

**Submission
No 38**

**INQUIRY INTO PROVISIONS OF THE FORESTRY
LEGISLATION AMENDMENT BILL 2018**

Organisation: Bellingen Environment Centre

Date Received: 30 May 2018



Bellingen Environment Centre

Dedicated to the conservation of the natural environment of the Bellinger valley since 1991

BEC submission to Standing Committee on State Development the Forestry Legislation Amendment Bill

Dear sir/madam,

The Bellingen Environment Centre (BEC) is a community-based organization in the Bellingen Valley in NSW. The BEC promotes nature conservation, sustainable catchment management in the Bellingen Shire. The BEC shares and interest in broader conservation issues with the groups like the NCEC, NEFA, NPA and NCC and we have included key aspects we support from their submissions in this submission. We have a particular interest in the protection of the State's forests and waterways both on public and private land.

Overarching comments

We appreciate the opportunity to make a submission to the Standing Committee on State Development. However, we and we assume many other stakeholders are dissatisfied at the timeframe made available for community submissions.

The Bill, introduced last week by the Minister for Lands and Forestry, Paul Toole, is the first ever to be sent off for an Inquiry by the Selection of Bills Committee.

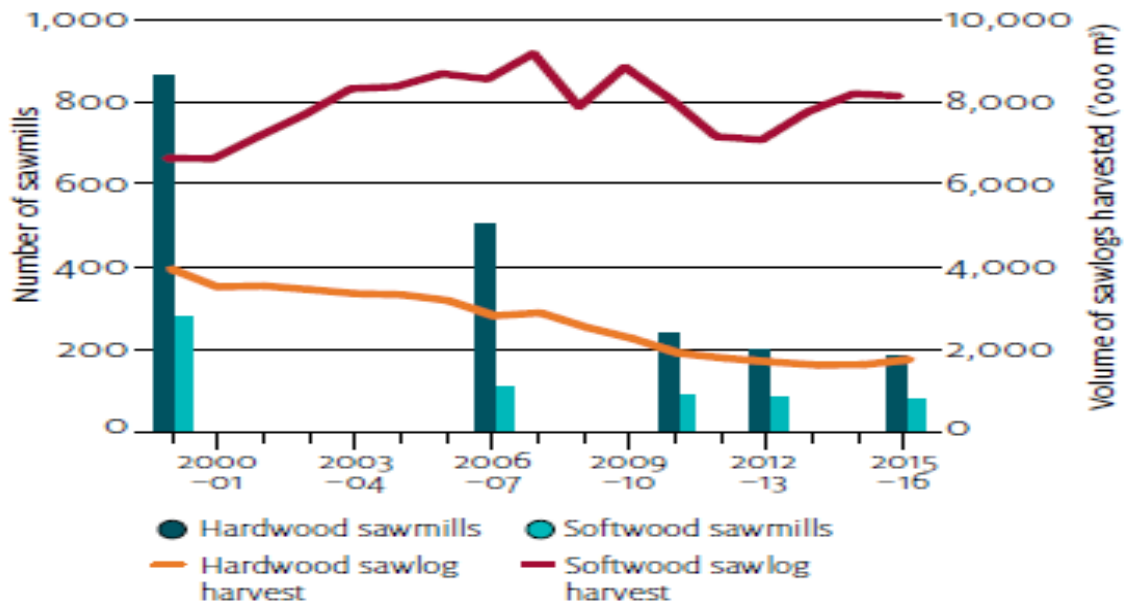
The *Forestry Legislation Amendment Bill 2018* transfers much of the responsibility for the management of Private Native Forestry from the Environmental Protection Authority to Local Land Services. It also amends the *Forestry Act 2012* and *Biodiversity Conservation Act 2016* to "update" the regulatory framework for public native forestry.

Proposed changes had caused alarm within environmental groups fearful of opening up old growth forests, as well as groups such as beekeepers and downstream farmers worried about the impacts of the new Integrated Forestry Operation Approval model on matters such as pollination levels and water quality.

The BEC together with a wide range of community groups strongly believe that native forest logging on public land should end following the expiry of the Regional Forest Agreements (RFAs).

The BEC does not oppose sustainable Private Native Forestry (PNF), but we are concerned that proposed changes to PNF will further weaken and potentially abandon environmental protection in favour of wood supply as indicated by the ABARE figures illustrated BELOW

Volume of sawlogs harvested for domestic production and number of sawmills, Australia, 1999–2000 to 2015–16



Note: Softwood includes cypress pine.
Source: ABARES

The BEC considers it totally inappropriate that the Minister for Lands and Forestry should prepare Codes of Practice for private property given that his priority is to obtain timber from private land to make up for public shortfalls. Clause 60ZT 'Responsibility for preparation and making of code' should identify the Minister administering the *Biodiversity Conservation Act 2016* responsible for preparing and making private native forestry codes of practice.

The BEC agrees with the NCC and NPA that :

“The forestry industry has been voluntarily transitioning itself away from native forests for decades, and plantations now account for about 85% of our wood needs. We should use the end of the RFAs to complete this transition.

Plantations now account for all of the profits (native forest logging consistently loses money) and the vast majority of jobs. We calculate, using census data, that both direct and indirect employment in the native forest logging sector now accounts for just 0.03% of all primary industry employment in NSW, and just 0.0008% of total employment. The transition would therefore have minimal social impact, particularly if accompanied with alternative employment proposals such as NPA’s Great Koala National Park and Forests For All. Taken in light of the demonstrated impacts of logging on koala habitat¹ and greater gliders², the driving of Key Threatening Processes ‘loss of hollow-bearing trees’³ and ‘Forest eucalypt dieback associated with over-abundant psyllids and bell miners’^{4,5}; repeated economic failures⁶; demonstrated problems in wood supply and disquiet among millers as to

preferential treatment of Boral revealed in a Government report⁷ and uncertainty around future resources due to climate change impacts⁸, we believe that the Government should abandon plans to extend RFAs and its proposed new Integrated Forestry Operations Approval (IFOA) and commit to an exit from native forest logging on public land.”

1. Process

The BEC supports the NCC and NPA in their strong objection to the process surrounding this Bill, Viz;

““Consultation on the NFB was secretive and selective and excluded the public and Aboriginal people. The subsequent Forestry Legislation Amendment Bill (FLAB) was again drafted with little transparency. Much of the content of the NFB was removed or altered with no explanation and nothing that was included in our feedback was included in the FLAB, which was introduced to Parliament with undue haste and with a lack of scrutiny. Processes of this opaque nature ultimately serve to erode public trust in the legislative process, and likely contribute to widespread apathy about political engagement. We urge the Government to return to a policy making process that respects public participation and delivers evidence-based policy settings.

We can only assume that the changes between the NFB and the FLAB were a result of industry lobbying for legislation that would maximise wood supply over environmental protections. The industry figures that were at the September consultation spoke openly about wanting to ‘facilitate’ Private Native Forestry, and the documentation surrounding the proposed changes to the IFOA clearly highlight that there is a wood supply shortfall that environmental protections are being scrapped in order to meet. Indeed, the Natural Resources Commission (NRC) report that accompanied the proposals stated: *“following analysis of the expected cumulative impact of the agreed and recommended settings, the Commission has determined that it is not possible to meet the Government’s commitments around both environmental values and wood supply”*. It is in this context that the FLAB should be judged.”

Further, the BEC is concerned that the requirements that Codes of Practice include provisions relating to "biodiversity conservation" is an inadequate basis on which to ensure the protection of threatened species and ecosystems. Codes of Practice are self-regulated and unenforceable in reality, as you know. Australia has the worst rate of species extinction in the world, in circumstances where we are currently in the 6th greatest global-wide extinction event in the history of the planet Earth.

This is a crisis. A Code of Practice does not reflect the severity of this crisis. Threatened species, waterways and habitat must be protected by enforceable laws with severe penalties. This is the ultimate land use conflict – but unlike the land use conflicts between human beings, wildlife does not have a voice and cannot fight for its own right to the land and the environment.

Requirements that Codes of practice include provisions relating to "biodiversity conservation" is a grossly inadequate basis to ensure protection of threatened species and ecosystems. In order to increase the chances of any resultant Code of Practice providing meaningful protection for threatened species it is proposed that 60ZT (3) be expanded to include provisions relating to:

(b) biodiversity conservation that maintains the diversity and quality of ecosystems and enhance their capacity to adapt to change and provide for the needs of future generations,

(b2) threatening processes, threatened species, populations and ecological communities under Part 4 of the *Biodiversity Conservation Act 2016*:

(b3) Commonwealth recovery plans and conservation advices under the Environment Protection and Biodiversity Conservation *Act 1999*

The intent should be to identify needed prescriptions to minimise impacts on threatened species and ecosystems and to require adequate surveys to identify all those requiring species specific protection.

Section 60ZR needs to expand the objects to separate out and expand "protect biodiversity" to a separate clause:

(c) to protect biodiversity (including threatened species, populations and ecological communities under Part 4 of the *Biodiversity Conservation Act 2016*)

Clause 60ZU (1) sets a minimum consultation period on draft Codes of Practice of 4 weeks, given that Codes of Practice are complex documents that are infrequently reviewed, the timeframe for exhibition should be extended to 8 weeks to allow for meaningful consultation.

Clause 60ZU (5) allows that there is no requirement to comply with the basic requirements for the draft Codes of Practice to be made publicly available for a period of at least 4 weeks and for the minister to consider any submissions, do not have to be complied with. This clause should be removed.

The current secrecy surrounding PNF approvals is contrary to the one of the basic principles of ESFM supposedly underpinning the bill: *(b) ensuring public participation, provision of information, accountability and transparency in relation to the carrying out of forestry operations*. Clause 60ZY should be amended to include:

(2) In determining whether to approve a draft plan (with or without modification), Local Land Services is to have regard to the following:

...

(c) The advices of any other agency or local government authority with specific responsibility for the subject lands.

...

(6) Before approving a private native forestry plan Local Land Services must inform neighbours and publicly exhibit the proposed plan for a period of at least 4 weeks.

(7) Approved private native forestry plans will be publicly available

2. Ecologically Sustainable Forest Management

We welcome the inclusion of Ecologically Sustainable Forest Management (ESFM) principles. However, the current IFOA proposals before the public are entirely inconsistent with ESFM, and the Government appears to be paying lip service to the principles while abandoning them, rather than seeing them as foundations for a sustainable industry.

Abandoning the principles of ESFM abandons NSW's commitments under the National Forest Policy Statement and walks away from decades of shared responsibility.

Current (and proposed) logging practices on public land flout the principles of ESFM, and we are concerned that the proposed changes to PNF will abandon ESFM principles on private land. We outline our concerns (and suggestions to overcome them in some cases) under each

identified ESFM principle below. Many of our concerns with the FLAB can and are discussed in light of one or more of the principles of ESFM.

(a) maintaining forest values for future and present generations, including:

(i) forest biological diversity

Forest species are becoming more threatened⁹, and we know that logging impacts on many species and drives Key Threatening Processes, including bell-miner associated dieback. The Forest Ecosystems of NSW are numerous and highly complex, and therefore ensuring they are not compromised by logging activities requires consultation with expert ecologists and a strong regulator. Should the PNF codes resemble agricultural codes in the Local Land Services Amendment Act (i.e. the they are self-assessable and do not require on-ground consultation with expert ecologists) it is beyond doubt that they will lead to significant degradation of forests, violating this principle of ESFM.

We believe that a more appropriate model is for more consultative and well-resourced preparation of Property Vegetation Plans (PVPs)—or PNF plans as per the FLAB—including on-ground visits by expert ecologists, to guide harvesting operations and highlight matters of environmental concern. We made this point during consultation on the land clearing legislation and reiterate it here.

We are deeply sceptical that the removal of Threatened Species and Pollution licenses and their insertion into the new IFOA will adequately protect the environment. The new IFOA settings are based on the need to maximise timber production, and the poor environmental protection settings reflect that prioritisation. The new settings will destroy forests in a global biodiversity hotspot (the Forests of East Australia); are almost certain to result in local and regional extinctions of wildlife; will ‘remap and rezone’ old-growth (which appears to mean revoking Special Management Zones, part of the informal reserve system) and will enable the logging of trees up to 140cm diameter (160 in the case of alpine ash and blackbutt) that will inevitably lead to a depauperate environment for current young people and future generations.

(ii) the productive capacity and sustainability of forest ecosystems

The changes to PNF are deeply concerning in light of the demonstrated shortfall of timber to supply Boral’s contracts to 2028 in northern NSW. Given the pre-eminence of timber supply over environment in the IFOA proposals, we find it difficult to believe that the changes to PNF will not share this priority. We note that the PVP model could assist in achieving this principle by including an assessment of productive capacity and therefore determining an ecologically sustainable logging rate.

(iii) the health and vitality of native forest ecosystems

We note that the NRC report advising on the IFOA⁸ remake identified five State Forests (one of which, Mount Lindsay, is one of the new koala reserves) in the Urbenville Management Area that “were considered impractical to manage for commercial purposes given reductions in net harvest area and areas affected by Bell Miner Associated Dieback”. This highlights how failing to manage forests with ecological sustainability as the primary concern is ultimately self-defeating to the industry. The PNF changes should reflect this imperative.

(iv) soil and water quality

Current logging practices, including the use of heavy machinery, on public land frequently result in soil erosion and associated water impacts, and logging is proposed in unsuitable areas—such as the Nambucca Beds. Different soil types may be more or less erodible, and this again highlights the importance of ensuring that landholders are provided with expert on-ground advice to avoid unforeseen environmental (and therefore productivity) impacts.

(v) the contribution of native forests to global geochemical cycles, and

We highlight the disruption to carbon cycles of native forest logging—particularly intensive logging. The Australian Government¹⁰ accepts that logging reduces the carbon stores of forests, and carbon transfer away from forests is increasing⁹.

The correct application of ESFM should result in no disruption of the carbon cycle in production forests. Climate was not a priority consideration in the RFAs, but is now the largest social, economic and environmental challenge we face. It is recognised that deforestation and forest degradation produce a significant portion of global emissions¹¹. In Australia, approximately 44% of carbon stocks have already been lost from temperate forests¹², and logged forests store approximately 60% of their maximum carbon stocks¹³.

The NSW Forest Industry Roadmap states that ‘sustainably managed forests have the capacity to absorb greenhouse gases as they grow, which contributes to a healthy environment’, and cites ‘Department of Primary Industries research’ as the source of this information. The source of this statement appears to be the 2007 (and now outdated) 4th IPCC assessment. However, high quality, peer-reviewed research does not accord with this statement. Mature forests have higher carbon stocks than regrowth forests¹⁴. Carbon stores in old growth (pre-logged) forests can be extremely high as a result of living trees and coarse woody debris, with large-diameter trees particularly important contributors¹⁵. The ‘remapping and rezoning’ of old-growth, and the logging of trees up to 140cm diameter (or 160cm in the case of blackbutt and alpine ash) via the new IFOA will therefore further reduce the carbon stores of forests, just when they should be maximised. Besides the direct removal of large amounts of biomass, logging shifts the age-class distribution to smaller-diameter trees¹⁶, which will therefore reduce carbon stores by reducing large trees.

Research in the Victorian Central Highlands and in southern NSW demonstrates that managing forests for conservation rather than timber extraction results in ‘an immediate and substantial reduction in net emissions relative to a reference case of commercial harvesting’¹⁷, primarily because the vast majority (>90%) of forest products are short-lived and logged carbon is therefore rapidly returned to the atmosphere^{17,18}. This finding is supported by other research^{19,20} and Australian temperate eucalypt forests are some of the most carbon-dense on earth²¹.

Carbon credits arising from the conservation of native forests could be a source of income for forest management for landholders^{22,23}, and we would urge the FLAB to facilitate this by taking a precautionary approach to logging. Permitting intensive logging removing a large proportion of biomass may preclude access to future sources of funding based around maximising carbon stores.

(vi) the long term social and economic benefits of native forests

It is our view that the maximum long term social and economic benefits of forests will flow from precautionary management that protects the biodiversity values and enables landholders to benefit from potential sources of funding such as carbon credits or the Biodiversity Conservation Trust. Should the FLAB result in the prioritisation of short-term timber extraction over long term sustainability, this element of ESFM will be violated.

(vii) natural heritage values,

(b) ensuring public participation, provision of information, accountability and transparency in relation to the carrying out of forestry operations,

Unfortunately, the FLAB is unlikely to increase (or even maintain) the degree of transparency around logging operations. For example, the Minister may decide not to publicly exhibit

submissions to a PNF code. We also note that the intent is for consultation to be similar to the land clearing codes, and make the point that this consultation was not at all transparent from our perspective, as no feedback from environment groups as to how to improve codes was incorporated into the final codes, with no explanation as to why not. The concerns raised about the codes persist to this day. We recommend that inadequate public consultation result in the invalidation of a code.

(c) providing incentives for voluntary compliance, capacity building and adoption of best-practice standards

The best incentive for voluntary compliance is a robust compliance regime that incentivises voluntary compliance via a respect for the law. This includes robust public oversight via legal standing, public registers and prompt digital data availability (pertaining to timber volumes and environmental protection).

(d) applying best-available knowledge and adaptive management processes to deliver best-practice forest management

We do not have confidence that the FLAB will enable this element of ESFM to be met. See next point on the precautionary principle.

(e) applying the precautionary principle (as referred to in section 6 (2) (a) of the Protection of the Environment Administration Act 1991) in preventing environmental harm.

We would contend that logging typically fails to apply the precautionary principle. For example, Forestry Corporation has publicly cited a lack of data as evidence as to a lack of impact of logging on koalas, despite knowledge of steep declines in koala populations²⁴. This is not consistent with the precautionary principle. We would also point out that the proposed IFOA changes are entirely inconsistent with the precautionary principle. This is evident from the uncertainty among the threatened species expert panel surrounding the ability of the environmental measures to adequately protect the full range of flora and fauna in logging operations, because there has been little data gathered by industry upon which to make decisions. The correct application of the precautionary principle in this case would have been to exclude logging from the habitat of threatened species and permanently protect it.

2. Penalties and enforcement

We support the inclusion of offence of contravening a PNF plan and code and the penalties. However, we note that in order to maximise the rigour of the compliance regime, the PNF plans should be on a public register. We support the EPA being the regulatory authority, and we support the ability of the regulator to issue stop work orders and to order remediation work.

3. Public consultation

We recommend an increase in the public consultation periods to eight weeks, or 56 days, from the proposed four weeks (28 days). Governance arrangements require many organisations to seek board approval for submissions which impact on their stated policy position and 28 days does not allow for this. Local Government is also unable to respond to a consultation period of 28 days due to meeting cycles which undermines local democracy.

4. PNF plans

If a PNF plan is to be effective, two key elements relevant to mapping are required: first, the map must accurately identify features that require protection. These include (but are not limited to) threatened ecological communities (the EPA should expand its TEC mapping accordingly); current extent of rainforest and old-growth; wilderness; rare and endangered ecosystems (according to national JANIS criteria); heavily cleared ecosystems (>70%); poorly reserved ecosystems (<30%); areas of high biodiversity and areas of outstanding biodiversity value; seasonal hotspots; centres of endemism; refugia, stream buffers; steep and

erodible soils; wetlands and their buffers; rock outcrops; regionally significant wildlife corridors and remnant native vegetation.

Second, the mapped features must be identifiable on the ground in order for them to be protected. This will require on-ground landholder contact from a qualified agency.

Contractors and/or Forestry Corporation are not suitable agencies to provide advice because they have a clear conflict of interest and motivation to maximise timber output and, in the case of the latter, has been unable to protect environmental matters on Crown land.

We would also suggest that Plans include a prediction of timber volume from the operations. This would allow public oversight as to the accuracy, or otherwise, of projections, and future assessment of actual outcomes against expected outcomes.

6.PNF Register

The BEC recommends that a public PNF register is established as it is important for communities like the BEC to know where logging is occurring within local catchments and sub-catchments to monitor land use health and function. We are concerned that the FLAB does not require this.

The public register must allow the public to see where a PNF license had been granted, and to view the PNF plan. This would avoid confusion as to the legality of operations and enable the public to assess whether PNF was being conducted in line with a plan.

The existence of a register of PNF is also important for Local Government's ability to protect its local environment and manage local services.

7.Third party rights

The lack of 'third party' rights to oversee public native forest logging is exceptionally undemocratic and entirely at odds with the goal of transparency. A sustainable logging industry should have nothing to fear from robust public oversight—particularly as State Forests are public land. Third party rights should be reinstated.

8. Concurrence

We are concerned that there is a clear imbalance in concurrence for PNF codes because the Environment Minister, the Forestry Minister and the Primary Industries Minister are all required. We recommend removing the concurrence of the Primary Industries Minister.

References

- 1 Pugh, D. *Clearing our koalas away*, <https://d3n8a8pro7vhmx.cloudfront.net/ncec/pages/19/attachments/original/1500379606/Clearing_Koalas_Away_final.pdf?1500379606> (2016).
- 2 Australian Government Department of Environment. *Conservation Advice: Petauroides volans - Greater Glider*, <<http://www.environment.gov.au/biodiversity/threatened/species/pubs/254-conservation-advice-20160525.pdf>> (2016).
- 3 NSW Scientific Committee. *Loss of hollow-bearing trees - key threatening process determination*, <<http://www.environment.nsw.gov.au/determinations/lossofhollowtreesktp.htm>> (2007).
- 4 NSW Scientific Committee. *Forest eucalypt dieback associated with over-abundant psyllids and Bell Miners*, <<http://www.environment.nsw.gov.au/determinations/bellminerfd.htm>> (2008).
- 5 Silver, M. J. & Carnegie, A. J. *An independent review of bell miner associated dieback. Final report prepared for the Project Steering Committee: systematic review of bell miner associated dieback.*, <<http://www.environment.nsw.gov.au/resources/vegetation/bell-miner-associated-dieback-independent-review.pdf>> (2017).
- 6 Campbell, R. & McKeon, R. *Money doesn't grow on trees: the financial and economic losses of native forestry in NSW*, <<http://www.nature.org.au/media/213736/160320-money-doesnt-grow-on-trees-nsw-forestry-final.pdf>> (2015).
- 7 NSW Department of Primary Industries. *Review of Coastal Hardwood Wood Supply Agreements - Final Report*, <https://www.crownland.nsw.gov.au/_data/assets/pdf_file/0007/720619/review-of-coastal-hardwood-wood-supply-agreements.pdf> (2017).
- 8 Natural Resources Commission. *Advice on Coastal IFAO remake – Outstanding settings*, <<http://www.nrc.nsw.gov.au/ifo>> (2017).
- 9 Montreal Process Implementation Group for Australia and National Forest Inventory Steering Committee. *Australia's State of the Forests Report 2013*. (ABARES, Canberra, 2013).
- 10 Australian Bureau of Agricultural and Resource Economics and Science (ABARES). *Australia's forests at a glance 2017*, <http://data.daff.gov.au/data/warehouse/9aaf/9aafe003/fag17d9abfe20170822/ForestsAtGlance_2017_v1.0.0.pdf> (2017).
- 11 Putt, P. & Graham, A. *Climate Change: Forest Carbon Counts*. (Humane Society International, Avalon, NSW, 2015).
- 12 Wardell-Johnson, G. W., Keppel, G. & Sander, J. Climate change impacts on the terrestrial biodiversity and carbon stocks of Oceania. *Pacific Conservation Biology* **17**, 220-240, doi:<http://dx.doi.org/10.1071/PC110220> (2011).
- 13 Roxburgh, S. H., Wood, S. W., Mackey, B. G., Woldendorp, G. & Gibbons, P. Assessing the carbon sequestration potential of managed forests: a case study from temperate Australia. *Journal of Applied Ecology* **43**, 1149-1159, doi:10.1111/j.1365-2664.2006.01221.x (2006).
- 14 Dean, C. & Wardell-Johnson, G. Old-growth forests, carbon and climate change: Functions and management for tall open-forests in two hotspots of temperate Australia. *Plant Biosystems - An International Journal Dealing with all Aspects of Plant Biology* **144**, 180-193, doi:10.1080/11263500903560751 (2010).
- 15 Dean, C., Fitzgerald, N. B. & Wardell-Johnson, G. W. Pre-logging carbon accounts in old-growth forests, via allometry: An example of mixed-forest in Tasmania, Australia. *Plant Biosystems - An International Journal Dealing with all Aspects of Plant Biology* **146**, 223-236, doi:10.1080/11263504.2011.638332 (2012).
- 16 Lunney, D. & Matthews, A. in *Conservation of Australia's Forest Fauna* (ed D. Lunney) 988-1021 (Royal Zoological Society of New South Wales, 2004).

- 17 Keith, H., Lindenmayer, D., Macintosh, A. & Mackey, B. Under what circumstances do wood products from native forests benefit climate change mitigation? *PLoS ONE* **10**, e0139640, doi:10.1371/journal.pone.0139640 (2015).
- 18 Keith, H. *et al.* Managing temperate forests for carbon storage: impacts of logging versus forest protection on carbon stocks. *Ecosphere* **5**, art75, doi:10.1890/ES14-00051.1 (2014).
- 19 Mackey, B. G., Keith, H., Berry, S. L. & Lindenmayer, D. B. *Green carbon: the role of natural forests in carbon storage. Part 1, a green carbon account of Australia's south-eastern Eucalypt forest, and policy implications.* (ANU E press, 2008).
- 20 Macintosh, A., Keith, H. & Lindenmayer, D. Rethinking forest carbon assessments to account for policy institutions. *Nature Climate Change* **5**, 946-949, doi:<http://www.nature.com/nclimate/journal/vaop/ncurrent/abs/nclimate2695.html#supplementary-information> (2015).
- 21 Keith, H., Mackey, B. G. & Lindenmayer, D. B. Re-evaluation of forest biomass carbon stocks and lessons from the world's most carbon-dense forests. *Proceedings of the National Academy of Sciences* **106**, 11635-11640, doi:10.1073/pnas.0901970106 (2009).
- 22 Macintosh, A. *Chipping away at Tasmania's future: alternatives to subsidising the forestry industry,* <http://www.tai.org.au/sites/default/files/IP%2015%20Chipping%20away%20at%20Tasmanias%20future_0.pdf> (2013).
- 23 Perkins, F. & Macintosh, A. Logging or carbon credits: comparing the returns from forest-based activities in NSW's Southern Forestry Region. Technical Brief No. 23. (2013).
- 24 Adams-Hosking, C. *et al.* Use of expert knowledge to elicit population trends for the koala (*Phascolarctos cinereus*). *Diversity and Distributions* **22**, 249-262, doi:10.1111/ddi.12400 (2016).