

## Submission to the Senate Inquiry

### The Effectiveness of Threatened Species and Ecological Communities' Protection in Australia

South East Region Conservation Alliance Inc.



January 2013

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Dear Senate Inquiry Committee,

The South East Region Conservation Alliance Inc. <sup>1</sup> wishes to thank you for the opportunity to present a submission to this Inquiry. We have addressed the Terms of Reference and the outcomes have helped us to create a Summary and make Recommendations. Overlapping of Terms of Reference content has been minimised.

Because we are situated in southeast NSW, we have given special focus to the environment in this region and have used a case study approach to demonstrate problems relating to the areas koala population.

#### SUMMARY

1. The tiny, yet unique, koala population in south east NSW's State Forests is on the brink of extinction.
2. The intention of the Federal Threatened Species listing <sup>2</sup> is unable to be supported by the State of NSW because Regional Forestry Agreements (RFAs) are exempt from the Environment Protection and Biodiversity Conservation Act (EPBC).<sup>3</sup> The results of a recent koala survey provide a catalyst for this to change.
3. The stated main objectives of the *Threatened Species Conservation Act (NSW)* <sup>4</sup> are to: *prevent the extinction of native plants and animals; protect habitat that is critical to the survival of endangered species; and eliminate or manage threats to biodiversity.* These objectives are unmet in south east NSW's State Forests.
4. 2014 is too far away for a national koala recovery program to be effective in south east NSW's State Forests.<sup>5</sup>
5. The States' natural native forests are still being degraded unnecessarily by logging for woodchips, and hence are being rendered unable to support wildlife.

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<sup>1</sup> SERCA is a non-government, umbrella organisation for local conservation groups of SE NSW. Protection of the environment has been a life-long quest for many of our dedicated local environmentalists.

<sup>2</sup> EPBC Act List of Threatened Fauna,

<[http://www.environment.gov.au/cgi-bin/sprat/public/publicthreatenedlist.pl#mammals\\_vulnerable](http://www.environment.gov.au/cgi-bin/sprat/public/publicthreatenedlist.pl#mammals_vulnerable)>.

<sup>3</sup> Section 38 of the *Environment Protection and Biodiversity Conservation Act 1999* ('EPBC Act') provides an exemption from Part 3 of the EPBC Act provided forestry operations are in accordance with 20 year Regional Forest Agreement where a Comprehensive Adequate Representative reserve system and ecologically sustainable forest management have been implemented to give an equivalent level of protection to threatened species and ecological communities as could be expected to be achieved if Part 3 of the EPBC Act did apply.

<sup>4</sup> *Threatened Species Conservation Act 1995 (NSW)*

<<http://www.environment.nsw.gov.au/threatenedspecies/tscact.htm>>.

<sup>5</sup> Matthew White, A/g Assistant Secretary, Wildlife Branch, Department of Sustainability, Environment, Water, Population and Communities. 25/10/2012. See p. 7 of this Submission.



## RECOMMENDATIONS

1. The Commonwealth cancels the exemption of the RFA areas from the EPBC Act.
2. The Commonwealth keeps the power of the EPBC Act with the Commonwealth.
3. The Commonwealth improves the provisions of the EPBC Act to accommodate emerging threats, and ensure that its provisions remain into perpetuity.
4. The Commonwealth, in conjunction with the State, establishes a regional wildlife sanctuary within the Southern Rivers Catchment Area (now LLS) under the Great Eastern Ranges, Mountains to Coast parameters.<sup>6</sup>

### a. Management of Key Threats to Listed Species and Ecological Communities

#### Presently

#### ***A unique population hangs on to life by a thread in south east NSW***

Much media attention has been drawn to koala protection since it was listed as a threatened species. However, because of the EPBC Act exemption for REF areas, koalas which live in State Forests are not protected. This includes virtually all of south east NSW's koala population. The Commonwealth Government's Threatened Species listing of 2012 protects koalas nationally and yet, because of the RFA exemption, their habitat can still be logged and is still being logged. NSW's RFAs permit logging in koala habitat.<sup>7</sup> Hence koalas in this region are at great risk (they are not listed as critically endangered, only vulnerable) and are therefore close to extinction.

John Hibberd stated that this

*... is the last vestige of the once great koala populations that ran through the Bega Valley ...*<sup>8</sup>

and local koala expert, Chris Allen, agrees that:

*... anything less than a substantial reduction in the extent of logging activity in that [Eden] area will almost certainly make that [koala] population go extinct.*<sup>9</sup>

Despite this, a tiny, unique population of Southern long-haired koalas (30 – 40), the largest on the planet, are clinging to existence in the Murrumbidgee/Mumbulla/Bermagui State forests. We understand that the findings of the latest survey show that there has been a very slight increase in their numbers and that because of favourable seasons and more moisture, they could be coming back from the brink.<sup>10</sup> We therefore have a moral and environmentally pragmatic obligation to support this possibility as this region once had an abundant koala population.

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<sup>6</sup> A Great Southern Koala Sanctuary has been given in principle support from the Nature Conservation Council, National Parks Association, National Trust (local branch), Australian Forest and Climate Alliance, the Australian Koala Foundation, <<http://www.gsks.org.au>>.

<sup>7</sup> The Eden RFA was signed in 1999 and the Southern RFA in 2001 and are hence out of date with recent environmental scientific standards.

<sup>8</sup> John Hibberd, Conservation Council ACT Region Inc, Senate Inquiry into the Status, Health and Sustainability of Australia's Koala Population, 19/05/2011.

<sup>9</sup> Chris Allen, Senate Inquiry into the Status, Health and Sustainability of Australia's Koala Population, Committee Hansard, 19/05/2011.

<sup>10</sup> These findings have not yet been made public. Once they are distributed by the OH&E, SERCA can forward them as an Appendix to this Submission.



The koala population here is the only coastal community between Port Stephens, NSW and Mallacoota, Vic. The main acknowledged koala threats are habitat loss,<sup>11</sup> fragmentation and degradation. Other threats are dog attack, logging, wildfire, disease and being struck by cars.<sup>12</sup> Logging for woodchips destroys habitat in a way which has the potential to render them extinct.

Logging is extremely problematic to conservation of biodiversity because of the species-rich nature of native forests. SERCA is exceedingly alarmed about the current rates of logging in south east NSW particularly because of the devastating effect it has on threatened species. Vegetation clearing is widely considered the most important factor for species decline and extinction.<sup>13</sup>

## Koala surveys

### *Do we support a koala recovery in south east NSW?*

SERCA maintains that surveys by Forests NSW (FNSW) have been inadequate as they quickly cover large areas and only in the daytime. Early surveys in the south east areas were on too coarse a grid to find koalas and more recently, known koalas in Tanja State Forest were not found in initial FNSW surveys.

Since their categorisation as 'vulnerable', provisions for safeguarding this remnant population of koalas in the State Forests and the Commonwealth's Biodiversity Fund project awarded Forests NSW \$1.9m to protect koala habitats. SERCA believes that this money was provided to identify and determine the usefulness of logging 'exclusion zones' in the region's State forests within which logging would not take place. SERCA and the community thought that these zones were totally inadequate as koalas roam to find mates and better feeding grounds.

This prediction by the local community that logging exclusion zones may be inadequate was justified. Recent surveys of koala populations in south east NSW's State Forests have been undertaken via the auspices of the Commonwealth Biodiversity Fund around the perimeters of intended logging exclusion zones.

SERCA understands that there is an **increase** in koala numbers and that they are spreading out from previous clusters, mostly in State Forests. For example, apart from the Murrah/Mumbulla population, 9-10 sightings have been reported in other forested areas between the Bermagui and Bega Rivers and there are a few left in the Kooraban National Park. Thus the concept of exclusion zones is highly likely to prove ineffective as koalas are moving within the forests.

This increase in population could mean the beginning of a koala recovery. The reason for this increase is most probably because the forests have had a good season and there is more moisture.

This indicates that it is even more critical that an urgent and extra-ordinary imperative be undertaken to comply with the Commonwealth's Threatened Species listing and that these koalas need to be protected despite the challenges faced in dealing with the RFAs and the

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<sup>11</sup> In other areas of Australia, habitat removal for population growth is not a factor in south east NSW, logging of native forests destroys their habitat and migration corridors.

<sup>12</sup> Discussion paper: Private Native Forestry and Koalas, OH&E, 2012.

<sup>13</sup> CJA Bradshaw, NSW Sodhi & BW Brook, 'Tropical Turmoil – a Biodiversity Tragedy inProgress', (2009) 7 *Frontiers in Ecology and the Environment*, 79-87; BW Brook, NSW Sodhi & CJA Bradshaw, 'Synergies Among Extinction Drivers Under Global Change', (2008) 25 *Trends in Ecology and Evolution*, , 453-460; HK Gibbs, AS Ruesch, F Achard, et al, 'Tropical Forests Were the Primary Sources of New Agricultural Land in the 1980s and 1990s', Proceedings of the National Academy of Sciences, 2010, 107, 16732-16737.



economically and environmentally unsustainable logging of State Forests. It is time for the Australian Government to recognise that urgent action is required to save these unique and genetically highly significant koalas. This action needs to go beyond the lip-service of inquiries which seem to us to have so far produced much discussion yet nothing to guarantee their safety.

SERCA maintains that the results of these recent surveys show that logging should cease in all identified koala habitat. To allow logging to proceed in areas which should have been protected under the Biodiversity Fund project would be a breach of the conditions of the grant and would put the apparent tentative recovery of the species at risk.

With regard to the Biodiversity Fund initiative, the State Environment Minister stated that:

*There will be harvest exclusion zones in forestry operations totalling 2,800 hectares of land, and these are located in the Murrumbidgee, Mumbulla and Bermagui State Forests. In turn, Forests NSW will receive assistance identifying alternative timber supplies from suitable areas of State Forests.*<sup>14</sup>

In other words, we believe that the \$1.9m was intended for FNSW not to log and yet it is able to log other areas more intensively as compensation. So in fact, the industry is double-dipping and has taken this grant under false pretences at the expense, firstly of taxpayers of NSW and the Commonwealth and secondly, at the expense of wildlife habitat within the native forests of south east NSW. It also fails to provide for the newly discovered population of koalas in Tanja State Forest.

If FNSW logs in areas which were supposed to be protected for 6 years under the project: *Corridors and Core Habitat for the Koalas of the NSW Far South Coast*, this would demonstrate a breach of faith in complying with the intention of the Threatened Species listing. If they become extinct by the end of next year, if not before, history would show that Minister would have been the person responsible and her misconceptions about the preservation of wildlife would bring discredit to her and to the party whom she represents.

FNSW is prepared to log the forests that this project was supposed to protect. Illogically, FNSW is driven by obligations under Wood Supply Agreements to supply logs for products, mostly woodchips, for which there is a dying market. There is no price high enough for woodchips to compensate for damaging the precious natural balance between forests, water, soil, carbon and wildlife.

Optimal benefits would eventuate if the Federal Minister determined that the intention of the Threatened Species listing be complied with across all State Forests, private landholdings and National Parks and take a visionary stance by establishing a wildlife sanctuary to preserve all species' habitats across the entire region.<sup>15</sup> This would be the most idealistic outcome for all wildlife whether threatened or not and forest health. Attempting to reverse environmental damage would enable perpetuation of endangered species and open the way for new industries of, for example: forest care and restoration, tourism, cultural activities, carbon sequestration, and wildlife care and threatened wildlife repopulation.

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<sup>14</sup> NSW Government Win \$1.9 Million for Protection of Koalas. Robyn Parker. Undated. <<http://www.nsw.liberal.org.au/node/393>>.

<sup>15</sup> A Great Southern Koala Sanctuary has been given in principle support from the Nature Conservation Council, the National Parks Association, National Trust (local branch), Australian Forest and Climate Alliance, the Australian Koala Foundation, <<http://www.gsk.org.au>>.



In view of the imminent likely extinction of the remaining population in this region under the current regime, that there is an ongoing lack of protection for the koalas in this region is evident in a letter from Minister Burke's staff member,<sup>16</sup> which states:

*A national koala recovery plan is to be developed for the listed koala, to commence following the expiration of the National Koala Conservation and Management Strategy at the end of 2014, (emphasis added) currently being implemented by the Commonwealth and relevant jurisdictions.*

It further indicated plans which are under development and which FNSW is "expected to adhere to". This sounds like meaningless rhetoric and echoes the claims and inquiries which have done nothing practical to save this area's unique wildlife. If logging continues, the whole area of koala habitat could be logged out. They are highly vulnerable, remain highly vulnerable and need **immediate code red protection**. FNSW should be banned from going anywhere near these koalas. At the same, save this species and many others would be saved.

SERCA agrees with the response by Greens forestry spokesman, David Shoebridge, who presented a Notice of Motion in the NSW Parliament which condemned the government for failing to prevent the destruction of koala habitat in Bermagui State Forest and Pine Creek State Forest.<sup>17</sup>

State forestry is treated differently from the rest of the Commonwealth and given that the logging of native forests for woodchips is neither economically nor environmentally sustainable, one wonders about the logic of continuing with a dying industry at the expense of a highly threatened Australian icon, and many other species.

The Senate Inquiry in 2011 was told that FNSW was required to consult with several groups prior to logging activities including WIRES. The President of the animal welfare group WIRES, confirmed that WIRES had not been consulted with regard to logging in areas around Bermagui and in the Five Forests area in the far south-east of NSW in its 2009 or 2011 logging campaigns in the Bermagui State Forest. So FNSW's prescriptions were conveniently ignored.

#### b. Development and Implementation of Recovery Plans

##### ***Should we give harsh penalties for species recovery delinquency?***

Scientist Tim Flannery has documented that very few species have recovery plans. In a soon to be released *Quarterly Essay*, he considers that:

*The nation is on the cusp of losing dozens of animal and plant types forever in the next few decades due to poor management ... In NSW, for example, in the last 20 years 'recovery plans' have been completed for only around 10 per cent of all species listed as vulnerable to extinction. At that rate, it would take two centuries just to draft recovery plans that are merely the first step to protect the state's threatened fauna.*<sup>18</sup>

<sup>16</sup> Matthew White, A/g Assistant Secretary, Wildlife Branch, Department of Sustainability, Environment, Water, Population and Communities to Bronte Somerset, 25/10/2012.

<sup>17</sup> *Government Condemned For Destruction Of Koala Habitat*. The Greens, NSW. 16/10/2012.  
<<http://nsw.greens.org.au/content/government-condemned-destruction-koala-habitat>>

<sup>18</sup> Ben Cubby, 'Endangered Species Facing Endgame', The Age, Melbourne. 17/11/2012.



The NSW Government disputes these figures. It considers that there are 966 species listed under the Threatened Species Conservation Act, including 72 species presumed extinct. Of those, about 420 listed species, or 43%, are covered by a recovery plan, outlining how best to help a population return to healthy levels.

Thus about 60% of threatened species are without recovery plans. Whatever these facts and figures say, it is internationally known that Australia has the worst mammalian extinction rate in the world.<sup>19</sup> Logging our native forests in the south east State Forests of NSW is enhancing this shameful reputation.

### **Private Native Forests**

#### ***Are Private Native Forest landowners given carbon farming initiatives?***

The OH&E <sup>20</sup> defines the term 'core koala habitat' as "any trees or lands where koalas once lived, where they now live or where they could potentially live".

Several of the approaches of NSW's Councils to identifying koala habitat are in Table 1 in the Private Native Forestry and Koalas Discussion paper.<sup>21</sup> As defined within this Review, the Bega Valley and Eurobodalla Shires' Koala Plans of Management were not available at the time of writing.

Protecting existing habitat is not enough. Recovering populations of endangered species need room for expansion and for movement, especially considering the impact of anthropogenically induced climate change on the natural environment.

### **Protection for Koalas in Murrah/Mumbulla/Bermagui State Forests**

#### ***Situation specific management regimes are required***

Under the OH&E Biodiversity Fund, FNSW accepted \$1.9 million to protect areas where koalas were found, but did not provide for expansion. No corridors have been created between the identified areas or other suitable habitat areas.

Protecting current habitats is not enough. Because they are so biologically complex native forests are particularly vulnerable to species loss and ecological structural change from industrialised logging and other developments. RFA history demonstrates the abject failure of this model for stream-lining as they haven't met environmental goals.

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<sup>19</sup> World Wildlife Fund,

<[http://www.wwf.org.au/our\\_work/saving\\_the\\_natural\\_world/wildlife\\_and\\_habitats/threats\\_to\\_species/australias\\_responsibility\\_for\\_its\\_species/](http://www.wwf.org.au/our_work/saving_the_natural_world/wildlife_and_habitats/threats_to_species/australias_responsibility_for_its_species/)>;

CSIRO, <<http://www.csiro.au/Portals/Multimedia/CSIROpod/Australian-Mammal-Extinction-Crisis.aspx>>;

*Australia's Global Footprint One of the Worst*, Bridie Smith, The Age, Melbourne. 6/5/2010,

<<http://www.theage.com.au/environment/australias-global-footprint-one-of-the-worst-20100505-uape.html>>.

<sup>20</sup> OH&E Review of the Native Vegetation Regulation: Private Native Forestry and Koalas.

<sup>21</sup> Review of the Native Vegetation Regulation: Private Native Forestry and Koalas Discussion paper

<<http://www.environment.nsw.gov.au/Vegetation/20120506DPPNFkoalas.htm>>.





### Example of poor connectivity practice by FNSW

#### *Koalas may roam for 50k during their lifetime*

Intensive logging and destruction of connecting corridors for farmlands have contributed to the reduction of wildlife populations and has rendered landscapes inadequate for sustaining them.

*Koalas have highly specific habitat requirements and are particularly sensitive to changes and disruptions to their surrounding habitat ... they are ... reluctant, to cross gaps in vegetation and move within or among fragmented habitats.<sup>22</sup>*

Common knowledge supports that corridors are essential and a graphic example of how the logging industry neglects this element in creating connectivity for migrating populations is shown in Fig. 1.

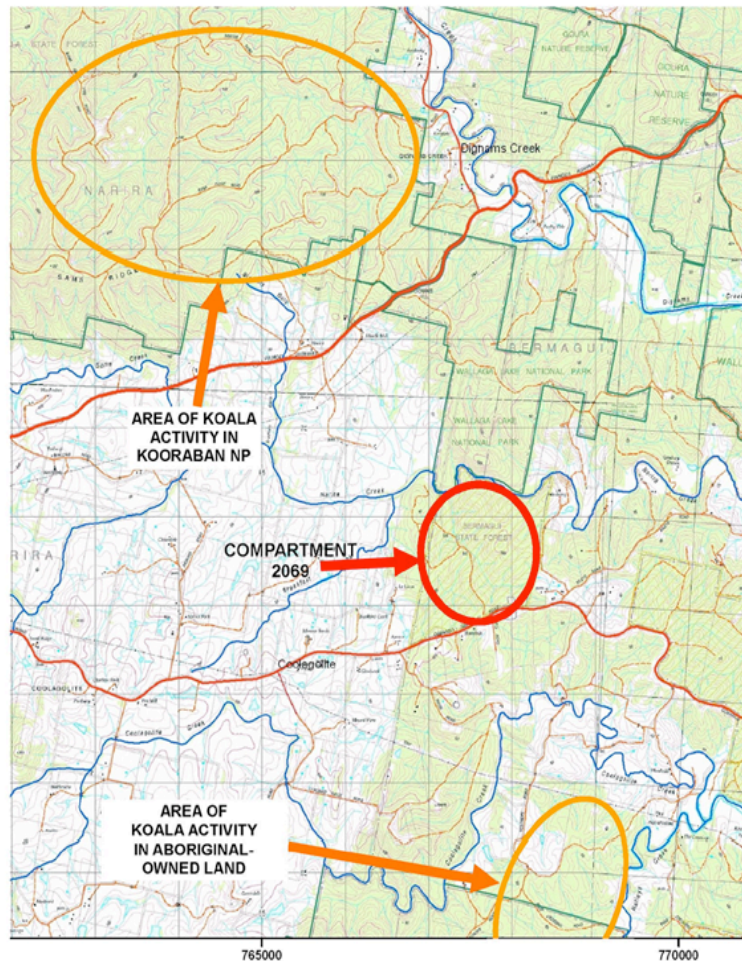


Figure 1: Map showing locations of recently confirmed areas of koala activity and Compartment 2069 which was logged almost to complete destruction. (Green areas are State Forest logging compartments). It is obvious that this compartment formed part of a between forests corridor and has now been destroyed.

<sup>22</sup> Humane Society International, *Submission No 26 [PDF] Inquiry into the Status, Health and Sustainability of Australia's Koala Population*. 8/2/2011. <<https://senate.aph.gov.au/submissions/>>.



Figure 2: Compartment 2069, Bermagui State Forest, post logging, 2012: corridor destroyed

### c. Management of Critical Habitat Across All Land Tenures

#### ***Federal/State Government's message is contradictory***

Native forests owned by other entities are restrained from destroying koala habitat. Why a special exemption is made for the forestry industry is incongruous with Federal conservation law, especially as it relates to the recent Threatened Species listing. No changes for the better have occurred lately except for the logging exclusion zones which would become obsolete if the new koala survey determined koalas are roaming.

#### **Breaches**

There have been many hundreds of breaches of regulations by FNSW since the RFA regime was put in place in NSW.

The Nature Conservation Council's report "*If a Tree Falls*":

*... details a pattern of illegal logging operations that has resulted in the destruction of old growth forest, endangered ecosystems and habitat for threatened wildlife across the state. Forests NSW has failed to observe even basic precautions such as marking up habitat trees for exclusion and monitoring forestry contractors.*<sup>23</sup>

This year alone, South East Forest Rescue<sup>24</sup> ('SEFR') has recorded logging breaches within the following State Forests' logging compartments:

<sup>23</sup> Hammond-Deakin N, and Higginson S, *If a Tree Falls: Compliance Failures in the Public Forests of New South Wales*, Environmental Defender's Office (NSW), Sydney, Australia (2011); Nature Conservation Council, 28/07/2011 <<http://nccnsw.org.au/media/new-report-unearths-systemic-illegal-logging-practices-nsw's-native-forests>>.

<sup>24</sup> South East Forest Rescue, <<http://lisaandtony.com.au/breaches.htm>>.



Tantawangalo 2405/7/8 rocky outcrops	Dampier 3102
Bermagui 2001 giant burrowing frog	Yurammie 985
Yadboro 432	Boyne 93
Bodalla 3064	Yambulla 444 #2
Yadboro 466	Nullica 718
Boyne 94 & Badja 2086	Yambulla 444 #1
Wandera 579	Dampier 3102
Yurammie 985	Boyne 93

The problem of logging breaches is exacerbated because NSW government law denies a citizen the democratic and legal right to seek enforcement of the regulations regarding threats to endangered species. In order to protect koala and natural wildlife habitats, SERCA attests that such challenges should be available constitutionally via the legal system. The Commonwealth will not intervene in NSW management.

There is no follow up monitoring to assess the impact of logging on endangered species or ecological communities. It is only through the efforts of community groups like SEFR that assessments of impacts of logging are made. Many breach notifications are erroneously dismissed as insufficiently significant, or receive token fines.<sup>25</sup>

*Given the number of offences the Forestry Commission has been convicted of and in light of the additional enforcement notices issued against it, I find that the Forestry Commission's conduct does manifest a reckless attitude towards compliance with its environmental obligations. (Justice Pepper, Land and Environment Court, June 2011).<sup>26</sup>*

OEH issued Forests NSW with a Penalty Notice for conducting specified forestry activities in mapped Rare Old Growth Forest in contravention of the Threatened Species Licence (TSL) for the Eden Integrated Forestry Operations Approval region. This Penalty Notice was issued following investigation of SEFR's allegations that Forests NSW had harvested in an area of mapped Old Growth in Compartment 557 of Yambulla State Forest. This Penalty Notice totalled \$300 and was issued under the National Parks and Wildlife Act 1974.

In Wandera State Forest OEH issued two Penalty Notices under the POEO Act for observed water pollution at two crossings. These Penalty Notices totalled \$3000.

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<sup>25</sup> "The history of law breaking by Forests NSW suggests that it does not have a sufficient culture of compliance with environmental protection laws or, at worst, that it is reckless in its attitude towards environmental regulation. It is evident from the hundreds of breaches that have been reported in recent years that the current practice of using 'soft' enforcement tools, such as warnings and remediation orders, are an insufficient deterrent. An increase in penalties, including an amendment of the NPW Act to increase the maximum penalties, would create a stronger message of non-tolerance of Forests NSW's behaviours and culture, and perhaps drive it to take real steps to avoid future damage to the environment and endangered species. "Heavier penalties needed for forestry offences", Natasha Hammond-Deakin with Evan B Brandes, Environmental Defender's Office (NSW).

<sup>26</sup> Luke Foley NSW Labor. 'Harsher penalties needed for forestry offences'. 2/4/2012

<<http://www.nswalp.com/media/news/harsher-penalties-needed-for-forestry-offences>>



## Examples of Habitat Destruction

Recent logging activities in the south east NSW's State Forests show destroyed habitat



Figure 3: Buckenbowra State Forest



Figure 4: Mumbulla logged Aboriginal Place

### d. Regulatory and Funding Arrangements at All Levels of Government

#### ***'Greenwash' contributes to forest destruction***

Historically, woodchips could only be derived from saw mill waste or butts or heads from tree felling.<sup>27</sup> If cutters did not comply with this regulation, they lost their jobs. From the outset, it became obvious that the woodchip industry would not be viable because the amount of timber logged was set by market demand and thus the supply of woodchips varied accordingly. Currently over-committed wood supplies within a rigid long-term commercial framework have been shown not to be compatible with principles of ecologically sustainable development.

- NSW Auditor-General's Performance Audit 2009 identified over-logging and over-commitment.<sup>28</sup>
- FNSW's CEO (Nick Roberts) evidence to NSW Public Lands Inquiry indicates overlogging in the north east until expiry of contracts in 2023, after which there will have to be a dramatic drop in supplies and the hope that the forests will recover over time.<sup>29</sup>

Given these situations, we cannot help but think that both levels of government have been guilty of 'greenwash' in telling the public that regulations and funding arrangements are compatible.

<sup>27</sup> Bronte Somerset "The Rise and Fail of Woodchipping in South East NSW"(2012). *Nature NSW*.

<sup>28</sup> Auditor-General's Report Performance Audit, Sustaining Native Forest Operations Forests NSW, 2009.

<sup>29</sup> Dailan Pugh, Audit of Compliance of Forestry Operations in the Upper North East NSW Forest Agreement Region, North East Forest Alliance, 02/2011, <[http://nefa.org.au/wp-content/uploads/2011/02/Audit\\_UNE\\_Forests\\_Feb2011.pdf](http://nefa.org.au/wp-content/uploads/2011/02/Audit_UNE_Forests_Feb2011.pdf)>.



e. Timeliness and Risk Management Within the Listings Processes

***Protect, connect, restore***

We need to improve current environmental protections, especially to enforce compliance, to deal with cumulative impacts, and to provide for adaptability over time in response to climate change. There needs to be adaptability to take account of cumulative effects of forestry operations and to respond to natural occurrences/disasters (fires, droughts, floods), and to climate change. This is particularly important in the case of forestry operations, which can result in loss of ecological communities as well as species. For example, FNSW made no adjustments to its logging and burning plans through the recent nearly decade-long drought which caused many trees to die and animals to lose their habitats.

Not everything can be foreseen in legislation or agreements. Climate change and fires will alter conditions for survival of endangered species, and change can be large-scale, quick and unexpected. For example, migratory swift parrots following the Victorian bushfires diverted into coastal NSW forests, were in Bermagui Forest compartments when logging was about to begin. No provision was made for their protection in this region. FNSW without any scientific backing said there would be plenty of food for the parrots, and went ahead with logging. Not a single extra tree was saved for them. The Commonwealth could take no action even if it had wanted to because of the EBPC Act exemption in RFA areas. Just-in-time adjustments to regulations are either not accounted for in government management practices or are stymied by the locked-in RFAs.

RFA reviews have been submitted years after the due date, and we are still waiting for the Commonwealth response to the first lot of five-yearly reviews.



Figure 5: Gulaga on fire was caused when an uncontrolled post-logging burn got out of hand

**The threat of wildfire**

A local koala expert considers that wildfire is a bigger threat than logging and because of this, fuel reductions burns are unstoppable. Experts confidently state that thousands of hectares of the most appalling regrowth in areas of post logging have created vertical fuel loads which have become a 'disaster waiting to happen' especially in logged areas where regrowth has failed and fuel loads have become unmanageable.



Past evidence indicates that the Aboriginal Owners should participate in determining where reduction burns should occur. It has been stated that FNSW is responsible for these heavy fuel loads. The question arises how fuel reduction burns can be safely be undertaken without killing koalas. The answer lies in using the existing data and conducting more surveys around the edges of activity cells.

Evidence from studies into behaviour of fire indicates that the greater the integrity of the natural native forest, the more chance it has of stopping the spread of wildfire.<sup>30</sup> Lindenmayer et al state that:

*It has been argued by some that, "industrial logging was a source of almost unprecedented holocausts ..." (Pyne 1982, p. 182). Contrary to claims by some commentators (e.g., National Association of Forest Industries 2009a,b,c), industrial logging is likely to make some kinds of forests more, not less, prone to an increased probability of ignition (Krawchuk & Cumming 2009) and increased fire severity and/or fire frequency (Uhl & Kauffman 1990; Thompson et al. 2007; Bradshaw et al. 2009; Malhi et al. 2009).<sup>31</sup>*

Melbourne scientist Chris Taylor warned local residents of fire risk from logging native forests based on his findings on the relationship between land use and fire intensity which resulted from his studies of the tragic Victorian bushfires. He states that:

*Logging dries out forests because of canopy removal. In conditions that were the worst in Australia's history in terms of drought, temperature and wind speed, we witnessed how a moist forest stopped the Victorian wildfire. Consider the benefit in normal conditions.*

From Chris Taylor's and ANU's David Lindenmayer's research, SERCA now knows that decades of over-logging in this region has caused irreparable damage to the beauty of forests, their koala habitat and water supplies, destroyed natural carbon storage systems, and is also making the communities around these areas much more vulnerable to fire. SERCA supports not waiting until a tragedy happens but the dangerous practice which exacerbates the risk needs to be stopped.<sup>32</sup>

f. Historical Record of State and Territory Governments on These Matters.

### **Government initiatives have not saved the vulnerable koala in south east NSW**

Inconsistencies exist between Commonwealth and State Governments and the Forestry Industry in a practical application of wildlife conservation ideals.

<sup>30</sup> David B Lindenmayer, Malcolm L Hunter, Philip J Burton, & Philip Gibbons, 'Effects of Logging on Fire Regimes in Moist Forests' (2009) 2(6) *Conservation Letters* 271, <<http://onlinelibrary.wiley.com/doi/10.1111/j.1755-263X.2009.00080.x/full>>

<sup>31</sup> Pyne, SJ *Fire in America: a Cultural History of Wildland and Rural Fire*, (Princeton University Press, ,1982); ; Krawchuk MA, Cumming SG, 'Disturbance History Affects Lightning Fire Initiation in the Mixedwood Boreal Forest: Observations and Simulations' (2009) 257 *Forest Ecology Management*, 1613; Uhl C, Kauffman JB 'Deforestation, Fire Susceptibility, and Potential Tree Responses to Fire in the Eastern Amazon' (1990) 71 *Ecology*, 437; Thompson JR, Spies TA, Ganio LM, 'Reburn Severity in Managed and Unmanaged Vegetation in a Large Wildfire' (2007) 104 *PNAS*, 10743; Bradshaw CJ, Warkentin IG, Sodhi NS, 'Urgent Preservation of Boreal Carbon Stocks and Biodiversity' (2009) 24 *Trends Ecology Evolution*, 541; Malhi Y, Aragao LE, Galbraith D et al, 'Exploring the Likelihood and Mechanism of a Climate-Change-Induced Dieback of the Amazon Rainforest' (2009) *PNAS*, doi:10.1073/pnas.0804619106.

<sup>32</sup> SERCA <<http://www.serca.org.au/forests/fire.html>>



The COAG process for ‘streamlining’ environmental protections would theoretically maintain standards through Commonwealth/State agreements, and be compatible with State legislation. The RFA exemption from the EPBC Act is based on the same theory and it has demonstrably not worked, with forest policy around Australia in crisis. The EPBC Act exemption has been a failure and is a model of what not to do. An across the board failure could be anticipated if the Commonwealth were to devolve its environmental powers to the State Governments as it did with forests.

We also question whether the EPBC Act is adequate. The Commonwealth Government rejected several of the Hawke recommendations including the issue of the RFA’s exemption from the EPBC Act. The Wentworth Group makes specific recommendations for reducing duplication with specific spelling out of environmental protections.<sup>33</sup> It considers that:

*COAG’s April 2012 agreement/proposal to hand over Commonwealth environmental approval powers to state governments puts at risk decades of environmental reform, and risks the health of nationally and internationally significant environmental assets which the Commonwealth has an obligation to protect.*

*There is no justification for handing the Commonwealth’s approval powers under the Environment Protection and Biodiversity Conservation Act to the states. Instead, this statement proposes an alternative suite of reforms to help deliver COAG’s dual goals to “reduce regulatory burden and duplication for business” and at the same time “deliver better environmental outcomes” for Australia.*

The Hawke review also recommended that the EPBC Act in RFA areas had failed and should cease, but that recommendation was quickly rejected. The Commonwealth argues that it is possible to streamline and still maintain high environmental standards. We are very doubtful of this particularly in the current state of inter-governmental relationships and the economic pressures on governments. There is a lot of greenwash on this proposition, but successive State of the Environment Reports have pointed to Australia’s deteriorating record in species protection.

Our experience with this streamlined process is its application to the forestry industry in NSW. It has proved to be seriously deficient. Forests NSW has essentially gone about business as usual, and when environmental damage has been caused, has referred to its requirement to supply wood in accordance with its wood supply agreements. The price for improved protection can be more environmental damage.

State Governments do not, and cannot be expected to, take the national interest into account. Commonwealth intervention, as a last resort when bad decisions have been made is a minimum requirement. A far more proactive role is desirable, and ways around constitutional constraints need to be explored.

Australia could, if governments had the will, put a brake on much species loss and ecological community damage by shifting the forestry industry out of native forests, using plantations for virtually all its wood needs, and strengthening measures for forest environment remediation and protection.

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<sup>33</sup> Mr Peter Cosier, Dr Richard Davis, Prof Tim Flannery, Dr Ronnie Harding, Prof Lesley Hughes, Prof David Karoly, Prof Hugh Possingham FAA, Mr Robert Purves AM, Dr Denis Saunders AM, Prof Bruce Thom AM, Dr John Williams FTSE The Wentworth Group of Concerned Scientists, <<http://www.wentworthgroup.org/blueprints/changes-to-commonwealth-powers-to-protect-australia-senvironment>>.



Legislation and detailed prescriptions are important but not enough. There needs to be the political will also to ensure compliance and to plan for future stresses on the environment. Under the RFAs covering forestry operations in NSW, there has not been the will to protect endangered species or ecological communities at either the Commonwealth or the State level. Examples of this are indicate by:

- NSW Governments of both persuasions have largely allowed FNSW to operate with disregard for the regulations for species protection.  
“The Nature Conservation Council’s report has uncovered that an alarming number of the trees falling in our native forests today have been illegally logged,” according to Nature Conservation Council of NSW Chief Executive Officer Pepe Clarke.<sup>34</sup>
- The Commonwealth treats these breaches as a NSW management issue, not a Commonwealth responsibility, despite the Commonwealth being a joint signatory of the RFAs.
- Forests NSW has also, by its intensive logging methods, overseen the replacement of mixed-age, mixed-species forest by a simplified forest, predominantly the silver-top ash preferred by the Eden export chipmill, with casuarina and wattle understorey – which is far drier, far more vulnerable to drought and a warming climate, far more fire-prone, and a danger to neighbouring regional communities. An example of the latter is logging up to the boundary fences of the Bermagui township.

Long-term, fixed volume wood supply agreements are incompatible with this need for adaptability, and have taken logging in NSW State Forests beyond sustainability levels. This is happening at a time when there is a collapsing market for many wood products such as native forest woodchips and structural hardwood timber. The State Government is locked in unless it makes large compensation payments. Both the previous (ALP) and the current NSW Government have been unwilling to make this payment.<sup>35</sup> For example:

- FNSW inability to supply sawlogs to Boral in the north east, resulted in them being sued on two separate occasions.
- FNSW has over-logged in the south east to the point where it is nearly out of large high quality sawlogs.

Notwithstanding this situation, the forestry industry is seeking rolling evergreen extensions of existing contracts for an additional 20 years.

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<sup>34</sup> “If a Tree Falls”, Nature Conservation Council, 28/07/2011, <<http://nccnsw.org.au/media/new-report-unearths-systemic-illegal-logging-practices-nsw’s-native-forests>>.

<sup>35</sup> Pers Comm former NSW Environment Minister Sartor discussions with SERCA representatives.





## CONCLUSION

Conservationists are an integral and essential part of the 'ecological community' of this area as we live within it: we stand for its protection and nothing more. Most have high levels of experience and knowledge of regional environmental issues. Some have been working for more than 40 years in sustained efforts to preserve natural beauty and forested landscapes and all they harbour. Their desire to protect, connect and restore damaged forests is synchronous with giving all native flora and fauna the chance to survive. These unpaid watchdogs want nothing more than to see this ideal valued and given serious credibility by government departments.

At the Senate's 2011 Inquiry into the Status, Health and Sustainability of Australia's koala population Senator Doug Cameron asked Anthony Amis (Land Use Researcher, Friends of the Earth): "Do you think forestry and koalas can coexist?"

Mr Amis replied:

*In a dream they probably could. I think that if you had minimal logging of areas—let us say you took out a couple of trees per hectare—it could potentially work. But the demands of the industry are to knock out entire catchment areas, and the scale of the industry does not allow for ecological concerns as far as our organisation is concerned. The scale of the industry is way too big; it does not have a soft touch.*

This is a national dilemma – the solution is: stop native forest logging permanently. Protect the forests, connect the landscapes and restore the environment. We cannot wind back the clock to pre-colonisation days. But we can stop the activities which perpetuate destruction of natural native forests and their habitat for the next 200 years.



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7 January 2013