



Committee Secretary
Senate Standing Committees on Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600

Friday 19 March 2021

Labor Environment Action Network Australia (LEAN Australia) submission in response to the Environment Protection and Biodiversity Conservation Amendment (Regional Forest Agreements) Bill 2020.

Dear Secretary,

On behalf of the Labor Environment Action Network (LEAN), I am pleased to provide this submission in response to the proposed bill which seeks to amend the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and the *Regional Forest Agreements Act 2002*, to 'clarify that forestry operations covered by a Regional Forest Agreement are exempted from Part 3 of the EPBC Act'.

Yours sincerely

Felicity Wade
National Co-Convenor
Labor Environment Action Network (LEAN)



What is the Labor Environment Action Network (LEAN)?

The Labor Environment Action Network (LEAN) is a group of Labor members and supporters that works to influence environmental policy making within the Australian Labor Party.

Recommendations

1. LEAN calls upon the Committee and the Senate to reject this bill which would further weaken environmental standards in forest areas covered by Regional Forest Agreements (RFAs).
2. LEAN supports the recommendations made by Professor Graeme Samuel AC in the final report of the Independent Review of the Environment Protection and Biodiversity Conservation Act in October 2020 to modernise and update the environmental requirements required from RFAs and to strengthen independent Commonwealth Government assurance and monitoring roles.
3. LEAN recommends a comprehensive review and reform of the Regional Forest Agreement Act and all existing RFAs in recognition of the declining environmental and heritage protection outcomes and the impacts upon the forest environment and wood supplies as a result of a series of catastrophic bushfires associated with the drying of the forest environment associated with accelerated climate change.
4. LEAN recommends an urgent review of the potential emissions reduction and carbon abatement opportunities associated with the long-term protection and management of native forests contained within all RFA areas in the context of the need to pursue zero net emissions by 2050 in line with the Paris Climate Change treaty.
5. LEAN recommends the development of a comprehensive industry restructure and transition package to protect worker entitlements and promote opportunities for redeployment into both the plantation based forestry sector and through enhanced environmental and carbon protection of native forests.

Submission

Regional Forest Agreements (RFAs) are agreements made between the Commonwealth Government and relevant State and Territory Governments for the management and protection of native forests.

These agreements aim to balance economic, social and environmental demands on forests and seek to deliver ecologically sustainable forest management, certainty of resource access for the forest industry and protection of native forests as part of Australia's national reserve system.

The RFAs are effectively a bilateral agreement between Governments in which Commonwealth Government responsibilities for a range of environmental protections, including protection of nationally listed threatened and endangered species, World Heritage and Indigenous heritage values, are delegated to relevant state and territory Governments through an accreditation process.

The RFAs were developed in response to the Native Forest Policy Statement (NFPS) which was agreed by the Commonwealth Government and all states and territories in 1992 (with the exception of Tasmania, which signed the statement in 1995).

The NFPS is now almost 30 years old and whilst containing some innovative reforms for the time, is now clearly out of date and no longer fit for purpose to deliver upon widespread community and market expectations of the need for genuine environmental sustainability of native forest logging operations and in recognition of the failure of the NFPS to address the impacts of climate change upon native forests, and the opportunities to protect, store and enhance carbon stocks through the protection and improved management of native forests.

Furthermore, many RFAs have been rolled over without significant consideration of new data – both scientific data and up to date assessments of timber volumes. Many RFAs include out of date estimates of available timber.

This private member's bill has been produced by Senator McKenzie in response to a recent Federal Court decision by Justice Mortimer (*Friends of Leadbeater's Possum Inc v VicForests* (No 4) [2020] FCA 704) which found that the Victorian Government, through the corporatised forest management agency, Vicforests, had failed to honour obligations made under a RFA to protect endangered and threatened species from the impacts of native forest logging operations.

It is extraordinary that this bill, rather than seeking to ensure increased protection for these species and to ensure strengthening compliance and enforcement of protections, simply attempts to further weaken environmental protections by proposing a further reduction in the role of the Commonwealth Government in meeting its own delegated responsibilities to protect nationally listed threatened and endangered species.

It is short sighted, environmentally irresponsible and will further weaken the already damaged sustainability credentials of the native forest timber industry in both domestic and international markets, and in the wider community.

State sanctioned logging of endangered species habitat is not the marker of a sustainable industry and is inconsistent with a raft of international treaties and initiatives including the Convention on Biological Diversity, the Sustainable Development Goals and the Forest Stewardship Council's Australian standard.

The failings of the RFA system were documented extensively by Professor Graeme Samuel in the Final Report of the year long Independent Review of the EPBC Act which was released by the Commonwealth Government in January 2021.

Despite hamfisted efforts by Senator McKenzie and others to misrepresent the recommendations of Professor Samuel, the review was crystal clear that the RFAs are a failed policy and need urgent reform. For example, the final review found that:

'(T)he Review considers that the environmental considerations under the RFA Act are weaker than those imposed elsewhere for MNES (matters of national environmental significance) and do not align with the assessment of significant impacts on MNES required by the EPBC Act,' that 'there is insufficient Commonwealth oversight of RFAs and the assurance and reporting mechanisms are weak. The RFA Act requires agreements to be subject to a 5-yearly review process but those reviews have been consistently late by an average of approximately 3 years. The first RFA to be signed was not reviewed until 13 years after the commencement date,' and that '(T)he Review considers that Commonwealth oversight of environmental protections under RFAs is insufficient and immediate reform is needed. The National Environmental Standard for MNES should be immediately applied and RFAs should be subject to robust Commonwealth oversight.'

As a result, the final review made the following recommendation (Recommendation 15):

Increase the level of environmental protection afforded in Regional Forest Agreements (RFAs): a) *the Commonwealth should immediately require, as a condition of any accredited arrangement, States to ensure that RFAs are consistent with the National Environmental Standards and b) In the second tranche of reform, the EPBC Act should be amended to replace the RFA 'exemption' with a requirement for accreditation against the National Environmental Standards, with the mandatory oversight of the Environment Assurance Commissioner.*

It is non-sensical to reduce the role of Federal oversight of RFAS through the EPBC, when the EPBC is the mechanism through which the Federal government delivers its obligations to protect threatened species. Recent research has shown that 48 Federally-listed threatened forest-dwelling fauna species are impacted by logging operations, including logging-associated roading and burning, across Australia's 11 RFA regions. Four of the forest species (Leadbeater's Possum, Swift Parrot, Western Ringtail Possum, Regent

Honeyeater) have been identified as being amongst the 20 bird and 20 mammal species most likely to become extinct in the next 20 years (National Threatened Species Recovery Hub, 2018).

This submission supports the recommendation made by Professor Samuel and rejects the attempts to further weaken environmental protections contained in the private member's bill which is the subject of this Committee Inquiry.

Aside from the immediate issues dealt with by Professor Samuel in his review, it is also clear that a more comprehensive reform of the operation of the RFAs is required in light of the following factors:

- the ongoing decline in the environmental health of native forests covered by RFAs,
- the negative impacts of regular and catastrophic climate change induced wildfires upon forest dependent plants and animal species and ecosystems and upon the availability of native forest wood supplies, &
- the need to fully consider the role of changed management of native forests in both protecting existing stocks of carbon contained in standing forests and to abate further emissions through changed forest management and reforestation programs.

In response to above, LEAN calls for a wide-ranging review of the impacts of climate change on native forests, and policy responses required, to ensure increased protection of carbon stocks and abatement opportunities provided by changed management of native forests covered by RFAs.

LEAN believes that urgent policy changes are required to enhance environmental protection and to change forest management practices to encourage the protection of carbon stocks of native forests covered by RFAs.

These long overdue changes however should not come at the expense of the future economic prospects of workers employed in the native forest timber industry.

Although the number of workers directly employed in the native forest timber industry are always inflated by Industry advocates and the National Party, these workers are skilled and often perform hard and difficult work and many love living and working in the bush.

It is imperative that in light of the need for change in the future management of native forests covered by RFAs, existing workers, not timber industry bosses, are supported through a substantial transition package including payment of all entitlements and a commitment by Government to provide direct employment opportunities to all directly impacted workers in forest and carbon management and protection activities, and through the much needed expansion of plantation forests.

END.