

REPORT OF PROCEEDINGS BEFORE

GENERAL PURPOSE STANDING COMMITTEE NO. 5

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

At Lismore on Wednesday 29 October 2014

The Committee met at 3.00 p.m.

PRESENT

The Hon. R. L. Brown (Chair)

The Hon. R. H. Colless

The Hon. G. J. Donnelly

Dr M. Faruqi

The Hon. L. Foley

Mr S. MacDonald

The Hon. Dr P. R. Phelps

CHAIR: Ladies and gentlemen, welcome to the first hearing of the inquiry by the General Purpose Standing Committee No. 5 into the performance of the Environment Protection Authority. Before I commence I acknowledge the Bundjalung people, who are the traditional custodians of this land. I also pay respect to the elders, past and present, of the Bundjalung and extend that respect to other Aboriginal persons present. I also thank all of those who kindly accommodated a change to our hearing schedule this afternoon. The Committee appreciates your flexibility and your understanding. This morning the Committee met with representatives of the Environment Protection Authority and the Forest Corporation of New South Wales on a tour of areas of interest in the Royal Camp State Forest. This afternoon is the second of four hearings we plan to hold for this inquiry. The first public hearing was held in Sydney on 13 October and the third will be held in Newcastle on 10 November. The final hearing will be at Parliament House in Sydney on 24 November. Today we will hear from representatives of the North East Forest Alliance, the Ballina Environment Society, and the Forestry Corporation New South Wales.

Before I commence, I will make some brief comments about the procedures for this afternoon's hearings. We have some broadcasting guidelines and I understand the documentary maker has been given a copy of those. While members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I also remind media representatives that you must take responsibility for what you publish about the Committee's proceedings today. It is important to remember that parliamentary privilege does not apply to what witnesses may say outside of their evidence at the hearing, so I urge witnesses to be careful about any comments you may make to the media or to others after you complete your evidence, as such comments would not be protected by parliamentary privilege. The guidelines for the broadcasting of proceedings are available from the secretariat.

There may be some questions that a witness could answer only if they had more time or with certain documents to hand. In those circumstances witness are advised that they can take the question on notice and provide an answer within 21 days of the Committee formally providing them with those questions. I remind everyone here today that Committee hearings are not intended to provide a forum for people to make adverse reflection about other persons under the protection of parliamentary privilege. I therefore request that witnesses focus on the issues raised by the inquiry's terms of reference and avoid naming individuals unnecessarily. Our witnesses are advised that any messages should be delivered to the Committee members through the Committee staff; similarly, if you wish to table any documents, the Committee staff will take those documents from you. Would everyone please follow my example in turn off their mobile phones. If you want to make a phone call, please leave the room. I will now move to our first set of witnesses this afternoon and proceed by administering either the oath or the affirmation for those witnesses. The Committee will then proceed to hear evidence and to ask questions.

DAVID ROYDON MILLEDGE, Ecologist, North East Forest Alliance, and

DAILAN PUGH, Coordinator, North East Forest Alliance, affirmed and examined:

CHAIR: The witnesses are appearing on behalf of the North East Forest Alliance. Is that correct?

Mr PUGH: Mr Milledge is the consultant we engaged for this.

CHAIR: He is appearing on behalf of the Forest Alliance?

Mr PUGH: Yes.

CHAIR: Thank you. Before we proceed, would you like to make an opening statement?

Mr PUGH: I would. I just have a query for you: It comes to about 20 minutes. Is that too long?

CHAIR: No. that is fine.

Mr PUGH: Is it? Okay, good. Thank you for the opportunity to present our case. We believe that we have been unjustly treated by this inquiry: firstly, by the removal of appendices 1 and 2 and attachments to our submission from the exhibited documents; secondly, by the late invitation to attend and then being informed at 5.00 p.m. on Friday that our time was changed from 9.00 a.m. to 3.00 p. m. so you could go on a site inspection, and which is why our third member is not here; and thirdly, by being denied an opportunity as the principal complainant to show you the key sites that this aspect of your inquiry is based on and ensure that you see both sides of the issues—or probably, in this case, three sides of the issues—rather than just what the Environment Protection Authority [EPA] presents.

The redacted appendices 2A and 2B of our submission summarise our complaints regarding Royal Camp. With the omission of the complaints regarding the shoddy aquatic habitat assessment and the Forestry Corporation's false claims, there are a total of 25 individual complaints we made to the EPA. It is worth noting that of those offences investigated by the EPA, they only disagreed with one, and we maintain that we were right on it as well. In their submission the EPA pretends that only four of our complaints were not investigated. By our reckoning, by the time of our complaint to Mark Gifford of 19 August 2013 the EPA had taken no action in response to 14 of our complaints. Eight of those initially were claimed by the EPA to be unsubstantiated, going so far as to claim they were not able to find breaches we took them to. The EPA later admitted they had misrepresented the evidence and agreed that we were right. While the EPA admitted they were wrong they still failed to take any regulatory action for any of those breaches.

Penalty notices were issued for two of these offences, totalling three notices, and official cautions for four. By our reckoning, no regulatory action was taken for nine of the offences that the EPA eventually confirmed, with the EPA failing to even mention eight of those as problems to the Forestry Corporation. We are concerned that in their responses to us the EPA falsely claimed that two of our koala complaints in compartment 16 were covered by the penalty notices they issued for logging over a week before in compartment 15. Being repeat offences, they should have been vigorously pursued rather than dropped. The EPA totally ignored our complaint about Forestry not undertaking koala star searches, yet also claim this was covered by an irrelevant penalty notice. They also pretend that the official caution they issued applied to two totally different offences, committed at different times in different places. Most outrageously, they pretended that our complaint about burning of evidence in compartment 15, while the EPA were conducting their investigation, was covered by an official caution they issued for burning exclusion areas in a fire eight months earlier in compartment 14.

The EPA are ineffective regulators due to their failure to fully or competently investigate complaints, their inadequate expertise and scientific rigor, their limited and ineffective regulatory responses, and their failure to act proactively to avoid breaches. The evidence is now overwhelming that Royal Camp State Forest encompasses a regionally significant resident breeding population of koalas that should be fully protected as core koala habitat. These koalas are part of a koala population that extends outside Royal Camp, across private land, to take in the Carwong State Forest. The EPA has issued numerous property vegetation plans over those forests, when logging under the private native forestry [PNF] code there is no requirement to look before you log, and our experience from Whian Whian is that, even under close supervision by the EPA, koalas are not protected. The EPA is part of the problem, not the solution.

Koalas have been found to have a preference for trees over 30 centimetres in diameter of certain species—at Royal Camp, primarily grey gum, grey box and various red gums. They also utilise other trees for feeding and shelter. Stable breeding aggregations of koalas comprise individuals with overlapping home ranges of around five hectares. Koalas show strong fidelity for their home ranges throughout their lives, which may be eight to 10 years. In our audit of Royal Camp on the weekend of the 4 August 2012, the North East Forest Alliance [NEFA] found abundant evidence of koalas, no evidence of koala scat searches, and no marking of koala feed trees. We identified four koala high-use areas in compartment 15 and another likely one in compartment 16. All these were subsequently verified by both the EPA and the Forestry Corporation. One was actively being logged, another was about to be logged, and the other three were proposed for logging. We advised the EPA and Forestry, wrote to the Minister and issued a press release. Logging was stopped on 6 August by us, not by the EPA. The EPA subsequently found 61 trees that had been felled and 405 metres of snig tracks constructed in the koala high-use area near log dump 20.

The EPA's submission identifies that the root cause of the breaches was the Forestry Corporation's failure to undertake searches for evidence of koalas in compliance with the licence, noting "If you don't look, you don't find and if you don't find, you don't protect". While the EPA audit was supposedly underway, the Forestry Corporation burnt off substantial parts of the logged area of compartment 15, thereby destroying the evidence of any remaining koala scats in those areas and any further evidence of licence breaches, though the EPA refused to investigate this. A forester gave the EPA the location of another koala high-use area that had already been logged, though the EPA apparently also failed to investigate it. It can equally be said of the EPA that they do not find because they do not look.

On 9 August logging resumed in a part of Royal Camp State forest in compartment 16 that had not been assessed by NEFA. NEFA naively assumed that the EPA would ensure that Forestry would look before they logged, though when we looked over a week later we found that Forestry were not looking and had logged another koala high-use area. The EPA confirmed that the Forestry Corporation still were not looking and that seven trees were removed and 230 metres of snig tracks had been constructed within another koala high-use area. We added this to our complaints to the Ministers. We hoped that now the EPA would ensure that Forestry looked before they logged. Logging finally stopped on 7 September, over a month after our first complaint and over a fortnight after the second offence. When we subsequently checked a small part of the logging we again found Forestry had not looked and had logged another koala high-use area. The EPA did not check this time.

In 2013 the Forestry Corporation informed both the EPA and NEFA that they were proposing to commence logging in compartment 13 on 17 June. Forestry's draft harvesting plan identified "nil" koalas. The EPA did nothing. In July NEFA inspected the area and located 34 trees with koala scats about their bases, demonstrating that extensive sections qualify as koala high-use areas. This was subsequently confirmed by the EPA. Our findings led NEFA to identify that Royal Camp State Forest is of regional significance for koalas and is of such importance that further logging should not occur in these compartments and that they should be protected as a nature reserve specifically for koalas. In response to NEFA, and at their Minister's insistence, the EPA finally decided to undertake proactive action by undertaking an assessment of the regional significance of the Royal Camp Koala population. The region's koalas were identified as being in significant decline, and the EPA belatedly concluded that Royal Camp supports an "important and declining koala population" that should not be logged until further assessments are undertaken.

In their submission to this inquiry the EPA claim they reacted quickly to our complaint, thereby "preventing further harm" and that their processes appropriately "minimise ongoing actual or potential harm". They maintain "potential harm was addressed by the cessation of logging activities at the EPA's request". We have no doubt that logging only stopped the first time because of our complaints to the Ministers and our public appeals, and that it was the EPA's decision to allow logging to continue without ensuring that there were the required pre-logging koala surveys that led to at least two additional koala high-use areas, and likely more, being logged. Similarly the EPA was going to allow logging to resume in compartment 13 without expressing any concerns until NEFA intervened. In their submission the EPA claims the Forestry Corporation has demonstrated a "positive shift". As evidenced by their ongoing breaches in Royal Camp the Forestry Corporation has continued to refuse to look before they logged.

In November 2012 the EPA audited Wang Wauk State Forest and found similar problems. On 7 November 2012 the regional forester reported to his chief executive officer that they were standing their ground and would not change their survey techniques. In February 2013 the responsible foresters told the EPA they had done nothing wrong and had not changed the way they searched for koala scats. In April 2013 the Forestry

Corporation again claimed to EPA that they had done nothing wrong. In September 2013 we found these same foresters logging without looking on private land at Whian Whian.

The EPA has a perverted idea of a positive shift. After the EPA gave the Forestry Corporation their token fines and warning letter they continued to show no remorse, claiming on 12 July 2013: "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." What Royal Camp shows is that the Forestry Corporation has been sitting in that same parking lot for 13 years and the EPA had never asked them to move until we came along. Countless koala high-use areas would have been logged over the past 15 years because the Forestry Corporation do not look before they log and because the EPA is an ineffective regulator.

The EPA also claim: "The area logged did not impact on the viability of the koala habitat and the majority of the trees removed were a secondary browse species, rather than primary preferred browse species for koalas." This relates to the koala high-use area NEFA stopped them logging in, so over half the area was unlogged. In that part logged, 60 trees were removed and 405 metres of snig tracks constructed. We do not believe that the EPA has done any assessment that could possibly justify that this had no impact on koalas. Their claim is thus unsubstantiated conjecture with no credibility. There is no evidence that the EPA bothered to look for or assess logged koala high-use areas elsewhere, despite being advised of one by a forester. In the one 2.3 hectare area we assessed for removal of trees over 40 centimetre diameter in compartment 15, we found that 58 per cent of primary browse species, being 41 per cent of total large trees, were removed. We believe that the large numbers of preferred feed species, over 30 centimetre diameter, removed from within and near koala high-use areas in compartments 14, 15 and 16 would have had a significant impact.

Yellow-bellied gliders live in family groups in territories of 30 to 60 hectares. They choose special trees to tap for sap by chewing, often V-shaped channels, into the bark to concentrate sap for feeding. Along with tree hollows, sap-feed trees are key resources. For years before Royal Camp we had found that the Forestry Corporation were routinely failing to identify and protect yellow-bellied glider sap-feed trees. We had also found that the EPA often ignored complaints and when they investigated it was only superficial. As a result of our complaints, on 3 July 2012 the EPA informed NEFA it was making the "marking and protection of yellow-bellied glider sap-feed trees as one of its priorities". On 31 July 2012, the same month, we informed the EPA that we had found a logged sap-feed tree at Royal Camp. On 9 August we attended the forest, as agreed with EPA, to show them a variety of breaches, including the felled yellow-bellied glider sap-feed tree. They refused to let us show them. We told them where it was and they promised to investigate it.

After our complaints, on the inspection of 24 August we showed the felled sap-feed tree to the EPA and Mr Milledge discussed it at length with them. They had apparently made no attempt to investigate it. I subsequently raised this tree on numerous occasions with the EPA and expected them to take strong action. Never once did they tell me they doubted it was a feed tree. When the EPA finally released its report on 15 August 2013 they refused to take any regulatory action claiming "the EPA could not determine beyond reasonable doubt whether the incisions had been made by a yellow-bellied glider". After our complaint, the EPA responded on 13 September: "We acknowledge the expertise of Mr Milledge and do not contest this advice; however, given the prioritisation, a regulatory decision was made not to issue a penalty notice in this instance." At no time during their investigations did the EPA raise this tree with the Forestry Corporation in writing. It is apparent that they never intended to investigate it.

In its submission the EPA now claim it "considered evidence in the field and acknowledged the expert advice provided by NEFA". This is untrue, at least until our complaint about their August 2013 report. The EPA goes further by claiming: "The Forestry Corporation had failed to identify and mark more than one feed tree that had been felled" and then claim they gave these alleged breaches "a lower priority ... because a significant number of yellow-bellied glider feed trees had been retained throughout the Forestry Corporation's operations and there was likely to be low environmental harm." In the areas we inspected we did not find another sap-feed tree and we have seen no evidence that the EPA did, this evidence is utter nonsense. We believe the EPA simply ignored our complaint and thus have no rational basis for claiming the loss of the only sap-feed tree found was likely to have low environmental harm.

Minimum numbers of habitat trees are required to be retained across logging areas in order to reduce logging impacts on a wide diversity of forest animals, most notably those with requirements for essential resources provided by older eucalypt trees. After decades of implementation of these prescriptions, it is an indictment upon the EPA that they are still being found to be routinely and flagrantly abused. The NEFA complaint specifically identified inadequate marking and retention of required habitat trees from two traverses

in compartment 15, the locations of four hollow-bearing trees that were felled in compartment 16, one marked hollow-bearing and one marked recruitment tree with excessive debris left around them, and the locations of eight hollow-bearing trees that were marked as recruitment trees. These are only samples of major and widespread problems within Royal Camp, breaches that we have also found to be common throughout the region.

The EPA only assessed one area in compartment 15 for tree retention, confirming NEFA's complaints by finding the Forestry Corporation had marked for retention less than six per cent of the required trees. For this major breach of numerous licence requirements they only issued an official caution. The EPA initially claimed that they were unable to find the examples we provided of debris left around the bases of retained trees ready for burning and the hollow-bearing trees marked as recruitment trees. When we complained that we had not only provided GPS localities and photos but had also taken the EPA to many, they did then admit there were breaches though still took no regulatory action. The EPA ignored our complaints of illegally felled hollow-bearing trees despite being given localities for many.

In its submission the EPA claims that if not for the priority given to koala protection, the selection of recruitment trees in Royal Camp would have been given greater focus in the investigation. It is incredible that the EPA is not capable of investigating more than one issue at a time and it is reprehensible that they didn't even raise most of our complaints with the Forestry Corporation. It is apparent that the EPA simply don't care that such extreme and flagrant breaches of multiple licence requirements occur. The Forestry Corporation remained unrepentant. It is therefore no surprise that after 15 years of routinely failing to meet minimum tree retention requirements for a plethora of threatened species, the Forestry Corporation continue blithely on.

Two key threatening processes occur in Royal Camp State Forest and are ignored in the Forestry Corporation's harvesting plans: forest eucalypt dieback associated with over-abundant psyllids and bell miners; and invasion, establishment and spread of lantana. Both are being aggravated by the logging. Lantana now dominates the understorey of most logged forests in moist areas near creeks, with bell miners and dieback along the main creek—Sandy Creek. This was verified by the EPA. Vast swathes of New South Wales degraded forests are now affected by dieback primarily associated with logging, lantana and bell miners. More than 100,000 hectares of forests in New South Wales are already affected by bell miner associated dieback [BMAD] and millions of hectares have been identified as potentially susceptible. When the EPA finally released its report on 15 August 2013 it refused to take any regulatory action stating: "No specific action taken but the broader issue is part of the EPA compliance priorities."

There is no evidence that the EPA made any attempt to raise this issue with the Forestry Corporation or take any investigative action—not bad for a compliance priority. In its submission to this inquiry the EPA now state it "will provide records of these observations to the Bell Miner Associated Dieback Working Group and the Forestry Corporation"—better late than never. NEFA provided them to the Forestry Corporation two years ago and they don't care. Referring our complaints about bell miner associated dieback to the non-statutory, unstaffed and powerless working group is the EPA's standard response. It has no ability, power or responsibility to deal with such complaints. It hasn't met this year and is in limbo. Who better to do the EPA's job for them?

The EPA has responsibility for the Protection of the Environment Operations Act 1997, which includes as an objective to protect, restore and enhance the quality of the environment in New South Wales, having regard to the need to maintain ecologically sustainable development. This means avoiding serious or irreversible damage to the environment, ensuring that the health, diversity and productivity of the environment are maintained or enhanced, and conserving ecological integrity. It is therefore not acceptable that the EPA effectively abrogates its responsibilities to protect, restore and enhance ecosystem health and productivity. The EPA has ignored its responsibilities for bell miner associated dieback for too long. Thank you for your time. I will pass over to my colleague David Milledge for brief comment.

CHAIR: Before you do, perhaps we could have a copy of your opening remarks.

Mr PUGH: Of course.

Mr MILLEDGE: Thank you. I have a few photos that I would like to distribute, if that is permissible.

CHAIR: Thank you.

Mr MILLEDGE: They illustrate some of the points I wish to make. I am a wildlife ecologist with forty-five years' experience working for government departments and authorities and as a private consultant in three States in Eastern Australia. I am currently a director of Landmark Ecological Services. I am working at the moment as a consultant for Southern Cross University and for the Nature Conservation Council of New South Wales. I was engaged by NEFA in July 2012 to provide advice on wildlife matters generally and in particular on breaches of the threatened species licence, which was issued to the Forestry Corporation for Royal Camp State Forest. I have filled this role up until the present time. I have a particular interest in these prescriptions because they are prescriptions designed to provide protection to the habitats of threatened species and they are incorporated in the threatened species licence. I helped develop these prescriptions in the mid 1990s when I worked for the National Parks and Wildlife Service.

I would like to focus on two threatened species in regard to Royal Camp State Forest: the yellow-belly glider, which is illustrated in photograph number one, and the koala. I will not deal with the ecological requirements of the yellow-belly glider because Mr Pugh has already dealt with those, suffice to say that its presence is regarded as an indicator of a rich and healthy forest ecosystem and its management as a landscape species is considered to cater for the conservation of a range of other specialised forest fauna. On 27 July 2012 I inspected the upper section of a spotted gum, illustrated in photographs numbered two, three and four, which had been felled as part of a logging operation in compartment 14 of the Royal Camp State Forest. The section of the tree left in situ, which had obviously been incised by yellow-belly gliders, represented a clear breach of the threatened species licence. These sap-feed trees are required to be retained and 15 similar trees are also required to be retained around the sap-feed trees within a radius of 100 metres. I saw no evidence that these 15 trees had been retained around the felled tree either.

On 9 August I met with EPA officers with Dailan Pugh outside Royal Camp State Forest but they refused to allow us to take them to the yellow-bellied glider sap-feed tree. However, after representations we met with EPA officers again on 24 August and showed them the felled tree, and I demonstrated the characteristic V notch marks that the yellow-belly glider incisors into the bark of its sap-feed trees, demonstrated in some of those photos I provided you with. I demonstrated how the glider makes these incisions. It grabs on to the bark and chews into the sapwood to make the sap run on which it feeds. And I pointed out, as you can see from those photos, there is very characteristic chewed bark and the scratches made by the claws of yellow-belly gliders around the V notches.

The officers appeared to accept and understand this evidence. Consequently I found it absolutely inconceivable to read in the EPA's findings in their report, which was made available not until August 2013, that the EPA could not determine beyond reasonable doubt whether the incisions had been made by the yellow-belly glider and as such no regulatory action was taken. However, when this finding was queried the EPA then reversed its opinion, apparently accepting that the tree was a yellow-belly glider but stated, "Given prioritisation, a decision was made not to issue a regulatory notice." Apparently this was because the breach was given lower priority as a significant number of yellow-belly glider feed trees had been retained throughout the Forestry Corporation's operations.

I saw none of these so-called sap-feeding trees within compartment 14 or within the other compartments that we inspected, and certainly none had been marked. The EPA here has obviously erroneously confused the sap-feed trees with feed trees and the different description applies to feed trees of course. And from this example one can only conclude that the EPA lacks the expertise to audit the threatened species licence provisions in the field and they made a deliberate attempt to obfuscate the situation. It appears they had no intention to take action on this breach of the threatened species licence. Incidentally, the EPA's lack of expertise in wildlife matters was demonstrated earlier on this day, on 24 August, when I had to rescue a harmless common tree snake from their hire vehicle which they were unable to identify, assuming it was a venomous snake.

The Hon. LUKE FOLEY: That is probably outside our terms of reference.

Mr MILLEDGE: The koala, which Mr Pugh has dealt with in detail, is the most iconic of Australia's charismatic mesofauna and like the yellow-belly glider it is an indicator of a healthy forest. The maintenance of the koala's populations function is a surrogate for biodiversity conservation. I found that in the eastern section of Royal Camp State Forest there were particularly high levels of koala activity, high density of trees showing characteristic scratch marks, which I illustrated in some of the photos there for you, and large concentrations of scats or faecal pellets around the bases of these trees, which are the basis for ascertaining the presence and the density and the activity levels of koalas in State forests under the prescriptions which are designed for this.

In some cases I found up to 60 scats at a time, fresh scats under the bases of these trees. This represented amongst the highest levels of koala scats that I have found in north-eastern New South Wales during my time as a forest ecologist investigating koala densities. As no doubt you will have seen from your inspection of the State forests today that the forest types in Royal Camp State Forest are dominated mainly by preferred koala food trees: grey gum, forest red gum, coastal grey box, spotted gum and, to a lesser extent, some of the other red gums and tallow wood. The forest structure of predominantly pole and mature stage trees is also favoured by koalas for foraging.

My observations of koala activities in compartments 13, 14, 15 and 16 of Royal Camp State Forest represent some of the highest levels ever, as I said, of koala activity in north-eastern New South Wales that I have investigated. Possibly the population there is one of the most important on public land in the region. In the wider context, around Royal Camp State Forest, including in the adjacent Carwong State Forest, the population is clearly of regional significance, and this has been indicated and acknowledged by koala expert Dr Steve Phillips. He is of the opinion that this population, particularly in the Richmond River local government area is in decline. So the Royal Camp sub-population of these koalas is of great importance as a refuge and source area for recolonisation in maintaining genetic integrity of koalas in this area.

As you have heard from Mr Pugh, there has been broad-scale abandonment of the threatened species licence prescriptions to protect koalas in Royal Camp State Forest, with high-use areas routinely logged throughout those compartments I have mentioned. During my inspections I found a number of examples of high-use areas being logged and trees with koala scats around their bases also being logged, and one of the photos I have provided demonstrates a forest red gum where I found koala scats around the base of the tree which had been logged. In conclusion, it is difficult to understand why the EPA has not grasped the significance of the population of the koalas in Royal Camp State Forest and not acted swiftly to prosecute the numerous breaches of the threatened species licence that NEFA has reported, particularly with regard to the koala prescriptions and to provide the animals with some protection.

Finally, in summary I consider the approach of the EPA to breaches of the threatened species licence in Royal Camp State Forest as being unprofessional. It has demonstrated a worrying lack of expertise and it has been characterised by obfuscation and incompetence. They have not acted properly to apply appropriate deterrents and it is almost as if they have become apologists for the Forestry Corporation, with the penalties imposed being viewed by the corporation as merely the cost of doing business. That is the end of my submission.

CHAIR: Thank you. Again, can we have a copy of your opening statement for Hansard?

Mr MILLEDGE: Certainly.

Dr MEHREEN FARUQI: This morning when we met with the EPA and the Forestry Corporation both highlighted the issues of interpretation of what the licences said—in particular, some of the subjective language like "thorough searches for scats" for instance—and that it was difficult to come to a conclusion what different people thought pyro might be and they were advocating for a different and better way of looking for koala populations such as mapping. What is your view on that? Do you think there is a better way and what might it be?

Mr PUGH: Regarding the interpretation of words, "thorough", look up the dictionary. It does have a meaning. Forestry interprets it to mean that you can just walk along and scan the surface and see if there are any koala scats to be seen sitting on top of the leaves under some vague search. That is certainly not the intent of the word "thorough". Thorough means have a thorough look, and if you look at the dictionary you see what it means. So I think that is a misinterpretation of the prescription, that they can just walk along and have a quick gander and decide that is thorough, but that is not the case at all. Our experience is that you need to look thoroughly. You will find some scats on the surface. The key issue at Royal Camp is that there were lots of scats on the surface. If they had had a half-hearted look they would have found them and yet they did not. The question is: Why didn't they? You will see in some of the evidence I have presented to this inquiry that there is a record of agreement between the Forestry Corporation employees who did the work and the EPA where they admit that they just had a quick look basically. That is in the redacted appendix 1 in the timeline. So that is there.

It is quite clear that they did not even have a cursory look for koalas but they would have found scats, particularly around log dump 20 in compartment 15. As Mr Milledge said, it is undoubtedly a really important area for koalas. Koala scats were everywhere. I attended the site with the EPA and just on the way back to the

car after showing them the main area, 30 metres from the log dump they stopped and just looked under a red gum tree and they actually had to move a couple of leaves out of the way and they found more than 50 koala scats just like that, no problem whatsoever. So a cursory look should have identified that this was a significant area for koalas, and once you have identified a significant area every party should take appropriate action. Regarding the bigger landscape approach, which is what they are now talking about, that has some merit, mainly because I believe the Forestry Corporation cannot be trusted. I cannot believe they got away with doing these un-thorough searches for 15 years with no-one pulling them up until we found them out at Royal Camp.

So, yes, an independent party coming in and assessing it is what is required. The level of work required for that is probably fairly high and probably takes a bit of resources, but certainly it is preferable to the current way. But you still need to be allowed to, if you happen to be logging in an area, you should at least have a bit of a look because you will find things that were not picked up in more regional assessments. So there is still a need for thorough searches.

Mr MILLEDGE: To add to what Mr Pugh said, there was no evidence that any searching had been done at all in Royal Camp State Forest because the normal procedures—and I have done this quite a lot—is that it is accepted procedure is that you rake through to the litter, you disturb the litter about the base of the tree within a metre or so from the base to search for koala scats and that is pretty obvious when the litter has been disturbed. You have open patches, clear patches, the bark has been raked to one side in places, but there was no evidence that this had actually taken place. So you certainly could not describe it as thorough but I do agree that possibly some of the terms in the licence are unclear and need proper definition, and possibly the methodology needs a complete overhaul in relation to looking for koala presence because I do not consider that it is adequate to pick up and protect important areas for koalas.

Dr MEHREEN FARUQI: I understand that at the moment there is an integrated forestry operations approval consultation process happening, and the EPA stated in its submission that community and stakeholder engagement has been a central element of the remake of these coastal IFAOs. Are you involved in that process? Is NEFA involved in the process?

Mr PUGH: We work with the Nature Conservation Council in regards to that. We were initially involved because we thought it was a chance to get some meaningful outcomes, but we have had to withdraw from the process because we found it an incredibly biased process. They would not even tell us who is doing the review and who their supposed experts are who are reviewing these prescriptions, and they have denied us any meaningful involvement in the process. Mr Milledge was engaged by the NCC to represent us at one stage, but they did not contact him for months to try to engage him in the process while they went ahead blithely preparing these prescriptions. So we ended up having no faith in the process—by we, I mean the NCC as well—so we have withdrawn from what we considered to be a sham, unscientific and hidden process. Mr Milledge might have further comments.

Mr MILLEDGE: It is interesting. I was initially engaged by the Office of Environment and Heritage to work as an expert for them but my position was deemed unacceptable and I was later engaged by the Nature Conservation Council as their representative. But as Mr Pugh has stated, I was continually contacted by the EPA to come to a meeting but this was nearly always cancelled at the last minute and it just got to a point where personally I could not continue with the process. By that time the NCC had withdrawn formally from the technical side of the process.

Dr MEHREEN FARUQI: NEFA has been very scathing of the EPA in terms of their regulating forestry issues as well as you mentioned, investigating. I would like to explore that a little bit more and see what you think can change in the EPA for the EPA to become stronger regulators. What is the issue? Is it resources? Is it something institutional? What is the real issue? You did mention expertise. What other things need to be changed?

Mr PUGH: Undoubtedly competence is a core requirement. A competent person should be able to go out in the field and observe things it needs to be regulating like the yellow-belly glider V notches. That is one of the key regulatory requirements. If they go into the field and cannot identify them, there is something very wrong with their professionalism. Even forestry admit they can identify it. An EPA regulator should be able to do so as well. They should be able to pick up on these sorts of things. They need adequate training and they need to have appropriate expertise. I think there are bigger problems than that. I think there is a need to implement the intent of requirements. They go by the letter of the law. If there is a prescription that is in any

way vague forestry will find a way through it and say, "No, there is a vague thing here, we will exploit that." And the EPA just goes along with it.

Prosecution is one aspect of it, but they can at least go to Forestry and say, "No, no, hey, hang on. You'll need to be doing this. This is the intent of this prescription." It is quite clear what the intent is. Just because you can argue that the letter of the law does not make you do it, you should still abide by the intent. We do not see that happening at all. We see that most prescriptions are ignored in practice because where they find a legal loophole they exploit it. I still think there is a role there for a proper regulator to at least try to encourage the intent to be applied. I think they could do regulatory advices where they say, "This is obviously the intent, this is what we should be doing", even if there is a way through the letter of the law. They can fix up the prescription so that the letter of the law is more straightforward to follow. They have had 15 years to do that in and there still are some major errors in there that they have not rectified.

But when it comes down to it, they have got to be prepared to seek out regulatory action—that is, if someone does an offence, fair enough to give them a warning the first time. Fair enough, say, "Hey, hang on", you know, "Look, you're doing it wrong there. This is how you should be doing it. Don't do it again." If they do it a second time, you have got to take the stronger action. If they do it a third time you have got to start giving them penalty notices and taking full regulatory action. If they keep on doing it, then you need to prosecute them. That does not happen at all. We think there is actually a physical directive—it might even be internally within the EPA rather than from their masters—to take a soft line with Forestry and not to issue too many penalty notices each year; in other words, not to take too much regulatory action.

About 10 a year I think they are allowed, it varies around 10 to 12. That is the maximum they are allowed. The other thing is the EPA has got to start investigating fully when they get complaints and all aspects of it. It is no good just to go and say, "Oh, in this case we're only going to do koalas and we'll ignore all the other breaches that have been identified" mainly because Forestry takes that as a reason to continue those breaches across the landscape. I think there is a lot that can be done that is not.

The Hon. LUKE FOLEY: Could the problem be less one of bad faith and more one of a lack of resources? Are you aware that the forestry section of the EPA contains only 27 people?

Mr PUGH: I am not aware of that figure at this point in time, but you can do a lot with relatively few people if you are prepared to take a strong approach. Sure, maybe if they had more resources it would be better, but in this case, say, Royal Camp, you have got all our complaints laid out in front of them, you have got specific localities where those complaints occurred. We even took the EPA to a number of them and showed it to them and they still did nothing about them. It does not take much to do an assessment and say, "Yes, this is a yellow-bellied glider feed tree." Even if they do not have the expertise, you can send the photos off to any expert in yellow-bellied gliders and they will verify what they are.

It would have taken them, if they had to send them to an expert, 10 minutes to send them to the expert by email, 10 minutes to get it back, "Yes, this is a legitimate complaint. We will issue a penalty notice" or include it as a complaint to the Forestry." What they did in Royal Camp, they totally ignored it. They did not even write to Forestry saying, "We have this report." We gave our report to Forestry. Forestry knew we complained about the yellow-bellied glider sap-feed tree, but the EPA did nothing whatsoever. So that is not a manpower issue. That is an organisational problem.

The Hon. LUKE FOLEY: Given that the EPA forestry section has to regulate both private native forestry and public forestry on the Crown estate in State forests, and given that there are around 500 State forests where logging activity occurs, that means that the proactive auditing of logging operations by the EPA always will be very limited, does it not?

Mr PUGH: It does, and I think that emphasises very strongly the need then when they do find breaches to take strong action. Sure, they might assess only 1 per cent of operations, half a per cent of operations; when you do that and you find repeated breaches of a similar type time and time again—it is what we are finding in our audits and there are only a few of us; we do not have 27 staff, I wish we did, and we go out only once or twice a year and finding repeated breaches of the same type and same form time and time again, and we report it to the EPA—the EPA are ignoring them even when they go out and check our complaints. I think lack of will is the biggest problem. Even with a small amount of staff you can get strong outcomes if you really want to.

The Hon. LUKE FOLEY: You are not contracted by government to audit Forestry Corporation activities?

Mr PUGH: No, we are volunteers.

The Hon. LUKE FOLEY: You do it out of your own commitment on an unpaid basis, do you not?

Mr PUGH: Yes.

The Hon. LUKE FOLEY: Is that a recognition in itself that the extent of EPA proactive auditing is so limited that organisations such as yours believe they need to supplement the regulators' activity with their own proactive approach?

Mr PUGH: I think in 2009 in response to a particularly bad logging operation in Yabbra State Forest that made me get re-engaged with Forestry activities. I used to be a coordinator for the North East Forest Alliance for 10 years. I retired a long time ago and then I went out and checked this logging operation. So I was involved in the development of all these prescriptions. I sat down with the Forestry Corporation. I sat down with the timber industry and we debated all these prescriptions over many years and then I left the scene a long time and came back in 2009 and I was just shocked by this logging operation I saw where they just ignored all the requirements. I could not believe it. So this is after a decade of regulation by the EPA or its predecessors and it is basically the same staff have continued through. I could not believe that virtually it was open slather; that all the rules were being ignored, or most of them were, on a routine basis. That is what got me re-engaged and since then we have tried to force the EPA and their predecessors into properly regulating forestry activities. I think we have made some improvements, but we are still finding they are routinely ignored. I do not know what to do about it.

The Hon. LUKE FOLEY: We are all lay people, so in plain English could you tell us what the IFOA and the licence says about pre-logging surveys in order to identify and protect high-use koala areas?

Mr PUGH: Basically, under the IOFA there is only one real protection mechanism for koalas. The only thing that protects koalas is pre-logging surveys. So the requirement bit on the survey is that it varies if it is suitable habitats. If it is suitable habitat, if there are records of koalas in the vicinity, then you have got to go out and survey 200 metres in advance of logging. It becomes what they call an intermediate-use area. That is what compartment 15 of Royal Camp was.

The Hon. LUKE FOLEY: The surveys are conducted by the Forestry Corporation, not the Environment Protection Authority?

Mr PUGH: No, no, by the foresters.

The Hon. LUKE FOLEY: Yes.

Mr PUGH: The foresters at least 200 metres in advanced operation, they need to thoroughly search for koala scats. They need to search at 10-metre intervals, trees at 10-metre intervals, and they need to focus on preferred feed tree species. So every 10 metres they have got to go and thoroughly search for koala scats under those trees. "Thoroughly" is the key word here. So they are meant to really have a good look. These are the licence requirements that have been in place I think it is actually at least since 1997. It goes back a fair way. So it is not just a new thing that has been imposed upon them. This has been there for a long time. So they need to thoroughly search for koala scats. If they find what they call a trigger tree, it is a high-use tree—and a high-use tree is one with more than 20 koala scats under it or one with little and big koala scats indicating a mother and baby, not necessarily but indicating a mother and baby—then they are required to do what they call star searches around them. That is on eight ordinances and they radiate out for 100 metres and search again at 10-metre intervals for trees again focussing on preferred feed trees—thoroughly search each tree for koala scats. When they find three trees in a row or three trees on one of these arms, that becomes a koala high-use area.

If you look on the map, you have your core tree there, you can find koala scats all around it but it is only when you find three in a row that that little bit becomes a koala high-use area and you are required to protect it. What we find in practice and, again, it occurred at Royal Camp, Forestry Corporation can find other high-use trees along that line. They are required to go and do star searches on them but they do not. They just do the one. So you end up with these little bits of forest, little bits of core koala habitat, across the landscape that

are actually protected whereas most of it is still available for logging. Instead of that they can say, "Oh look, I found this high-use area around here. I'll just pick the whole lot and I'll look around that to see what else I need to protect." They do not do that. They would much rather just find these little bits and protect those. Protecting those little bits depends upon thoroughly searching for koala scats. If you do not thoroughly search, you will not find it and you will not protect it. That is a problem with the current system because it requires that thorough searching.

The Hon. LUKE FOLEY: Are you aware that the Environment Protection Authority currently is engaged in the koala habitat mapping project? Do you believe that that work, when completed, will provide a basis for better protection of koalas in our public native forests?

Mr PUGH: I am not aware of the detail. There seems to be a few different processes going on and argument about how to do it. I firmly believe they should be taken off Forestry Corporation. I believe all pre-logging surveys should be done independently of Forestry Corporation. I think they have proven after 15 years that they cannot do it or will not do it. I think it needs to be independent. With this landscape approach, unless you do really intensive sampling you will not pick up all the high-use areas. Sure, let us do landscape approaches, let us identify areas that we can as core koala habitat, but you still need a back-up process to identify ones that you miss in that landscape approach. You still need something else in there. Royal Camp is a perfect example because it was not identified as koala high-use area until we came along and found the koala scats. Yes, the landscape approach is good but you still need a back-up—fail-safe. Dave might have more comments.

Mr MILLEDGE: No, not really. I think you have covered it.

The Hon. LUKE FOLEY: When you recommend independent pre-logging surveys, as you put it, are you recommending that New South Wales privatises that function and contracts it out to the private sector? If you do not have faith in the Forestry Corporation and you have such severe criticisms of the Environment Protection Authority, does that lead us to a view that people outside government should be the independents, as you put it, conducting the pre-logging survey?

Mr PUGH: My personal preference is that the Office of Environment and Heritage could do it. They used to have the expertise. They seem to have lost most of it in recent times, like Forestry that sacked all their experts. I would think there needs to be a unit that that is their job; a unit of professional-type people who are adequately trained, and it should be their job to go out and map across the landscape. I think something like core koala habitat should have like a three- or five-year program where you try to do all State forests in that time and let us just get it sorted. Part of the problem with the current system is that it is all ad hoc. What the EPA is now proposing is that, okay, they went out there three years ago, Forestry did, they identified core koala habitat area. You have got to protect that three years ago.

The EPA is now suggesting an IFOA review removing protections of that area now and going back in to be logged, if they do not find the koala high-use area. I just find that reprehensible. I think we should not have to do this time and time again. We should just do a good job once. Sure, koala habitat will move across the landscape when a bushfire goes through or something else occurs and you need to track that through having a back-up system. Let us identify it up-front. Let us identify that core koala habitat in the next five years, three years, across the landscape. Let us protect it and, yes, move on.

The Hon. LUKE FOLEY: If all the requirements of the integrated forestry operation—approvals and the licences—were fully and faithfully adhered to by the foresters, would there then be sufficient protections for koalas on our public forest estate, in your view?

Mr PUGH: No. The reason is, going back to what I said before, where you identify, under the current prescription, that one high-use tree. You identify all these trees around it, but you only find three in a row that way. You only keep that little bit, whereas all that is core koala breeding habitat. We know they use it because we see their scats everywhere. So that is the area we should be protecting and we are protecting only this little bit under the current IFOA prescriptions. So no, I do not think they are adequate, but they are better than nothing. The way the thing is implemented at the moment, we have nothing.

Mr SCOT MacDONALD: I think we were told that 10 per cent of forest operations are audited at any one time across New South Wales. I read your submission and it is almost like you have Mark Gifford on speed dial. The heads of the Environment Protection Authority [EPA] seem very alive to your issues and reasonably

responsive at a high level, not just at the local level. How can we judge the EPA, according to the terms of reference of the inquiry, on its efficacy and success and all those sorts of things? Do we resource it so it becomes 20 per cent audited? Do we find a different approach?

Mr PUGH: Regarding your first assertion that we have Mark Gifford on speed dial, I do not think that is the case at all. I think the reason we are paid attention to sometimes is that we actually go public with our complaints. We do not rely upon EPA internal processes. In each of those cases—I think there were two cases in Royal Camp where Mr Gifford responded to me—I complained about the behaviour of his staff. So, yes, he did have to respond. I complained about his staff arranging for us to go out on a site inspection and then when we get there saying, "No, sorry, that was not the agreement. You are not coming with us." They would not even let us ring their superiors to verify it. That was the first complaint that he responded to.

The second one really was when they did their audit report and we complained about the quality of the work and how shoddy it was and so, yes, he responded to that. That is standard procedure: any CEO does that. I do not see what the issue is there. What was the second part of your question?

Mr SCOT MacDONALD: If the assertion is that the EPA is not performing its duties what resourcing does it need, or does it need a different sort of structure?

Mr PUGH: My view is that we in the North East Forest Alliance probably sample about half of 1 per cent of forestry operations. We find regular problems that are across all operations. It is not limited sampling that is the problem, I think as I explained before. I believe it is the lack of skill and will. I do not perceive that they are doing it in a professional manner. For example, with Royal Camp, we got a letter in response. It dealt with some of our issues. I would have thought a professional organisation would do an audit report, like we do—but probably with more time and more resources they would do a better job than we do. In Royal Camp for our first audit report we went out for a weekend and I had to write this report within a couple of weeks. They came for, I think, 11 days and it took them a year to write their audit report. There is something wrong with it having to take that long. And they missed so many of the offences—even ones they were shown and saw for themselves.

Maybe they need more resources but I do not really think so. I think there is more professionalism required and a more comprehensive approach. They need to write professional audit reports and they need to professionally audit. They have to assess not just tree removal but also tree retention. And they make stupid comments like, "This has no impact", when they have got no idea. They have not gone in and assessed the koala population before logging to determine what effect it has had after logging. They are making ridiculous statements with no validity.

Mr SCOT MacDONALD: There was discussion out in the forest about a will from some to move away from a prescriptive sort of model for looking after the welfare of our forest to more of a bioregion or holistic approach. It was not suggested to leave the prescriptive model out entirely for some technical things they thought should continue, but they suggested moving away from the number of scats or the number of H trees or R trees and all the rest of it to more of an approach of asking: What is the health of the forest? Is the biodiversity there? Are the vulnerable species in that bioregion improving or not improving? It would be less adversarial or less polarised, if you like. How do you think the North East Forest Alliance would view that and work in that sort of environment?

Mr PUGH: As I said before, we were involved in the comprehensive regional assessment process along with other stakeholders. I was personally involved. As part of that process in accordance with the Federal reserve criteria, one of our requirements was to include in the reserve system viable populations of our native species. In that process we worked out a methodology for setting targets, we worked out what the population target was for a whole range of threatened species and how we could actually model across the landscape how we were meeting those targets. That is what we were meant to include in the reserve system—that is, fully protected.

For most of those species—the yellow-bellied glider is a classic example—we did not meet the targets. We came nowhere near meeting the targets. In terms of an approach, that is preferable. Let us get viable populations of all our native species into the reserve system. In north-east New South Wales, which is one of the most biodiverse regions in Australia and the world, it would require locking up most of our native forests.

As an alternative to not doing that the decision was made to have prescriptions: Let us pick some of these species that we do not have adequate populations of in the system and where we find them in the landscape let us protect a bit of their habitat around them. Literally it is only a bit. It is not protecting an adequate amount of habitat; it is just reducing the impact of logging upon them. My concern is that these prescriptions have been developed over a long time. I think for threatened species they go back to 1990 when the endangered fauna protection Act was introduced. So there has been a long history of development of these and they have been progressively approved over time. I think 1997 was when the first really extensive prescriptions were put in place and 1998 or 1999 was when we got the current threatened species licence.

My concern is that in all that time no-one—neither the EPA nor the Office of Environment and Heritage [OEH] nor any of their predecessors nor even the Forestry Corporation—has gone in and assessed how effective those prescriptions are. The only way you can do it is not to say later on that they are still there so it is all okay. You have got to go in before, assess how many are there, how healthy the population is and how they are going. Then you have to come back after you have logged it, after you have applied your prescription, and see what the effect is and how effective it has been in reducing those impacts.

I do not know of one prescription that has been assessed to determine that. And here we are saying, "Let's just throw these prescriptions out. We've got no evidence that they work." That is because no-one has bothered looking. It is what they call adaptive management where you say that this is what we think will work, let us go and trial it and see if it does. We have had none of that, despite everyone saying that we are operating under adaptive management. We just do not do it. I am actually quite shocked. I have tried over decades to try to get us to have a look to see if these are working or not and to let us see how we can improve them so they are more effective, but we do not adopt that approach. We say, "Let's just throw them out. We've got no idea. We'll just throw them out and do something else." I think it is a totally wrongheaded approach.

The Hon. Dr PETER PHELPS: Unusually for a Liberal I think that public servants do quite a good job and they do not try to avoid their responsibility where possible. I take you to Appendix B—Upper North East. In the two paragraphs dealing with significant food resources and protection of retained trees there are seven paragraphs and the words "to the greatest extent practicable" appear no fewer than five times. Given that they have to work within that regulatory environment where what is practicable might be different between Forests, the North East Forest Alliance and the EPA do you not believe it is unduly harsh criticism of the EPA to say that it should be more stringent, given the very vague wording which is contained within the documents that they are supposed to be enforcing?

Mr PUGH: I have to disagree. I think "the greatest extent practicable" suggests that there is an intent there and a desire to do your best.

The Hon. Dr PETER PHELPS: But what is practicable is—

Mr PUGH: In the case of yellow-bellied glider sap-feed trees, if you read our submission there is a whole section in there about the context. I have done that for all those prescriptions where I give some examples of the history of those. It is quite clear that these are routine breaches that are occurring. There is a routine failure to identify yellow-bellied glider sap-feed trees because they do not want to or the staff are not adequately trained—I do not know the reason, but it is actually quite frequent. In this case in Royal Camp where we found a cut down yellow-bellied glider feed tree I think it was quite clear that they had not tried to the greatest extent practicable to avoid impacting that tree because it is one of many such cases.

The Hon. Dr PETER PHELPS: That is presumably photo numbers 2 and 3. Mr Milledge, it looks to me that the minimum height would be something like four metres above ground level where those breaches would have been taking place by the yellow-bellied glider. In your professional opinion should a person have noticed gnawing four metres above ground level?

Mr MILLEDGE: Yes, I would expect that those V notches would have been in the trunk section that was removed as a log as well because normally the glider works up the entire tree. I do not think they would have just been confined to four metres above the ground.

The Hon. Dr PETER PHELPS: In your photo I cannot see anything—

Mr MILLEDGE: The log has been taken away. That is the trouble.

The Hon. Dr PETER PHELPS: No, it is there. It is the one in the photo.

Mr MILLEDGE: No, that is the upper section of the tree that was left.

The Hon. Dr PETER PHELPS: Okay. You do not believe that anyone could reasonably have missed the gnawing?

Mr MILLEDGE: I do not expect that anybody who knew what yellow-bellied glider V notches looked like would have missed the activity that was taking place on that sap-feed tree.

The Hon. Dr PETER PHELPS: On that basis you think the requirement under (g) (iii) that sap-feed trees must be retained should be an absolute rule?

Mr MILLEDGE: When the sap-feed tree is detected, yes.

The Hon. Dr PETER PHELPS: But your argument is there is no way that it could not have been undetected?

Mr MILLEDGE: That is my professional experience, yes. They are readily identifiable. That is correct.

CHAIR: Gentlemen, I do not think you took any questions on notice. If the Committee members have further questions that they did not have time to put to you they may seek to put them to you on notice. If you receive questions and you have an interest in answering them we would like your responses within 21 days of you receiving them. Thank you for agreeing to see us today.

(The witnesses withdrew)

(Short adjournment)

FIONA MARJORIE FOLAN, President, Ballina Environment Society Inc., affirmed and examined:

CHAIR: We welcome Ms Folan of the Ballina Environment Society. Before we proceed with questions, would you like to make an opening statement?

Ms FOLAN: Yes. Section 6 (2) (d) (iii) of the Protection of the Environment Administration Act 1991, the last clause in the Environment Protection Authority [EPA] objectives quoted in the terms of reference, should be scrapped. It reads:

environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.

Herein lies the problem: the environment versus the dollar, best practice versus affordability. Ballina Environment Society first met in 1982, on exhibition of the original Ballina local environment plan with no environmental zones on private property. BES was incorporated the year Ballina Local Environmental Plan 1987 [BLEP 87] was approved. Our mandate is to protect, enhance and improve the environment of Ballina Shire. As such BES has intimate knowledge of the background and issues under the umbrella of the EPA since its establishment in 1991 and through its re-establishment in 2012.

In our submission, BES drew attention to the failures of the EPA to ensure habitat protection in cases like the Pacific Highway upgrade through the Pimlico escarpment, which will impact on 23 endangered animals before starting on plants, and Iron Gates, where the engineer stated in court he had not read the 300-plus page environmental controls and the developers were ordered to conduct \$3 million in reparation, which has never been undertaken and the development is again on the drawing board. There are many more examples of even recent developments, which have not achieved the expected outcomes in stormwater management or habitat protection. BES is also concerned about the effects of coal seam gas [CSG] licencing and baseline monitoring as well as well incidences of continued disobedience, infringements and inadequate penalties.

This inquiry into the EPA's assessment, monitoring and controlling of many issues not only in forestry practices should highlight an organisation stunted by bureaucracy and its inability to effectively challenge other departments, both State and Federal. BES questions the integrity of the system of certified private accreditors. We question the ability of such a system that would relegate power for decision-making to those best placed to maximise benefits and minimise costs to develop their own solutions in response to environmental problems. The worst outcome for our environment has been planning reforms reducing environmental zones and the white paper that intends to reduce them more. If this is done, the EPA needs resourcing, transparency and teeth. If you want a better Environment Protection Authority, get rid of section 6 (2) (d) (iii) for a start.

Dr MEHREEN FARUQI: In the Ballina Environment Society submission you state that the fines that Forestry Corporation received do not even amount to the value of wood from a single tree. In your view, what would be an appropriate fine to prevent breaches such as these?

Ms FOLAN: It is very difficult to decide. Maybe there needs to be some other penalties as well as fines. There was a case on Hamilton Island where the developer went to National Parks and said: "How much for destroying a reef?" He was told \$15,000 and wrote out a cheque for \$30,000. I am not sure about just fines, but certainly the fines should be worth more than the wood that is taken from a forest illegally.

Dr MEHREEN FARUQI: Earlier you spoke about the bureaucracy in the EPA. Do you believe that some of the issues might be because of resourcing? We heard there are only 27 EPA staff to manage the forestry compliance division. Do you find that to be an issue, especially in regional areas?

Ms FOLAN: Yes, as we said in our statement, and also the training of them. It seems that the staff, even when they get time to check the forests—there are not enough on-the-ground staff in the EPA; there are far too many involved in the bureaucracy. They need to get out there more and be able to identify what they are there to do. They cannot miss koala scats and food trees.

Dr MEHREEN FARUQI: Have you seen any changes over time, in terms of staff on ground, especially since the EPA became independent in 2012?

Ms FOLAN: Yes, I think it has lost a lot of its bite. The EPA has gradually been, not necessarily undermined but its ability to take action and, it seems, its commitment and determination to take action have reduced over that time.

Dr MEHREEN FARUQI: EPA have said in their statement that since the 2012 incidences of breaches they have been looking at processes and changing the way they engage with stakeholders and have looked at and revised some internal processes. Have you seen any evidence of that?

Ms FOLAN: Yes, I guess in terms of things like CSG and some other issues they do seem to be becoming more proactive. But they have clauses in their terms of reference that once environmental concerns have been highlighted then the developer, Forestry or the person proposing the impact on the environment is free to make their plans and assess their own plans.

Dr MEHREEN FARUQI: If you had three key recommendations for how to improve things for this Committee, what would they be?

Ms FOLAN: Definitely scrapping section 6 (2) (d) (iii) and looking at their terms of reference, looking at their staffing, looking at their resourcing, looking at the level of education and continual increasing of education. Also, in their dealings with community organisations and community groups there could be a lot of improvement, and in public accountability for complaints put to the EPA, rather than just "We've received your complaint".

Dr MEHREEN FARUQI: One case you mention in your submission is Ballina koalas and the Pacific Highway upgrade; I am quite familiar with that case. Do you know what EPA's involvement has been in that, if any?

Ms FOLAN: It has not been enough. The problem was that 15 or 20 years ago, when it was first considered to be put there, there should have been a very firm statement saying that this area is too special, too small and too unique to put through such a piece of infrastructure, even if it does appear to make more economic sense than paying cane farmers for their land, production values of their land and the fill needed to put it through the floodplain. If we lose our endangered animals, they are lost and they are priceless. The cost of infrastructure might increase, but it can be done. If you make animals or plants extinct then that is a problem.

Dr MEHREEN FARUQI: You mentioned that EPA could make some improvement in communications with community groups. After the EPA became independent in 2012, community members were removed from the EPA board. Did that have an influence on how EPA engages with the community?

Ms FOLAN: Yes, definitely. If you do not have community representation you are not open and transparent and do not have that means for the community to participate and know what is going on from the inside. All the community gets is what is filtered through.

Dr MEHREEN FARUQI: What is the mechanism for Ballina Environment Society's communications with EPA?

Ms FOLAN: To write letters.

Dr MEHREEN FARUQI: Is that issues based?

Ms FOLAN: Yes, issues based.

The Hon. LUKE FOLEY: I start with the highway. Are you referring in particular to the proposed route through the Blackall Range?

Ms FOLAN: Yes.

The Hon. LUKE FOLEY: That is section 10 of the Woodburn to Ballina Pacific Highway upgrade?

Ms FOLAN: Yes. It has been heavily pushed by the community to try to get a last-minute turnaround by the Government. It was backed by the council at a meeting where 30 people had "Save the Koala" banners

and the next council meeting when there were half a dozen people from the Wardell community who live on the flats. They reversed their decision and the Government made its decision shortly after that.

The Hon. LUKE FOLEY: Ours is an inquiry into the Environment Protection Authority and not the Roads and Maritime Services. What involvement, if any, has the Environment Protection Authority had in the New South Wales Government's consideration of the proposed route through the Blackall Range?

Ms FOLAN: I think you would be in a better position to answer that than I would.

The Hon. LUKE FOLEY: We will go away and have a look. You have covered a lot and that reflects the massive responsibility that the Environment Protection Authority has as the State's environmental regulator. In the process of parliamentary scrutiny that this inquiry has engaged in, we cannot look at everything. We have chosen to do a snap audit of our own by looking at five case studies and how the EPA has performed in those five areas. Can you tell us about the performance of the EPA in either the Royal Camp State Forest, which I understand is near but not within the Ballina Shire, or the wider performance of the Environment Protection Authority with respect to forestry activities in the Ballina Shire or elsewhere on the north coast of the State? Can you assist us on that term of reference?

Ms FOLAN: The Environment Protection Authority, as you said, is very wide-ranging, but its forest management is critical, particularly as it is another government department.

The Hon. LUKE FOLEY: Has the Ballina Environment Society had any interaction with the Environment Protection Authority with respect to public native forestry activity, or do you leave that to the North East Forest Alliance?

Ms FOLAN: A lot of it comes under the North East Forest Alliance. One of our members is on the North Coast Environment Council and we do a lot through that. BES is quite a small group, but we have members with good expertise across a large range of areas. It is unfortunate that Neil, in particular, was not able to attend today.

CHAIR: What do you think about the proposition that the agency that writes licences to harm or pollute should not be the agency that actually does the compliance and prosecutions? Do you think there is any value in the prospect of splitting them?

Ms FOLAN: There may be. I certainly think that the EPA needs to focus much more on monitoring and compliance rather than just giving licences.

CHAIR: Hence your objection to that particular section in there?

Ms FOLAN: Yes.

The Hon. Dr PETER PHELPS: I would just like to go to your recommendation—presumably it is a recommendation for the Committee—that 2 (d) (iii) be scrapped from the Act?

Ms FOLAN: Section 6 (2) (d) (iii), yes.

The Hon. Dr PETER PHELPS: Yes, that is right. Just reading through it, it says "environmental goals, having been established, should be pursued in the most cost effective way." You would not disagree with that part of the section, would you? Presumably environmental goals should not be pursued at any cost because that opens up governments for massive cost, does it not?

Ms FOLAN: I think by stating that in the EPA's terms of reference you give a loophole. They are very big companies. There is a lot of money.

The Hon. Dr PETER PHELPS: So they should not be pursued in a cost-effective way?

Ms FOLAN: Their environmental goals?

The Hon. Dr PETER PHELPS: Yes?

Ms FOLAN: Not at the cost of the environment. It is easy enough to say—

The Hon. Dr PETER PHELPS: No, no, the environmental goals having been established—

Ms FOLAN: The clause should be that they should be pursued in the most effective way for environmental protection, not the most effective way for cost.

The Hon. Dr PETER PHELPS: But the conditional clause is "environmental goals, having been established" so it is not saying "change the goals"—"environmental goals, having been established, should be pursued in the most cost effective way". Surely no-one could disagree with the proposition that you should do things in the most cost-effective way? Or do you?

Ms FOLAN: Well, the Ballina Environment Society still believes that that does create a loophole. If you have two alternative solutions; one of them may have much better environmental outcomes but the other one is a little bit cheaper or could be a lot cheaper, but have a lot less environmental outcomes, it can then be swung—it is then saying that that is the way to go, it is the most cost-effective way, and with the incentive structures, including market mechanisms.

The Hon. Dr PETER PHELPS: I was going to move on to that next. Why do you believe market mechanisms are ineffective?

Ms FOLAN: Because, as I said, it might cost more but if you are creating a situation where habitat loss is making endangered animals extinct, then what market mechanism is going to take that seriously rather than the fact it is going to cost a lot less in gravel.

The Hon. Dr PETER PHELPS: I could think of a range of market mechanisms that you could introduce which would make it cost punitive to defy the environmental goals which have been established.

The Hon. LUKE FOLEY: An emissions trading scheme.

The Hon. Dr PETER PHELPS: Indeed. Comrade Foley makes a good point. An emissions trading scheme is one such example of a market mechanism being pursued to implement a set environmental goal.

Ms FOLAN: But you must accept that there are issues with an emissions trading scheme that do not necessarily—

The Hon. Dr PETER PHELPS: I have no doubts that there are a lot of difficulties with an emissions trading scheme.

Ms FOLAN: —and so market mechanisms are not necessarily—

The Hon. GREG DONNELLY: You have got him started now.

CHAIR: Order! The witness is still speaking.

Ms FOLAN: They may be the most cost effective but they do not necessarily have the best environmental outcomes.

The Hon. Dr PETER PHELPS: But the a priori clause is "environmental goals, having been established"?

Ms FOLAN: Yes.

The Hon. Dr PETER PHELPS: So you have the environmental goals set. Why do you object to them being cost effective, market based and enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses? Why would not that be optimal?

Ms FOLAN: In response to environmental problems?

The Hon. Dr PETER PHELPS: That is right.

Ms FOLAN: Not environmental goals.

The Hon. Dr PETER PHELPS: Why wouldn't that be the optimal outcome? Why wouldn't forcing the polluter to pay; why wouldn't forcing the person who breaches a guideline to pay be the optimal solution?

Ms FOLAN: It would be better if he did not breach the guideline. It would be better if he did not pollute. Market mechanisms and monetary mechanisms and developing your own solutions and responses to environmental problems do not necessarily address the established environmental goals.

The Hon. Dr PETER PHELPS: I agree, but just because you outlaw murder does not mean murder stops. You cannot just legislate human morality; you cannot legislate human existence. Why do you believe that in the most fundamental of human relationships you cannot achieve the desired outcome through legislation and yet presumably through some sort of legislative scheme you can have the desired environmental goals affected without any market mechanism affecting it?

Ms FOLAN: You could but you could end up with a case where you were drunk so you were allowed to kill them, unless you have those strong—more than guidelines, more than just goals. The EPA should be controlling the solutions; they should not be—

The Hon. Dr PETER PHELPS: So government should be controlling businesses and how they conduct their activities, is that true?

Ms FOLAN: In terms of environmental environment outcomes to ensure that—

The Hon. Dr PETER PHELPS: So your position is that governments should be controlling how businesses operate?

Ms FOLAN: And government departments. The EPA, as the environmental protection authority, should be able to have some control. They have got to have some teeth over big business.

The Hon. Dr PETER PHELPS: Have you ever heard of a place called Chernobyl?

Ms FOLAN: Yes.

The Hon. Dr PETER PHELPS: Chernobyl operated in a state called the Soviet Union where the government controlled every aspect of people's lives. If they cannot do it in a place with that regulatory regime that controls people's lives and every aspect of businesses, why do you assume that it would work here?

Ms FOLAN: I do not and I certainly would not like to see a nuclear industry in Australia.

The Hon. Dr PETER PHELPS: I think you are missing the point of my question and that is: how can you be so certain that an absolutist government regulation of the sort that you appear to be envisaging would produce positive environmental outcomes when it clearly has not in the past? I will give you another example in the Soviet Union in the case of the Aral Sea?

Ms FOLAN: Yes, I know about the Aral Sea too. I have a Masters in Architecture, advanced environment and energy studies and yes, once you get the environment out of balance it is very difficult to turn it back around. I am not saying that the Environment Protection Authority should wield the power of Hitler.

The Hon. Dr PETER PHELPS: Well, it seems as if you are.

Ms FOLAN: One of their problems is that they do not have community representation on their panels. But they need to have teeth when dealing with businesses and dealing with other government departments.

CHAIR: Dr Phelps, I think that Mr Colless would probably like to ask a question.

The Hon. RICK COLLESS: Given some of your comments, do you believe that New South Wales should have a timber industry?

Ms FOLAN: There needs to be a timber industry. Timber is a sustainable material. Unfortunately if Forestry is not controlled properly, is not regulated properly, and if forest areas are allowed to be logged without a body like the Environment Protection Authority being there to respond to community concerns, being on the ground, then our forest industry will not be sustainable and we will destroy that resource that should be there for future generations.

The Hon. RICK COLLESS: In the case of Royal Camp we have heard from the previous witnesses that it has good populations of koala, gliders and so on, and that it was a very important population in the wider environment in this region. Given that Royal Camp has been logged for over 100 years, possibly as long as 150 years, does that not indicate that the way the logging has been done in Royal Camp is sustainable in terms of the environment?

Ms FOLAN: I do not think we are getting quite the quality of timber out that we would have been 100 years ago or 150 years ago.

The Hon. RICK COLLESS: Maybe we are not but that is not to do with the damage that is being done to the environment; that is more to do with the growth rate of the timber that is growing on that site, is it not?

Ms FOLAN: But that is about sustainable forestry. If you look at this area we are in, the biomass here, the big scrub was over 40 metres in canopy.

The Hon. RICK COLLESS: I am not suggesting that we go back to a situation where we destroy the big scrub again.

Ms FOLAN: These are the remnants.

The Hon. RICK COLLESS: I understand that. Royal Camp is not part of the big scrub though, is it? The big scrub was on the plateau.

Ms FOLAN: No, no. The big scrub went from out beyond Mount Warning, from Kyogle to the beach at Ballina.

The Hon. RICK COLLESS: But what was known as the big scrub was the cedar forest, was it not?

Ms FOLAN: Yes, that was the cedar area.

The Hon. RICK COLLESS: And it was principally on the plateau?

Ms FOLAN: It was not just on the plateau. It was out to Mount Warning.

The Hon. RICK COLLESS: Cedar would not have grown in Royal Camp originally.

Ms FOLAN: How do you know that?

The Hon. RICK COLLESS: Well, I am asking you. Did it grow in Royal Camp?

Ms FOLAN: It could well have. It may not have had the stands and one of the things about the Richmond Valley was that there were huge stands of red cedar. The early cedar cutters got scurvy because of lack of sunlight going to cut it. Where you have got your gliders and your koalas, that habitat is a remnant of that ecosystem and as such it is very precious and very sensitive.

The Hon. RICK COLLESS: We will be talking to representatives of the Forestry Corporation shortly so I will ask them if there was ever any cedar in Royal Camp but I suspect not.

Ms FOLAN: Yes, it will be very interesting to see that they say.

The Hon. RICK COLLESS: The point is that the Government and the people of New South Wales need to make a decision as to whether or not they want a timber industry in New South Wales and if the answer

is, "Yes, we do want a timber industry in New South Wales" then we should all be working towards a sustainable and viable timber industry rather than trying to shut it down, should we not?

Ms FOLAN: Yes, and do we want a timber industry in New South Wales for the next 20 years, 50 years or a thousand years.

The Hon. RICK COLLESS: Or 500 years or 5,000 years?

Ms FOLAN: Yes, so if we do not get it right and if we do not give the Environment Protection Authority the ability to properly audit and make sure that the protections we have put in place are there for Forestry to try to make a sustainable timber industry; if we allow breaches of that, with little or no penalty, then we are not protecting our resource for intergenerational equity.

The Hon. GREG DONNELLY: In your submission on page 1.6 you start to outline your recommendations. The first one is "A transparent and repeatable process and criteria is enabled to identify and protect core and potential Koala habitat across all tenures." With respect to "transparent", is it your submission that the current arrangement is not transparent?

Ms FOLAN: Yes.

The Hon. GREG DONNELLY: Or not transparent enough?

Ms FOLAN: Well, it is transparent only on the very outer surface to find out how these decisions are actually made and to influence those decisions. Again with the Blackall Range and the Pacific Highway it was just impossible to get those initial decisions to start looking seriously at the Aboriginal heritage issues, not just the koalas but the 23 other animals.

The Hon. GREG DONNELLY: Does the Ballina Environment Society have any thoughts about what a more transparent process might be or what it might look like compared to what we have at the moment?

Ms FOLAN: I think we mention somewhere that not just for the letter back but for a publicly accessible format where you can see complaints, you can see the processes that have been taken to resolve or address those complaints, not just a letter of summation—the feedback and cross-feedback. It is also largely about the Environment Protection Authority having the will, the resources and the determination to ensure that the policies and procedures in place for businesses, Forestry and other government departments are complied with.

The Hon. GREG DONNELLY: In the next point you talk about an independent process. Is it your submission that the process at the moment is not independent?

Ms FOLAN: Well, would it be your submission that it was? Do you think that Forestry is an independent body?

The Hon. GREG DONNELLY: Perhaps I will swing the question around this way: what does the Ballina Environment Society envisage would be the ideal independent process?

Ms FOLAN: As we said, maybe not in this but in other submissions, for developers, for Forestry or anybody putting in a development application to be able to go "I am employing that environmental scientist" impacts on the impartiality of the environmental scientist that is employed. If there was a pool of environmental scientists, if there was a pool of accreditors and people who were employing the services of an environmental scientist allocated on their abilities, on their relevant qualifications, rather than employing on their own, then the environment society believes that would create much better, more transparent and more effective outcomes.

CHAIR: I think Cate Faehrmann tried to run a bill at one stage to make that happen, but it did not happen.

Mr SCOT MacDONALD: I wish to ask you about something you mentioned that the start of your evidence about the environment zones. Were you referring to the local government E zones?

Ms FOLAN: Yes.

Mr SCOT MacDONALD: This question is a little bit off topic, but not far off. Why do we need those E zones when we have the Native Vegetation Act and the Threatened Species Conservation Act? Surely we have enough protection there in those existing Acts. Why do you need more?

Ms FOLAN: Again, it is about the transparency and it is about the public. You have got all these Acts with all these pits, but if a developer or somebody buying a block of land or somebody is looking at land uses on their farm, at that local government level you have got the planning documents and you have got clearly identified environmental zones, so then they know that something is enacted there and there are other laws on top. Otherwise, it is too easy for people to say, "I didn't know. I didn't read the report."

Mr SCOT MacDONALD: Just in relation to transparency again, if those complaints went up online from the EPA and the responses went online, it sounds to me as though that would give you some more comfort. But surely in relation to things like names you would have to have some privacy.

Ms FOLAN: Yes, definitely.

Mr SCOT MacDONALD: You would have to redact some things like that.

Ms FOLAN: Yes, but there still should be, even without names, some record of the processes that were taken in regards to the issues.

CHAIR: It looks as though we have finished a couple of minutes early. You floored them, Ms Folan. Thank you very much for agreeing to appear today. If you could leave a copy of your opening statement with Hansard, that would assist.

Ms FOLAN: Can I email it?

CHAIR: Yes, that would be fine—to the secretariat.

Ms FOLAN: There are always a few handwritten bits.

CHAIR: If there are any questions from any of the members here who did not have time to ask them today, the secretariat will send you those questions on notice. If you wish to answer them, we would appreciate those answers within 21 days. We thank you very much for your submission.

Ms FOLAN: Thank you.

(The witness withdrew)

JUSTIN PETER WILLIAMS, Operations Planning Manager, Hardwood Forest Division, Forestry Corporation of NSW, and

DEAN EDWARD KEARNEY, Senior Manager—Planning, Hardwood Forest Division, Forestry Corporation of NSW, affirmed and examined:

CHAIR: Before we proceed, I thank the Forestry Corporation and yourselves for giving us your time this morning and showing us the areas that are in contention in the Royal Camp State Forest. Before we proceed with questions, do you have an opening statement?

Mr KEARNEY: I have some notes prepared, so yes.

CHAIR: Please proceed.

Mr KEARNEY: Okay. The Forestry Corporation welcomes the opportunity to address the inquiry. We chose not to make a written submission. However, I would like to speak quickly about the Forestry Corporation to provide some context and also provide some commentary on the regulatory framework as well. The Forestry Corporation is a State-owned Corporation, as most of you would know. Our primary role is to supply timber to local industry and to ensure that supply agreements are met, and to do so within a framework set up for ecologically sustainable forest management under both the Regional Forest Agreements and the integrated forestry operations approvals, or IFOAs as we tend to refer to them. We are also a fire authority so we have full responsibility under the Rural Fires Act as other land managers, such as the National Parks and Wildlife Service.

In terms of the hardwood forests section of the Forestry Corporation, we manage around about two million hectares of native forest across the State. Approximately half of that area is available for harvesting and the other half is in informal reserve systems. Up to 20,000 hectares can be harvested in any given year either through harvesting as you saw this morning or thinning under sustainable management. The North Coast, where we are at the moment, produces approximately 450,000 cubic metres of timber a year, which is high-quality sawlog and low-quality sawlog. The South Coast produces approximately 100,000 cubic metres a year and 290,000 of pulpwood. The western region, which is west of the Great Dividing Range, produces approximately 150,000 cubic metres of sawlog and other products such as firewood and broombrush.

If I could talk now about the environment we operate in and the community we operate in, where the matters that are the subject of the inquiry took place is in our operational region known as the north-east region. The area managed there includes 134 separate State forests comprising about a half a million hectares. There is approximately 7,000 kilometres of boundary on that, and you can imagine how many neighbours we have among that. There are many, many neighbours. We manage also approximately 20,000 hectares of hardwood plantations and there are a number of joint venture and annuity partners we have that we manage those with. In terms of land administration, we also have 104 Crown leases primarily for grazing on that forest. We have around about 275 operational permits for towers for telecommunications, for bees and beekeeping and whatnot. We also issue many, many permits for activities such as mountain biking and various other recreational activities as well.

There are at least 30 standing committees we are part of to do with pests, weeds and fire management. We operate across 15 local government areas. If I could come to the industry, the size of the industry, there are about 20 harvesting contractors or harvesting contract crews from around about eight to 10 companies in this area. There are around about seven haulage contractors. There are over 10 roading contractors. There are more than 40 timber customers who receive timber from us of various kinds and specifications. We operate with three different regulators. The EPA is one of the regulators. There is also the Department of Primary Industries plantation unit, who regulate our plantations, and there is also the Department of Primary Industries fisheries, who manage the fisheries licence.

In terms of Indigenous groups, there are 19 Aboriginal land councils in this particular part of the world that we liaise with. There are five indigenous land use agreements either in process or finalised, and of course the environmental non-government organisations [NGOs]—there is a number of groups in this area that are particularly active. In terms of the Forestry Corporation's activities, we are certified under the Australian Forestry Standard, which is a voluntary certification. The requirements of that are to be audited under the Australian Forestry Standard by independent auditors. They look at a number of aspects of their business, including sustained yields, productive capacity, biodiversity conservation and they also judge whether we meet

ISO 14001, the environmental management standards for businesses, to make sure that we have a systematic approach to our business and that we follow the mantra of plan, do, check, act and are committed to continuous improvement.

I come now to the inquiry's scope. I will address that briefly. The scope I notice is to look at the performance of the EPA. The Forestry Corporation believe that much of the criticism and what was in the submissions regarding the EPA and in relation to the forestry unit can be attributed largely to external factors and factors around the environment we all operate in. To go to those factors, the legislative and regulatory environment is highly complex. There are many thousands of conditions we have to abide by under a number of licences. I will not go into those in detail other than to say that they are complex, as are the forests and as is the community that we operate in. The primary instrument for regulation on forestry Crown lands is the IFOAs. They are complex. They come from a number of licences.

The Hon. Dr PETER PHELPS: What are IFOAs?

Mr KEARNEY: Integrated forestry operations approvals. I apologise for that. At times some of the conditions are contradictory between the different licences—the fisheries licence, the soil and water licence or the environment protection licence, as it is termed. They frequently rely on subjective and interpretive statements that we have to apply and that the EPA also has to interpret and, to be honest, they are cluttered with material that is of a guidance nature. They certainly are not comprehensive in terms of how to translate those conditions. We also see it that the system of regulation is inherently adversarial in terms of the scope of the EPA being largely enforcement-based. That does drive a certain relationship between us and the EPA. We also note that there is constant pressure from interest groups that are interested in forestry outcomes.

Those are not just the opinions of the Forestry Corporation. We have sought independent advice on the subject of regulation and our relationship with the EPA and there have been a number of reports in recent years about that. The EPA indeed jointly sponsored one such report. Broadly, those reports recommended a fundamental review of the integrated forestry operations approvals. We are happy to participate in any re-making of those to the degree that we can.

CHAIR: Thank you. Are you able to identify the names of those reports or references for them, or could you take that on notice and provide us with the information, please?

Mr KEARNEY: I will take that on notice, yes.

CHAIR: Thank you.

Mr KEARNEY: Coming to some of the details, if you do not mind, regarding the IFOAs. I did make some statements about them having vague and inherently difficult conditions. I believe the koala mark-up search condition is one such condition. The condition has words like "must undertake a thorough search" and the word "thorough" I guess is somewhat problematic in that it is up to the parties to decide what thorough is. There is no accompanying guidance. There is no specific statement of intent within the licence. However, we have been operating under this licence for 15 years. The Forestry Corporation and our entity as we were then, State Forests, was involved in the development of that condition. We believe we do understand it and largely execute that intent quite well. However, in terms of regulation and enforcement, the interpretation of the word "thorough" is obviously quite critical. A difference in the interpretation of "thorough" is at least in part what has brought us to this inquiry, I guess.

In the opinion of the Forestry Corporation, it is somewhat disappointing to be involved in an inquiry of this nature on the basis of a matter such as that—the interpretation of a word—rather than something that is perhaps tied to a distinct environmental outcome. In closing, in terms of the effort and the outcomes that we see, the Forestry Corporation (New South Wales) does place significant emphasis on compliance. We have specialised and dedicated staff. We have robust processes and we do have a continuous improvement culture. Wherever things go wrong, we try to address those as best we can. We believe that our management of the forests does deliver the required outcomes for threatened species as well as timber production. Specifically, we believe there is enough evidence to be confident that koalas and timber harvesting can coexist. We appreciate the opportunity the Committee gave us this morning to put that evidence forward.

CHAIR: Thank you. If we could possibly have a copy of your opening statement for Hansard, we would appreciate that.

Mr KEARNEY: Sure.

The Hon. LUKE FOLEY: Could I just say one thing very briefly, Mr Chairman? I want to thank the Forestry Corporation representatives for their willingness to appear and show us round. I note their disappointment at being dragged into this but I think it is important point to note that this is an inquiry into the performance of the EPA, not an inquiry into the performance of the Forestry Corporation. So they are not in the dock here, as it were.

Mr WILLIAMS: I take your point.

CHAIR: Okay. Having said that, we will now proceed to questions by Dr Faruqi.

Dr MEHREEN FARUQI: I am interested in the pre-logging surveys, which the Forestry Corporation does as I understand it. What is the role of the EPA, if any, in setting up the methodology of how those surveys are conducted?

Mr KEARNEY: The surveys are undertaken according to the prescriptions and conditions outlined in the IFOAs, in particular in the threatened species licence. Those were developed initially by not the EPA at the time but certainly the incumbent body that has become the EPA. The Forestry Corporation as it once was also had people who were part of that and I believe there was a broad community involvement in that as well.

Dr MEHREEN FARUQI: Are there any prescriptions on who does those surveys such as what sort of expertise or training they should have in identifying koala habitat or markings or threatened species?

Mr WILLIAMS: The licence specifies that a suitably qualified person is required to conduct those surveys.

Dr MEHREEN FARUQI: There are no details of what a suitable person is?

Mr WILLIAMS: That is the level of detail.

Dr MEHREEN FARUQI: Who does them? Can you give me an example of what the suitable qualification is generally?

Mr KEARNEY: We have a range of people who undertake the surveys. So we have people with PhDs and we have people with 40 years experience working in forests who started their careers with chainsaws in their hands. We have a range of people who have come to that role via a whole bunch of different pathways, but we believe and have confidence in all of them and their abilities to undertake those surveys.

Mr WILLIAMS: We have had a history of training staff in the implementation of licence requirements and undertaking surveys. We have had a program with our research division managing those, accrediting people through different survey techniques. There has been sort of been internal processes for managing that over many years.

Dr MEHREEN FARUQI: I understand that you also have a number of contractors who might be logging for you. Do you audit them when the operations are happening or do the EPA audit contractors? Whose role is it?

Mr WILLIAMS: Primarily our role. So we routinely supervise and audit contractors and our staff in the implementation of licence conditions. The EPA similarly has a sample of audits, as do the AFS [Australian Forestry Standard] standard as well. We have sort of got a number of tiers of compliance auditing that occurs.

Dr MEHREEN FARUQI: How often does the EPA audit the Forestry Corporation and does it happen unannounced? Can you give us an idea, for example, in the last couple of years?

Mr KEARNEY: In the last couple of years there have been a number of campaigns; that is the way the EPA has structured its audits. They tend to come to a region. There will be some notice—it is not usually long lead time but obviously in terms of work, health and safety there has to be absolute minimum notification—and those campaigns will be six to eight operations in an area simultaneously over a two-week period.

CHAIR: That was workplace, health and safety, was it?

Mr KEARNEY: Correct.

Dr MEHREEN FARUQI: How many of those audits have happened in the last year in compartments 13 to 16?

Mr KEARNEY: There has been no operational activity in compartment 13. Disregarding that, compartments 14 and 15, notwithstanding there has been I guess a lot of investigations, I am not sure that was on their audit schedule but certainly there have been numerous visits on the basis of the investigation of the allegations put forward by the community group.

Dr MEHREEN FARUQI: The auditing has increased obviously in that time compared with previous years?

Mr KEARNEY: That was a responsive investigation rather than auditing, but that has been quite intense.

Dr MEHREEN FARUQI: On page 243 of the EPA's submission it notes that two of NEFA's allegations relating to illegal operations around streams and stream crossings were referred to the Forestry Corporation for follow-up action. Who then follows up with the Forestry Corporation on whether those actions have been undertaken or not? Is it the EPA's role to follow it up?

Mr KEARNEY: Sorry, who within the Forestry Corporation or—

Dr MEHREEN FARUQI: No, does the EPA follow up with you to check whether you have done the follow-up?

Mr WILLIAMS: Frequently in those situations I guess there are a number of levels. There might be a request to do some work, we will do the work and report back that it is complete. There might be a statutory notice, a clean-up notice or remedial works request, and those reports will be—there is a clear documented path around what is required and when it needs to be done—we complete the work, write a report, send it in and there are sort of fixed time lines and processes around those styles of notices. So there is a process there.

Dr MEHREEN FARUQI: With a time frame I presume?

Mr WILLIAMS: Some have a top. Where it becomes I guess an official notice then there are clear time frames and expectations around those.

Dr MEHREEN FARUQI: I have had a quick look at your annual report—I think 2012-13 is the latest one—and I could not really find much in there about koala high-use areas or reporting on the principles of ecologically sustainable forest management. Does the EPA require a separate report from the Forestry Corporation on those sorts of issues?

Mr KEARNEY: There are annual returns required for each of the licences we hold. In terms of the content of our annual report, I would have to take that on notice because I am not sure.

Dr MEHREEN FARUQI: Would you say that the Forestry Corporation has an effective working relationship with the EPA?

Mr KEARNEY: Yes, I believe that we do.

Dr MEHREEN FARUQI: In your view how does the EPA work in terms of monitoring your actions? Do you think that it is adequate for you to fulfil your licence requirements or does something need to change? I remember I was having a conversation this morning with—maybe it was you or someone else—and whoever it was said that maybe the EPA could be more proactive in some of the things that they do. Would that be something that you would recommend?

The Hon. LUKE FOLEY: You probably did not say that.

Dr MEHREEN FARUQI: Maybe it was someone else.

Mr KEARNEY: I don't recall saying that.

Dr MEHREEN FARUQI: Could you recommend something to this inquiry in terms of the EPA improving what it does for you to fulfil your licence and statutory requirements?

The Hon. Dr PETER PHELPS: Point of order: It is a bit unfair to ask a government authority to comment on whether another government authority should have a different power structure or power arrangement. The question is unfair to the witnesses.

CHAIR: I uphold the point of order. Perhaps a better way to do it would be to ask what recommendations the Forestry Corporation might make in its relationship with the EPA that could possibly give a better outcome.

Mr KEARNEY: I think the best answer for that question from us, as I said in my opening statement, is that we have had some independent reports into the way our regulation and relationship works and I would recommend—

CHAIR: We read them.

Mr KEARNEY: —that the Committee members avail themselves of those because largely the findings are quite good.

Dr MEHREEN FARUQI: You mentioned the IFOA processes. Are you actively involved at the moment in the IFOA process?

Mr KEARNEY: Yes.

Dr MEHREEN FARUQI: NEFA has identified that the koala population in Royal Camp is a core breeding group of koalas and that some parts should be permanently protected as State forest and not logged at all.

CHAIR: As a reserve.

Dr MEHREEN FARUQI: Sorry, as a reserve and not be logged at all. What is your view on that, given that you have been there for a while and you have had lots of experience?

Mr WILLIAMS: WE agree that there is a population of koalas in Royal Camp. I guess what we have identified in the post-harvest SAT [Spot Assessment Technique] survey work that we have done is that there are similar levels of koala activity in the logged forest as there are in the unlogged forest. I guess it is also worth noting that the best koala habitat in our view within Royal Camp is largely protected in the red gum EEC or swamps sclerophyll EEC communities.

CHAIR: What is an EEC?

Mr WILLIAMS: Endangered ecological community. In our view it is compatible to maintain koala populations and continue harvesting in Royal Camp.

The Hon. LUKE FOLEY: Do you think there is an inherent tension or conflict between your obligation to extract a certain volume of timber under the wood supply agreement and the requirement for you to conduct pre-logging surveys in order to achieve certain environmental objectives or outcomes required by government? Is there an inherent tension or conflict in requiring your corporation to do both of those things at the one time?

Mr KEARNEY: I would not describe it as a tension or a conflict. We have recently restructured our business and when we undertook that process we looked at what our obligations are, how many operations do we have to run in a year in order to supply timber, what are the legal obligations in terms of environmental protection and surveys, and how many people do we need to undertake those surveys. We are designed

inherently to do that. So I can understand that it might look like a tension but I believe that we actually are an organisation that is specifically and purposely designed in order to achieve those ends. I think we actually do achieve those ends.

The Hon. LUKE FOLEY: You might like to take this question on notice. I would like some evidence on the extent of your logging operations in the Royal Camp State Forest. Could you come back to us with some figures on the volume extracted from the Royal Camp State Forest in recent years and the dollar value of that?

Mr KEARNEY: Yes.

The Hon. LUKE FOLEY: Could you place that in the context of the total volume you are required to supply to your customers in the North Coast region under the wood supply agreement?

Mr KEARNEY: We are happy to do that. Perhaps if I could suggest that if there is a particular format or particular numbers you would like then you can let me know.

The Hon. LUKE FOLEY: Perhaps if you could take that on notice and get back to us. If we then think we need some more we will come back to you again.

Mr KEARNEY: Okay.

The Hon. LUKE FOLEY: The Chief Environmental Regulator at the Environment Protection Authority, Mr Gifford, wrote:

In the Royal Camp State Forest incident we determined that there were multiple areas where there was a failure to search for koalas thoroughly and multiple areas where specified forestry activities were done in koala high-use areas.

Do you accept those findings from the Environment Protection Authority?

Mr KEARNEY: I guess we would have some disagreement with their interpretation of the thoroughness of the search and whether or not we did search thoroughly. In terms of harvesting timber in koala high-use areas, that is an iterative process. If you have not identified it as a high-use area then one can't exclude harvesting from it. So you have to have one to have the other, if you take my point.

The Hon. LUKE FOLEY: I do.

Mr KEARNEY: Going to the thoroughness of the search, as we said this morning and as I am happy to repeat, we believe we understand the intent and the requirement of the licence. We have been working to that for 15 years and we have confidence that our people do that. We have some questions over recent interpretations of whether we are being thorough or not.

Mr WILLIAMS: The triggers around high-use searches and the depth of litter that you need to excavate to look for scats, the age of scats, they are the issues I guess where there has been a disagreement over the intent of what a thorough search is intended to do and the consequence of how you do that search can play out when a high-use area is identified.

The Hon. LUKE FOLEY: You have restructured your business in recent times so that you have a team or employees who engage in the pre-logging survey and a separate and different team who then engage in the harvesting operation, is that right?

Mr KEARNEY: That is correct, yes.

The Hon. LUKE FOLEY: I come back to where I started. Would your life be easier if somebody else, either the Environment Protection Authority or an independent body of the public sector or private sector, did all the mark-ups, all the pre-logging surveys, set the boundaries and that your role commenced when you then came in and simply have to work to a plan determined by others? Would that not make your life easier? Would it not remove you from the argy-bargy and the fierce argument about where should and should not be logged?

Mr KEARNEY: I can understand the point of view and the proposition, but I think I would actually disagree. I can understand why you would suggest it. My disagreement is that when we look at the timing and the cost and the arrangement of those operations, the flexibility of supply from different areas at different times

of the year, if the processes of timber harvesting and the mark-up and the surveys were not inherently linked, that could uncouple and become a mess and very difficult for us to manage wood supply. So I think there is a really decent proposition for having those together. Part of my purview is to look at strategic planning, which is over 100 years: Where is the timber coming from? Tactical planning over the next three to five years: Where is that timber coming from? Operational planning: Where are we going to go this year and when do we need to do the surveys in order to make sure that all the surveys are done, the resources are available, and the people are in place? It would be difficult to break that chain and still run the business in a reasonable and competent manner, I believe.

The Hon. LUKE FOLEY: The concern that some put to us from the non-government world is that in order to meet the volumes that you are required to supply under the current wood supply agreements you have to cut corners when it comes to environmental regulation; it is such a challenge to meet the volumes under your current wood supply agreements that at every turn you have to look at maximising the volume you extract from each harvesting operation. What is your response to that?

Mr KEARNEY: I think there is a natural tension there. There is no doubt about that. We have to make sure that we are achieving the balance between our requirements in terms of environmental protection and the timber supply. But balance is what our organisation is all about and I would say we are undertaking that balancing act quite well. I am not sure if that fully answers your question.

The Hon. LUKE FOLEY: No, that is fine. You are being honest and that is all we are looking for. Are there any records or measurements that you keep on koala habitat in our State forests that has been protected from timber cutting or logging since the integrated forest operations approvals came into being? Do you measure such things?

Mr KEARNEY: Probably not specifically. The koala high-use area is designed to be an operational based exclusion. It is literally about putting something in place during that operation it is not something that will be mapped forever more as a koala high-use area. It is a transitory prescription in that it has been placed for the duration of the operation. So in that sense we have not been putting these into some vault of marked koala high-use areas. In terms of where koala habitat is in the forest, as I think we demonstrated somewhat this morning with the resources and the maps we put forward, most forests that we manage to some degree are koala habitat to a greater or lesser extent and timber harvesting in forests can co-exist with those koalas.

Mr WILLIAMS: We have certainly done analysis work around how much of the mapped forest types that are more likely to be preferred by koalas are protected in our standard exclusion zones, our off-reserve areas. It is similar to the overall average, so across the North Coast there is sort of 35 to 45 per cent of the gross area of State forest is protected in those exclusions. When you look at specific forest types likely to be used by koalas, it comes out at similar levels. More than a third of the likely koala habitat, preferred koala habitat, will be protected in already mapped exclusion zones. The starting point for that koala habitat protection is already well embedded in the regulations.

The Hon. Dr PETER PHELPS: One of the criticisms that has been raised of the EPA is that it has not been strict enough in enforcing penalties upon Forestry New South Wales. Presumably any breach gets dealt with internally on some sort of administrative basis, whether it be for a very serious offence or a relatively minor offence. Can you outline how that internal administrative procedure operates?

Mr KEARNEY: Sure. I alluded to our ISO 1401 environmental management standard. Under that we undertake compliance monitoring, we undertake auditing for quality assurance and we undertake strategic auditing of our processes as well. We do not just look at the licence conditions or the regulation; we also look at our harvest plans and other conditions that we may add ourselves regarding noise or some other community issue or something like that. If there is any non-conformance with any of those requirements that we detect we enter it into a database, we investigate it, we do root cause analysis and we look at appropriate corrective actions.

Sometimes that might simply be about remediating a site; others it might be about fixing a system and doing something better. We are a continuous improvement organisation and we draw wherever we can on new technologies, certainly something we have been moving with a lot lately, particularly in-field mobile computing is something we have been looking at, using a lot more lately to tighten up processes wherever we can to ensure that we are achieving what we are supposed to achieve everywhere we do it.

The Hon. Dr PETER PHELPS: So the implication that you just wave away or laugh off breach notices and then go off to commit more eco-side is an unrealistic view of how the Forestry Corporation deals with such notices?

Mr KEARNEY: I would certainly say so, yes.

The Hon. RICK COLLESS: Thank you for your hospitality earlier today. It was very worthwhile for us to look at what was happening out there. Within the forestry work site in any State forest are persons permitted to enter that work site unaccompanied or is that illegal?

Mr KEARNEY: Once an operation has been established our contractors are expected to manage that site and any person who enters that needs to contact the site manager and be inducted. That would be our requirement. We have specific ability to close forests where we believe there is a specific safety risk.

CHAIR: Before you go on, a point of clarification. Would that apply to the EPA?

Mr KEARNEY: A requirement to enter, yes.

CHAIR: So the EPA is required to notify someone that they are entering a work area?

Mr KEARNEY: Absolutely, and it would be, beyond anything else, a work health and safety issue. We would want that to happen.

Mr WILLIAMS: Typically that happens on site. They call or there are procedures, there is UHF radio channels to call a contractor, "I'm at the gates. May I come in?" There are in-field procedures and they also have powers to stop work and do an investigation and things as well.

CHAIR: Once they get permission to enter the site.

Mr WILLIAMS: If they get to a site and they do not get permission, they have powers that can stop work and conduct their business.

The Hon. RICK COLLESS: In that case are the individuals who are in breach of protocol prosecuted? What happens to them?

Mr KEARNEY: We do have prosecution powers and we can use those.

The Hon. RICK COLLESS: Can I go back to the issue of koala occurrence and populations in Royal Camp? What records were kept of koala populations and occurrence prior to the IOFA procedure, I guess prior to the 1980s and 1990s?

Mr WILLIAMS: I think the procedures that we would have had would have commenced in probably the 1970s or 1980s in the lead-up to the environmental impact statement period. There would have been anecdotal record keeping. I certainly know in our files you can see periods where looking for koalas became a hot topic in a particular district and they went out and searched and kept records of koalas. You can certainly see that in wildlife atlas records from forestry staff starting in the 1980s and onwards. There has also been a number of research projects, and EIS, studies where koalas, amongst other species, have been searched for.

The Hon. RICK COLLESS: I am trying to get a handle on what the koala populations might have been in there going back, say, 50 or 60 years.

Mr WILLIAMS: I do not there are good records or good evidence of what koala populations were like specifically. It is more anecdotal evidence.

The Hon. RICK COLLESS: But the anecdotal evidence supports that they were in fact there. Is that correct?

Mr WILLIAMS: Yes.

The Hon. RICK COLLESS: The other question I have in relation to that is: When did logging first commence in Royal Camp forest?

Mr KEARNEY: As in historically?

The Hon. RICK COLLESS: When was it first logged historically, do you know?

Mr KEARNEY: I could not tell you the exact year. We do not have that information but it would go back potentially to the late 1800s.

The Hon. RICK COLLESS: So it is certainly more than 100 years.

Mr KEARNEY: Yes.

The Hon. RICK COLLESS: Do you have any records of what species have been harvested during those early years?

Mr KEARNEY: During the very earliest years there was very little regulation of any kind of timber harvesting activities. So no, it would be a matter of conjecture about what happened early on.

The Hon. RICK COLLESS: The species list that is in Royal Camp now, is that a species list that would have existed in those early years?

Mr KEARNEY: In terms of flora and fauna?

The Hon. RICK COLLESS: Yes, particularly in terms of the tree species that are in there.

Mr KEARNEY: My assessment would be that the forest we see there is in terms of composition similar to what it would have been for many, many years, possibly thousands of years.

The Hon. RICK COLLESS: You might have heard the discussion I had with the previous witness about red cedar growing in there. I do not think red cedar would have grown in that type of country. Was that a fair assumption?

Mr KEARNEY: Certainly not across the majority of Royal Camp State Forest.

Mr SCOT MacDONALD: The soils are too poor.

Mr KEARNEY: Across the majority of the soils, yes.

The Hon. Dr PETER PHELPS: I just want to make this clear. So your internal procedures for dealing with breach notices, whether they be for low-level offences or very high-level breaches, would be the same? Would it be the same internal process irrespective of whether it was for a low level or a high level breach?

Mr WILLIAMS: We have basically a procedure that kicks it up to a higher level of investigation once we have assessed it as medium severity. We have I guess a matrix, an incident severity matrix, and we assess the risk or the level of the alleged breach and when it is categorised internally as meaning more high severity, then that triggers the investigation and report analysis. If we have multiple low-level, likewise that would trigger that process. So yes, we have a severity rating approach and the higher the rating the more thorough the process and the shorter the time frames for going through them.

The Hon. Dr PETER PHELPS: But even at the lowest level would that incorporate the sort of processes that Mr Kearney indicated earlier?

Mr KEARNEY: From time to time there would be breaches that could be remedied immediately, for instance, if an extraction track for timber was not drained we could instruct a contractor to drain it. That probably would not be subject to any kind of formal investigation, for instance, however.

The Hon. RICK COLLESS: That is day-to-day management.

Mr KEARNEY: That is day-to-day management. There might be an expectation that we would be required to have draining in place, found it not in place but we could remedy it immediately then. That would be considered to be a non-conformance but it would not be investigated.

CHAIR: On a point of clarification: you mentioned that you operate under enough different types of licences and a number of different bodies that are interested. For example, fisheries, we understand what that is about. You mentioned DPI and soil, what probably was Soilcon. Does the EPA have a regulatory role in relation to things like structure? For example, have you put a road in the right place or is the road causing any environmental damage? Do they have a role in that, to your knowledge?

Mr KEARNEY: They would not provide advice on the location of a road, but certainly if a road was causing some kind of environmental harm—if there was obvious discharge of turbid water or if the road was actively eroding—that fits within the IFOA.

The Hon. Dr PETER PHELPS: Say, for example, you were unsure, potentially, of whether a sap-feed tree was a sap-feed tree, would you seek external advice? For example, would you take a picture of it with your iPhone and then send it off to someone who could adjudicate whether it was a sap-feed tree?

Mr WILLIAMS: Certainly we have internal processes like that. If a field staff member found a tree and was not sure whether it was a sap-feed tree, they could do that, send it to one of the ecology staff. Our ecology staff would make that assessment. That would be a reasonably common thing to see, especially in recent years around things like endangered ecological community boundaries. That is where it is quite complex and difficult to make the calls. Where is the line? That is the sort of thing we would expect to see.

The Hon. Dr PETER PHELPS: Would you ever go to an external expert or do you believe that the internal expertise is sufficient?

Mr WILLIAMS: We have gone, especially around plant identification. That can be quite tricky. There might be one particular botanist in a university somewhere that needs to make the call. So yes, from time to time we do go to external experts.

The Hon. Dr PETER PHELPS: An allegation was made earlier that classic notching from a sap-feed tree was so blatant that no reasonable person could obviously have missed it. What is your assessment of that view?

Mr KEARNEY: I guess when you look at the photo, it clearly looks like it is a sap-feed tree. The tree in question is on the ground. It certainly is a lot easier to notice.

The Hon. RICK COLLESS: It would have been six, seven, eight or nine metres above the ground before the tree was cut, would it not?

Mr KEARNEY: It could be even higher than that, yes. In that sense, it may be a little bit harder to identify when it is in situ rather than on the ground.

Dr MEHREEN FARUQI: Could you confirm if there is no logging at the moment in Royal Camp State Forest?

Mr KEARNEY: There is no timber harvesting in Royal Camp right now, no.

Dr MEHREEN FARUQI: When will it start and on what will that be based?

Mr KEARNEY: We have one other operational plan in Royal Camp for compartment 13 that we have completed the pre-operational surveys, we have completed the harvest plan, survey work and I believe we are undertaking some roading. There certainly is an intent to harvest timber from compartment 13 at some stage in the future.

Dr MEHREEN FARUQI: What conversation are you having with EPA or what role does EPA play in when you can start logging again, if any?

Mr KEARNEY: The EPA does not typically have a role in scheduling harvesting events. Having said that, on the basis that we are before a parliamentary inquiry that is looking at that particular forest we feel it is a matter of good judgement and courtesy not to be harvesting timber in there at this time. But we certainly will continue to discuss that with the EPA.

Dr MEHREEN FARUQI: Do you think if NEFA had not identified the presence of koalas and yellow-bellied gliders in compartments 14, 15 and 16 that these populations could have been impacted?

Mr KEARNEY: We also identified koalas and yellow-bellied gliders in compartments 14, 15 and 16. In compartment 14 we identified and protected one koala high-use area through the mark-up searches. I believe there is enough evidence there to demonstrate that we are implementing the licence and those species continue to persist in that forest.

Dr MEHREEN FARUQI: You probably have seen this report from the EDO, "If a tree falls", commissioned by NCC in 2012. It makes it pretty clear that overall there have been systemic breaches in forestry regulations. The report quotes also from Justice Pepper from the New South Wales Land and Environment Court that there is "a pattern of continuing disobedience in respect of environmental laws generally or, at the very least, a cavalier attitude to compliance with such laws." What is your response to that?

Mr KEARNEY: I thought perhaps those words were a little unfair. I understand Justice Pepper saw another issue also in relation to Forestry Corporation the following year where those words were not repeated and our record was not addressed in such a negative manner. I would not like to think that anybody perceives that we have a cavalier attitude. It certainly is a big part of my role not to have a cavalier attitude and to manage a group of people to achieve what we are supposed to achieve with the threatened species licence. The incident she was referring to was where a hazard reduction burn burnt through smoky mouse habitat. It certainly is regrettable and it certainly highlighted that something went wrong with that process at that time. In that sense you could say there was some systematic breach. I believe that we looked at that. We did an investigation of that matter and we have improved our processes to ensure that should not happen again.

CHAIR: I wonder then what Justice Pepper would say about Wambelong.

Dr MEHREEN FARUQI: After the 2012 incidents did anything change with your internal processes? Did you do anything specific to address those issues?

Mr KEARNEY: Absolutely. Given that it was brought to our attention that there were potential trigger trees in Royal Camp that we had not identified, we felt on that basis alone it was worth running a sort of refresher training to make sure that everybody who was undertaking that task was completely familiar with our expectations of it and that we could seek some feedback from the guys who do it on a daily basis about what they thought about it, how they interpreted "thorough", noting that in a forest like Royal Camp many, many thousands of trees have to be searched under on a daily basis. As you can imagine, having been in the forest today, it is an arduous task. You do not want to run out there and start beating up on the guys who do this, but we did want to talk to them about the way they did it. We also talked about expectations and talked to them about what they felt could and should be done in that instance.

Dr MEHREEN FARUQI: Have you audited those changes and seen their impact?

Mr KEARNEY: Yes. I would say there has been a positive impact in identification of koala scats and star searches.

The Hon. LUKE FOLEY: The topic of koala conservation in the wild is big at the moment. There has been a Federal listing for the east coast koala population, a New South Wales recovery plan after its listing at State level and a preliminary determination of the scientific committee to list the Tweed population as endangered at the moment. Given all that, it seems that your activities in State forests that have core koala habitat will be the subject of an ongoing focus and debate. Do you think your current practices are sufficient or is there more that you and/or the Environment Protection Authority as your regulator will need to do in the face of community concern about a dwindling koala population, particularly in the north of the State.

Mr KEARNEY: It is a long question and I will try to answer it in parts. Whether there are things we could do better, I certainly go back to our comments about the way the licence is currently structured and written—some of the terminology in it. I think we could all put ourselves on much better footing about the

requirements of the licence by looking at the way it is written. Although, the way it is written is not really, perhaps, the core of the issue. The requirement to search for scats as the primary way of looking for and protecting koala habitat I think is a bit clumsy. There certainly are better alternatives there. Where the issues of threats to koala populations are and what that means for the way we manage koalas against the broader threats across the whole of the country and the whole of the State, I would be happy to see a review of all those threats across the State. As with any land manager, anyone who cares about the conservation of koalas, I think it is an important issue. However, I do not specifically think that we are at the pointy end of those threats. We certainly have no forest in the Tweed area. Justin might want to elaborate on some of that.

Mr WILLIAMS: I think there is a change needed in processes around managing koalas on State forests. It is not sustainable to thoroughly search 100 trees a hectare for koalas at high cost with not much return for koalas for another 15 years. We need a better process than the one we have at the moment. I think there is more work that we could do like we have just completed at Royal Camp where we have done post-harvest assessments to look at what the koala population post-harvest looks like and communicate results like that more broadly so people, the broader community, have I guess an appreciation of what is the risk and threat to koalas from forestry operations because I think perhaps there is a perception that forestry operations are high risk for koalas, that forestry and regeneration management is concerning for koalas and perhaps, as Dean said, that is in a list of threats to koalas. Perhaps forestry management is not a significant threat. I think there are things that we can do and I think you are quite right that it is an issue that is going to stay around and it is an issue that will impact on us and we will need to be engaged in as a land manager in this region.

CHAIR: Thank you. We have reached the end of the hearing. You agreed to provide some information on notice. The secretariat will advise you of those questions. We would like the answers to those questions and the data within 21 days of when you receive them. Once again, thank you for agreeing to talk here today. Your authority is not the subject of this inquiry. Thank you for your skilful attendance today in answering some of the questions.

(The witnesses withdrew)

The Committee adjourned at 5.46 p.m.
