harvest plans and maps. I had remembered

reading an article in a regional paper reporting, 'illegal logging in Yaabra State Forest.' I googled it online and came up with the story that included interviews with John Edwards of the Clarence Environment Centre and Dailan Pugh. I tried to contact both to discuss logging happening in the forests around me. I reached John Edwards and he informed me that the Environment Centre was concerned about compliance of regulations.

He was unaware of the logging in Doubleduke and we met in the forest. He showed me what he thought were several breaches including not leaving enough habitat trees. There was an audit organised with an organisation I was introduced to called Northeast Forest Alliance (NEFA) and the North Coast Environment Centre (NCEC).

I am a filmmaker/photographer and asked if I could film the audit which they agreed to. The CEC brought filmmakers as well and as a result we published a short documentary of the process. Forest NSW wasn't able to get me permission to film them when we met in the forest and at that time declined to be interviewed for our short documentary. During the audit of Doubleduke State Forest and Supplementary Audit, several severe breaches were reported.

1. Logging of an Endangered Ecological Community (EEC).
2. No pre-logging assessment for the endangered Oxlean Pygmy Perch.
3. Inadequate protection in building bridges and protecting streams from siltation.
4. Removal of too many food trees for the squirrel glider.
5. Removal of too many trees near a Barking Owl nest. (NB: I believe the Barking Owls moved on to my property for some time after it's habitat was destroyed.)

After the illegal logging of the endangered ecological community was reported to the Department of Environment and Climate Change (DECCW now EPA) by NEFA my neighbour told me that she heard logging in that area continue for two more weeks before it was stopped.

The illegal logging and daily unsafe driving by the logging contractors upset most of the neighbours on the road so we decided to hold a public meeting and invite our local representatives to hear and see our concerns about the reported illegal logging in the Endangered Ecological Community in Doubleduke State Forest. Over 40 community members showed up along with Cate Faerhmann MLC, Grafton Mayor Richie Williamson and local Nationals Member Steve Cansdell, MP.

The day before the meeting I went out into the forest to make sure the road was clear of trees. In the EEC that was logged I ran into a DECCW officer. We had a chat and he told me he was doing soil samples for the investigation into illegal logging. He admitted that when he was told to investigate the soil in an endangered ecological community he had never even heard of one. He said that he had told DECCW supervisors that he was unaware what an EEC and concerned that he wasn't qualified to assess the area. He said they told him to look it up on DECCW's website, the definition of EEC's were there. This rang alarm bells from my experiences in the USA and felt that by DECCW sending in someone unqualified to execute the soil investigation of the EEC that this would be the way out of prosecution of Forests NSW for the reported illegal logging of an EEC. In the end it was indeed the soil investigation that caused the EPA to drop charges against Forests NSW logging of the EEC in Doubleduke State Forest.

Since then I have worked with other filmmakers from around New South Wales documenting audits of reported breaches in compliance of logging prescriptions as part of the IFOAs. We hope to raise awareness about the reports of systemic breaches in compliance of logging prescriptions affecting high conservation areas including, mapped old growth, sub-tropical rainforest and other endangered ecological communities. We are concerned for our forests and the native flora and fauna reliant on them. We are concerned that not enough is being done to deter these reported illegal logging activities of our public forests by our public servants and their contractors.

Below are the areas we visited with links to short documentary videos of the audits of reported illegal logging activities that I would like to have included as part of my submission as to why I feel that there is this ongoing systemic problem of breaches of logging activities and native vegetation clearing that the Office of Environment and Heritage and the Environmental Protection Authority are unable to fine, prosecute or ensure compliance of regulations meant to protect threatened species. In all areas and compartments there were breaches of inappropriate marking of habitat and recruitment trees, not clearing as required around trees to prevent tree damage from hazard reduction burns, missed identification and marking of high conservation areas.

The reason I am bringing up these other reported areas is because it shows that Royal Camp State Forest which I visited on several occasions is just one of a long list of non compliance and the ability of the regulatory agencies in ensuring compliance of logging and vegetation clearing regulations. There is more in depth information regarding my submission to regarding Royal Camp State Forest below.

Supporting documentaries

Our Forests Part 1

http://www.youtube.com/watch?v=_-7Gtrshs6g

Our Forests Part 2

<http://www.youtube.com/watch?v=tBRJaja--mg>

Our Forests Part 3

<http://www.youtube.com/watch?v=hz0QdqnEcng>

Our Forests Part 4

<http://www.youtube.com/watch?v=xdYXSk3RqqY>

ABC Interview

<http://www.youtube.com/watch?v=fguIgwQDzts>

Sustainable Forest Management

<http://www.youtube.com/watch?v=40qvF8cs3XU>

Logging Extinction Crisis as seen in Echonet Daily

<http://www.echonetdaily.net.au/?iid=76597#folio=7>

'Consultation' Forests NSW style

<http://www.youtube.com/watch?v=y0eItzDv-lA&list=UUNofjJlrPEXTrrYEhksLtrQ>

ABC.net.au

<http://www.abc.net.au/local/stories/2012/07/02/3537160.htm>

Clarence Environment Centre Youtube Channel has numerous videos relating to audits and reported illegal logging activities.

http://www.youtube.com/watch?v=fdn4gGk_4zo&list=UU211W32iO7hCtt7nZxZaLmw&index=43

<http://www.youtube.com/watch?v=s9tS4HtKMdQ&list=UU211W32iO7hCtt7nZxZaLmw&index=49>

http://www.youtube.com/watch?v=3QphJCV_CvU&list=UU211W32iO7hCtt7nZxZaLmw&index=48

<http://www.youtube.com/watch?v=gLsMLCIt1SU&list=UU211W32iO7hCtt7nZxZaLmw&index=47>

Doubleduke – Logging of a swamp forest EEC, drainage breaches, Oxlean Pygmy Perch requirements not considered, over logging of feed trees for gliders, Barking Owl nest area was reported as logged. Inappropriate

marking of habitat and recruitment trees and felling of habitat trees and left on the ground. One compartment it was reported there was no marking of habitat or recruitment trees before logging commenced.

Supporting documentaries

Forests NSW Logs Endangered Ecological Community

<http://www.youtube.com/watch?v=T0zGBLPQBzI>

Cansdell Pugh Doubleduke

<http://www.youtube.com/watch?v=TMfuKFE0frQ>

Twilight is Upon Our Native Forests

<http://www.youtube.com/watch?v=H67avqWpc3A>

Girard State Forest – Mapped Old Growth was reported as logged and logging in unmapped streams.

Sustainable Forest Management

<http://www.youtube.com/watch?v=40qvF8cs3XU>

Wedding Bells – Audit claims illegal logging of Federally listed critically endangered sub-tropical rainforest with replanting of Blackbutt seedlings. There are also reports of logging more than the 40 percent of basal area with a response from Forests NSW stating that would be offset in other compartments calling it heavy tree selection. Conservation groups are concerned that the offsets promised will be logged anyway.

Supporting documentary

<http://www.youtube.com/watch?v=tBRJaja--mg>

Boambee State Forest – Audit claims illegal logging of core Koala Habitat. The Koala is federally listed in NSW as endangered.

Supporting documentary

<http://www.youtube.com/watch?v=TSw5v9YtBQw>

Kendall – Audit claims that the 40 percent basal area compliance requirement was breached. Forests NSW response is that it is heavy single tree selection.

Supporting documentary

<http://www.youtube.com/watch?v=6eLOEIrjaO8>

Royal Camp - Audit claims illegal logging of high use Koala habitat. The Koala is federally listed in NSW as vulnerable in many parts of NSW, including Royal Camp State Forest. Koala high use trees were logged and trees with hardly any signs of Koala use were kept and marked as Koala trees. I personally counted Koala scats on this audit and several trees that were logged had over 40 scats of differing sizes leading the scientists to believe a family had been using that tree.

Trees marked with K for Koala would have significantly less scats. The tree with signs of high use that was logged was merchantable and the one that had the K marked on it to designate it as a significant Koala tree was not large enough to log so it was left instead. This is not how it's supposed to be done. We did not find any trees that had signs the people in charge of doing the mark up had moved the bladey grass around the tree to count the scats

before designating which trees to leave. It was as if they walked through the compartment and randomly marked trees that may or may not be right for the designation but not suitable for the timber mills. In other words, their attempt to mark up the area to alert contractors which trees to not take to give the Koala the best chance of survival was either conducted by officers that are poorly trained, didn't care or something corrupt is going on.

I've been on several audits now and counting Koala scat and identifying these areas is not that hard to do. You walk up to a tree that is a known Koala food tree and look around the tree for signs of Koala. You will see Koala scat on the ground, scratch marks on trees and sometimes a Koala resting in the tree.

I have two supporting videos that I'm sending in to you as part of this submission or can be viewed at the links below.

Koala in Royal Camp State Forest personal documentation of logging activities in our public forests and the impacts on threatened species.

<https://www.youtube.com/watch?v=IDCIRbL8m-M&list=UU0iL5-DYFWCET8bt-OyJ47Q>

Koala plagued by his fate commissioned by WIRES

<https://www.youtube.com/watch?v=GvJXc43jI04>

I have read a brief by NEFA written by Dailan Pugh OAM and agree to it's content and recommendations.

The EPA and Royal Camp State Forest
Dailan Pugh, North East Forest Alliance

A weekend audit by NEFA of logging operations underway in Royal Camp State Forest on 4 and 5 August 2012 located 4 Koala High Use Areas in compartment 15, with one actively being logged, one about to be logged and two scheduled for logging in the near future. A potential Koala High Use Area was also identified in a logging area in compartment 16.

On 6 August NEFA publicly called on the Forestry Corporation, the EPA and the responsible Ministers to immediately stop the illegal logging of the Koala High Use Areas, and logging was suspended that afternoon. The EPA began investigating compartment 15. Logging resumed days later in compartment 16.

NEFA considered that they had found a good breeding Koala population. The Forestry Corporation was not undertaking the thorough searches required for Koala scats ahead of logging and were thus not identifying and protecting Koala High Use Areas. NEFA also complained of logging of a Yellow-bellied Glider sap-feed tree, logging of hollow-bearing and recruitment trees, failing to mark habitat trees, and logging of a dieback area in compartment 14. See http://nefa.org.au/audit/RoyalCamp/NEFA_Audit_Royal_Camp_SF.pdf

While the EPA was in the field auditing, the Forestry Corporation burnt off part of the logged area in compartment 15, destroying any Koala scats and thus evidence of Koala high use areas present, and illegally bulldozed 2 tracks across creeks in riparian exclusion areas close to the EPA auditors. The EPA refused to take any action. In the area of compartment 16 that the Forestry Corporation resumed logging in, NEFA subsequently found that the Forestry Corporation were still not searching for Koala scats and had logged 2 Koala high use areas, supposedly under the supervision of the EPA.

On the 9 August NEFA attended an arranged meeting with the EPA outside the forest on the understanding that we would be going on a site inspection to show the EPA a variety of breaches we had identified, but not yet provided GPS localities for. Having made us drive to the site the EPA refused to allow us to show them the breaches, notably those around log dump 22 and the Yellow-bellied Glider sap-feed tree in compartment 14. Following our complaints to Barry Buffier the EPA agreed to another site inspection on 24 August where they were shown a variety of breaches, including those in compartment 14, with the Yellow-bellied feed tree confirmed by a reputable expert on site (GPS localities for all breaches, along with photos, were provided to the EPA on 20 August). In an apparent act of spite, the EPA later complained they "could not locate the alleged location" of the breaches we showed them around log dump 22. For the Yellow-bellied Glider breach they also ignored the expert evidence to claim they "could not determine beyond reasonable doubt whether the incisions had been made by a yellow bellied glider". The fact that the EPA investigators were unable to identify a common Green Tree Snake and such distinctive Yellow-bellied Glider feed marks make it apparent that they do not have sufficient expertise to do their job.

On 4 July 2013 NEFA inspected compartment 13 where logging was scheduled to begin and located 2 Koala high

use areas. NEFA called for logging to be suspended and a moratorium was agreed. It has become apparent to NEFA that, even where faithfully and fully applied, the current criteria only protect fragments of a Koala's home range and thus provide inadequate protection.

On 15 August 2013 the EPA finally responded to our complaints over compartments 14, 15 and 16. They had issued the Forestry Corporation 3 Penalty Notices (a \$600 fine) for failing to look for and protect Koala High Use areas, and a warning letter for failing to retain and mark the required habitat trees. In a sample area where the Forestry Corporation were required to mark and retain 42 hollow-bearing Trees, 42 Recruitment Trees, 42 Eucalypt Feed Trees and 42 Koala Feed Trees they had only marked 2 Hollow-bearing Trees and 3 Recruitment Trees.

On 19 August 2013 NEFA complained to the EPA about their misrepresentation of NEFA's complaints, misrepresentation of evidence, refusal to investigate key complaints, failure to report findings on key complaints, claims that they never found breaches that were clearly documented and shown to them in the field, failure to duly consider evidence available to them, inadequate expertise, and unprofessionalism. . See : EPA_Royal Camp_NEFA Review

The EPA's response was clearly ineffective. The Forestry Corporation showed no remorse, dismissing the need for better Koala surveys, and denying they had done anything wrong, commenting in the media "The reality is that the fines reflect the environmental outcome ...they're administrative, they're like staying in a parking lot for a little bit too long, ... there has been no environmental harm to koalas in that area." The Forestry Corporation continue to log without looking, protecting required habitat or retaining needed habitat trees.

NEFA would like to see as an outcome of the Inquiry:

1. A transparent and repeatable process and criteria for identifying and protecting core and potential Koala habitat across all tenures;
2. An independent process for assessing forests well in advance of logging to identify Koala habitat, with an aim to complete the delineation of Koala habitat on public lands within 3 years;
3. A requirement that habitat trees required to be retained for fauna habitat have their GPS localities recorded when marking to better facilitate implementation, auditing and ongoing protection;
4. The mapping of areas affected by, and vulnerable to, Bell Miner Associated Dieback in harvest plans and the exclusion of logging from affected and vulnerable stands;
5. Penalties that reflect the seriousness of the offence and that are progressively increased for repeat offences;
6. Removal of a cap on the issuing of Penalty Notices, and their issuing for all significant offences and repeat offences, according to explicit criteria;
7. Requirements for rehabilitation of illegally logged sites and the provision of compensatory habitat;
8. A requirement for the EPA to prepare professional and comprehensive reports documenting their investigations and justifying their conclusions from significant investigations, rather than just sending letters to complainants;
9. A requirement for EPA auditors to have appropriate training and environmental expertise in what they investigate;
10. A requirement that all investigation reports be completed within 3 months and made publicly available on the web;
11. An independent mechanism to investigate complaints against the EPA.

I also believe that civil cases should be allowed to be brought against logging operations, forest managers, contractors, timber companies and the Forestry Corporation of NSW by NSW State residents. Royal Camp State Forest is public land and funded by tax payers dollars so the public should be able to hold those not following regulations to account.

Below is a Hansard from the NSW State Government with the Hon. Luke Foley addressing Forests NSW, now Forestry Corporation NSW non-compliance of regulations meant to protect high conservation value areas and threatened species.

http://www.parliament.nsw.gov.au/prod/parlment/hanstrans.nsf/V3ByKey/LC20120614?Open&refNavID=HA8_1

NATIONAL PARKS AND WILDLIFE AMENDMENT (ILLEGAL FORESTRY OPERATIONS) BILL 2012

Bill introduced, read a first time and ordered to be printed on motion by the Hon. Luke Foley.

Second Reading

The Hon. LUKE FOLEY (Leader of the Opposition) [12.36 p.m.]: I move:

That this bill be now read a second time.

I am proud to introduce the National Parks and Wildlife Amendment (Illegal Forestry Operations) Bill 2012, which amends the National Parks and Wildlife Act 1974 to substantially increase the penalties for illegal forestry operations. Australia's forests, and the animals that live in them, have always been a source of pride and inspiration to Australians. When Europeans first came to our shores they were beguiled by and sometimes frightened of the bush. Eucalypts, cycads, wattles and waratahs greeted the new settlers and became the backdrop to their lives. The colonial wonder and amazement were palpable. In 1791 the colony sent two kangaroos as exotic gifts to the King and a dingo to the Under Secretary of State.

The art of John Lewin—an exhibition of which closed just this week at the Mitchell Library—further illuminated the colonial fascination with our forests. In the first years of the 1800s Lewin painted Gynea lilies and waratahs, tawny frogmouths and eastern rosellas. In 1803 Governor King despatched him to record the first koala sighted by white people. His stilted efforts at capturing the koala and the distinctive eucalypt reveal how foreign the forest and its animals seemed to European eyes. Struggling against and subduing this wild landscape became the task of white settlement. By the late nineteenth century a nationalist pride in our forest heritage was awakening.

In the lead-up to Melbourne's international expo in 1888 a competition was held to measure the tallest tree, with Australia hoping to find a *Eucalyptus regnans* taller than the tallest redwoods of the United States. Although the contest to claim ownership of the world's tallest tree was never settled—Australia's tallest eucalypts were cut down before they were properly measured—the nationalist pride that was piqued by the competition with the Americas opened the minds of Australians to the majesty of their forest heritage. By the turn of the century some visionaries were starting to worry about the rate of forest destruction occurring in the new federation. Arthur Streeton was one of those visionaries.

The famous Heidelberg painter, who played such a role in helping us see and embrace the Australian landscape, as well as celebrating the work of pioneers in carving out an economic future on this challenging land of ours, was a strident activist rallying against the destruction of our forests. While clearly proud of all that the settlers had done, he wanted some balance. He deplored Australia's failure to develop what he called a forest conscience, and he painted images bluntly named, such as *The Vanishing Forest*. In 1940 Streeton exhibited his most openly critical painting, *Sylvan Dam and Donna Buang, AD 2000*, which, as art critic Tim Bonyhady wrote, "conveys Streeton's nightmare vision of a wasted Australia, bleached, eroded and lifeless, as a result of the clearing of the forests."

The importance of our forests and their animals in the nation's culture is elegantly seen in our favourite children's books May Gibbs's *Gumnut Babies*, first published in 1916, and Dorothy Wall's *Blinky Bill*, published in 1939. Both remain staples in the childhood of so many Australians. This history puts forests at the centre of Australia's identity—our sense of place, our sense of wonder at living on this most marvellous of continents. And it was from this history that the modern forest campaigns were born, with New South Wales leading the nascent movement. In 1979 locals of Terania Creek, on the State's North Coast, held protests to protect rainforest gullies slated for logging and forced a radical rethink of the open slash policies of forest use. In 1982 Labor Premier Neville Wran protected 90,000 hectares of the rainforests of New South Wales. This was a brave and historic new approach and reflected the changing attitudes in the community towards preservation of the State's most impressive forests.

But still the community concern grew. In 1989 and 1990 the forest protests on the New South Wales South Coast dwarfed even the Franklin River blockade, continuing over 18 months with 1,300 arrests. In 1995 Bob Carr became Premier of New South Wales, aided by community sentiment for forest protection and Labor's promise to deliver a world-class national parks system and strong forest management—which is exactly what he did. Labor reformed the timber industry in New South Wales. Labor showed that it is not a crude choice between jobs and the environment but that a progressive society can create growing prosperity while protecting working people and the environment. Labor provided generous transition arrangements; and where the industry continued it was given certainty and resource security.

Labor created the best-forested national parks system in Australia, protecting for perpetuity the most ecologically important forests. Over 16 years Labor added three million hectares to the State's terrestrial reserve system, much of this on former State forest land. Iconic places such as Chaelundi and Jilliby in the north and Deua in the South East Forest National Park are now protected forever. But this was only half the equation. For the State forests left

open to logging Labor designed a comprehensive set of laws and prescriptions designed to ensure that logging did not decimate the ecological fabric of the forests; instead, leaving the building blocks of forest diversity and recovery, ensuring waterways were kept clean and animals were not robbed of their homes entirely. The integrated forest operations approvals [IFOAs] are the detailed documents which outline forest prescriptions and the licences granted to forestry operations. Perhaps most significant are those relating to threatened species.

One of the challenges with the logging of native forests is that animals require a mix of different-aged trees. A clear-fell destroys the forest as a home for animals as the trees that grow back are all the same age, creating a biological desert. Many animals specifically require big, old trees. It is only after a tree is mature that it starts to drop branches and create the hollows that many animals rely on. Gliders, birds and bats require these cosy hideouts to survive. Hollows have been called the apartment blocks of the forest, and many species of fauna in Australia are hollow dependent. Labor's rules require a set number of old trees, called habitat trees, to remain in a logged area. This is one example of the many sensible prescriptions which govern logging in State forests in New South Wales.

Furthermore, under integrated forest operation approvals, pre-logging fauna surveys are to be undertaken by fully qualified experts and particular prescriptions have to be followed if threatened species are found to be present. Specific numbers of hollow-bearing and recruitment habitat trees must be clearly marked, protected and retained. Feed trees, nests, roosts and den sites are identified, marked and protected. Buffer zones must be established and clearly delineated. And dedicated staff must be on hand to ensure there are no animals in harm's way.

In reality, though, things are very different today. Audits of logging operations that have been undertaken by environmentalists on the north and south coasts over the past two to three years allege the systematic breaching of virtually every threatened species prescription. In March this year I visited the Styx River State Forest, east of Armidale. The area is prime habitat for the rufous scrub-bird, a small, secretive, understorey bird that lives in the highland wet forests of north-east New South Wales. It is a living fossil, with a lineage dating back over 65 million years, to the age of the dinosaurs.

It is now listed as vulnerable to extinction on the New South Wales schedule of threatened species. Burning and logging are recognised as primary threats to its survival. Locals became concerned when they visited the Styx River State Forest and found it had been burned and was being logged. The area is modelled as rufous scrub-bird habitat in the integrated forestry operations approval. Further, in 2007 a Forests NSW ecologist saw rufous scrub-birds at seven locations in compartment 502 of Styx River State Forest. Forests NSW identified these records as extremely reliable, and they were included in the New South Wales wildlife atlas.

When locals complained about the logging occurring in the habitat of the rufous scrub-bird Forests NSW explained it had deleted the records from the New South Wales wildlife atlas without consultation with the Office of Environment and Heritage. Our threatened species need better care than this, both from Forests NSW and from the Office of Environment and Heritage. Our threatened species deserve that there be consequences for reckless mistakes such as this one. Last year I was first alerted to the seriousness of the problem. The then Department of Environment, Climate Change and Water had prosecuted Forests NSW for contravening its threatened species licence by undertaking a bushfire hazard reduction burn in a smoky mouse exclusion zone in Nullica State Forest, in southern New South Wales.

The smoky mouse is a furry little rodent that is in deep trouble. The International Union for the Conservation of Nature has it on its international red list for endangered species and notes that fewer than 2,500 are left in the wild: the population of the smoky mouse, which was once common across eastern Australia, continues to decline. We are in real danger of losing this creature. Forests NSW was found guilty in the case I referred to earlier, but the penalty was a fine of merely \$5,600. However, it was the judge's comments that struck me. Justice Pepper wrote in her judgement in June 2011 with respect to Forests NSW:

[The number of convictions] suggests either a pattern of continuing disobedience in respect of environmental laws generally or, at the very least, a cavalier attitude to compliance with such laws.

Her Honour also wrote:

Given the number of offences the Forestry Commission has been convicted of and in light of the additional enforcement notices issued against it, I find that the Forestry Commission's conduct does manifest a reckless attitude towards compliance with its environmental obligations.

The penalty is exceedingly low compared to penalties for other environmental offences, particularly given the

seriousness with which the community has come to view environmental offences. However, any increase in the penalty is a matter for Parliament.

That is what this bill is about. In New South Wales if a corporation pollutes a waterway it is liable to a \$1 million fine and \$120,000 for each day the offence continues. If an individual illegally clears bush on their own property they are liable to a \$1 million fine. If you contravene the Environmental Planning and Assessment Act you are liable to a \$1.1 million fine and \$110,000 for each day the offence continues. If you hurt a threatened species in any context—apart from Forestry—the maximum fine is \$220,000 and/or two years imprisonment. However, if you take the life of a smoky mouse or a long-footed potoroo by contravening the threatened species licence under an integrated forestry operations approval the maximum penalty is a paltry \$22,000.

This inequity in the respective penalties for breaches of environmental laws is ludicrous. Forests NSW is failing the people of New South Wales in its obligation to manage the forests. The lack of any real incentive to stick to the rules is one important part of this problem. That is why this bill increases the penalties for breaching the provisions of an integrated forestry operations approval tenfold. The bill amends the National Parks and Wildlife Act 1974 to create a new offence that involves contravening a provision of that Act or the regulations in the course of carrying out forestry operations. The new offence under the Act will attract a maximum penalty of 2,000 penalty units—that is \$220,000—or imprisonment for two years, or both, which is in most cases substantially higher than the existing penalties for contravening a provision of the National Parks and Wildlife Act 1974 or the regulations.

The bill also increases the penalties applying to the offence under the National Parks and Wildlife Act 1974 of contravening any condition or restriction attached to a licence or certificate issued under part 6, licensing, of the Threatened Species Conservation Act 1995. The maximum penalties applying to the offence will be increased in the case of an individual from 100 penalty units—that is \$11,000—and 10 penalty units for each day the offence continues to 1,000 penalty units and 100 penalty units respectively, and in the case of a corporation from 200 penalty units and 20 penalty units for each day the offence continues to 2,000 penalty units and 200 penalty units respectively.

Section 8A of the Forestry Act 1916 defines the objects of the Forestry Commission. In essence, it is charged with three key objects: to deliver timber, to provide for recreation and to care for the resource it manages. This third object specifically requires the Forestry Commission to "conserve birds and animals" in our State forests. It is time for Forests NSW to fulfil its legal obligations. It is time for the Office of Environment and Heritage to fulfil its obligation to ensure that the rules are obeyed and to prosecute when they are not. It is time for the Parliament to step up and call a halt to illegal forestry without real consequences.

Earlier this year I visited Boambee State Forest, just outside Coffs Harbour. Boambee is home to one of the last koala populations on the coast. I was shown a litany of prescription breaches including, perhaps most startlingly, the intensity of logging. There are prescriptions which govern the volume of the forests that can be logged, called the basal area. Logging is meant to be limited to 30 to 40 per cent of the basal area of the forest. I can attest that the volumes logged were much greater than that. Further, trees that were meant to be retained as habitat and feed trees for koalas were logged. Our koalas deserve better than this. It was in reference to the logging of Boambee State Forest that environment Minister Robyn Parker said last year in budget estimates that "logging protects koalas".

The koala is becoming an emblem of what is at stake here. Quite a bit of attention has been directed towards the koala of late. When those first white landed in Sydney Cove an estimated 10 million koalas lived in Australia. The current New South Wales koala population is estimated to be around only 10,000. That is a tragedy. The current scale of illegal logging is one of the key threats to this Australian icon. The bill addresses this problem by creating appropriate penalties for environmental crimes in our forests. I commend the bill to the House.

Debate adjourned on motion by the Hon. Dr Peter Phelps and set down as an order of the day for a future day.

[Deputy-President (The Hon. Natasha Maclaren-Jones) left the chair at 1.00 p.m. The House resumed at 2.30 p.m.]

There are other concerns regarding the EPA and OEH regarding native vegetation clearing and private native forestry. In the area that I live there have been several incidents of native vegetation clearing that was reported by several neighbours to these properties. One property systematically cleared the whole property, including native

vegetation along the stream. One of my neighbours told me the response they received is that the stream is man made but the locals do not think it's man made. The EPA or OEH still haven't supplied my neighbour with proof the stream is man made. There are good reasons you should not clear next to streams so you do not cause too much siltation and disturbance that can cause fish kills.

Several reasons were given by OEH and the EPA that the complete clearing of healthy bush older than 1990 was allowed. The response was it was for fence lines, dams, etc. but the native vegetation removal is clearly in breach of even those allowances yet both OEH and EPA have not fined the person responsible. This person had cleared another property in the same catchment and got away with it. This person sold that property, bought another bush block and cleared that. The vegetation regulations and fines and or prosecutions are meant to act as a deterrent. If the EPA or OEH does nothing than that sends a message to people they can get away with illegal vegetation clearing.

Another property in the area I live there was native vegetation clearing in a wetland that was reported to OEH and EPA by several neighbours and the response was it was for a fence line. It's almost two years later and there is regrowth but no fence. My neighbour told me that the person responsible put a star picket in the ground and that's it. Another neighbour told me the person was given a warning letter as he did clear more than what was allowed for a fence line that he never built. The real reason the person was clearing the native wetland vegetation was to run more cattle from what he told other neighbours in the area. A warning letter clearly is no deterrent to illegal land clearing as he's recently cleared more trees.

This message is all too clear with the illegal land clearing recently in western NSW. An OEH officer was killed for doing his job. Then a government representative, Andrew Fraser MP blamed 'bad legislation' for the killing. It's not the legislation, it's the culture with landholders believing they own the property, they should be able to do what they want. With the comments from Mr. Fraser, I feel he encourages that culture with these dangerous comments. It also brings to question, are there any pressures put on the EPA and OEH from special interest groups and from our MPs to not prosecute? It's not the whole political party ideal, I've met several National party voters that don't laser level their properties and follow native vegetation regulations. They are also learning from permaculture design and actually planting native trees along riparian areas. It's all about education and not spreading misinformation.

Over 40 percent of Australia has been cleared of native vegetation. Scientists say removal of over 40 percent of native vegetation is putting our forest ecosystems at risk of collapse. From the research I have been doing scientists believe we are now entering a phase where we are entering an extinction crisis period.

The Native Vegetation Act of 2003 is meant to prevent this from happening. If it's too weak, poorly written with loopholes or people turn the other eye regarding compliance then we will witness native forest system collapse and extinctions of native species locally like the Koala. It used to be that the government encouraged land clearing. We know now that was a flawed business and environmental model to follow which we are paying dearly to mitigate now. There are still people who believe this is the way to go but the majority of people do not believe this and most scientists don't either.

With over 40 percent of Australia cleared of native vegetation and over 75 percent of sub-tropical rainforest there are a lot of properties for those that want to run cattle to buy instead of buying bush blocks and clearing them illegally. Like locusts, these people buy properties, log the native bush and move on to the next property. This is not sustainable and will destroy Australia's biodiversity. The culture needs to change within politics and within our regulatory agencies. The people clearing land illegally need to buy land already cleared if that's what they want and leave the bush blocks for people who are willing to leave the native vegetation. Government needs to educate people why it is crucial for us to maintain healthy native vegetation for our water, biodiversity and threatened species.

I urge you to visit some of the logging sites above and see for yourself the breaches in compliance by Forestry Corporation of NSW. Meet with independent biologists and meet people who live near reported breaches and have raised the alarm bells regarding compliance and the inability of the EPA to fine, prosecute or ensure compliance of regulations as the Hon. Luke Foley has. As a documentary filmmaker I visited the forests with both Forests NSW and conservation groups to hear and see both sides of the story.

Just as my research in the Pacific Northwest in America revealed a systemic problem of compliance of regulations resulting in extinction of salmon runs, my research over the past several years here has made me agree with what Justice Pepper determined, Forestry Corporation NSW 'has a cavalier attitude towards compliance' and I believe this is having a dire impact on high conservation value areas and threatened species. I pay taxes and my tax contribution helps pay the EPA to do their job.

Either the EPA is not trained enough to do the job, are under resourced or are siding with the timber industry in relation to not wanting to ensure compliance with regulations. Do the people employed as public servants of the Environmental Protection Authority come from a forestry background that manage the forestry compliance or from a scientific point of view based on conservation of threatened species? I feel the EPA would be more effective if the administration of their duties were done by persons not affiliated with the forestry section or timber industry. This needs to be cleaned up or those departments are a waste of our tax payers dollars.

Thanks in advance for considering my submission for the Inquiry into the EPA of NSW.

Please keep my personal information confidential.

Regards,