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Submission by Timber Communities Australia (Tasmania) to Senate Standing Committee on Environment, Communications and the Arts Report on the operation of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and other natural resource protection programmes

About Timber Communities Australia

TCA is the peak national grassroots community support group for people and communities who depend upon Australia's sustainable forest-based industries. TCA has 82 branches throughout Australia with 16 branches located within Tasmania. Our members include families from both regional and small communities that are dependent upon the growing and managing of working native forests and tree farm plantations, harvesting and haulage contracting, the many methods of wood and timber processing, tree seedling nurseries and the many thousands of families from the broader community that support our forest and timber industries, such as the local bakery through to the local doctor and local school teacher, all gaining direct or indirect benefit from a strong, sustainable and wealth-creating forest and tree farming plantation sector. TCA holds to the philosophy of productive conservation

Issues for consideration by the Senate Standing Committee

i. Land clearing and forestry

The EPBC Act identifies land clearing as a key threat to environmental protection and biodiversity conservation. Some critics of forestry confuse sustainable forestry with land clearing. TCA requests the Senate Standing Committee to recognise the distinction between sustainable forestry and land clearing.

Sustainable forestry involves harvesting the forest at the same rate, or a lower rate, than it grows, and re-establishing the forest after it has been harvested. Sustainable forestry also involves protecting all other values of the forest, such as other plants, animals, water quality, soil and recreational opportunities. Further, the species and ecosystems are not adversely affected.

Accordingly, although there may be a short-term loss of forest cover over a small area of the total forest estate, sustainable forestry does not involve the long-term permanent loss of forest cover and the species and ecosystems that are dependent on the forest.

Land clearing, on the other hand, involves the permanent removal of the forest and its replacement with other uses such as agriculture, roads or urban development. Land clearing can be a significant contributor to loss of biodiversity, whereas sustainable forestry can play a significant role in protecting threatened species and their habitats.

TCA wishes to draw the Senate Standing Committee's attention to the 2007 report by Sir Nicholas Stern[i] on the economics of climate change which states that "logging itself need not be a major driver of deforestation." TCA also notes that that the Australian Greenhouse Office clearly differentiates between forestry and deforestation (which the Greenhouse Office defines as the deliberate, human-induced removal of forest cover and replacement with pasture, crops or other uses).

ii. Effectiveness of Regional Forestry Agreements (RFAs)

RFAs are 20-year agreements signed by the Commonwealth and relevant State Governments for the conservation and sustainable management of Australia's native forests. The RFAs cover most of the timber-producing forest areas in Australia.

The Agreements are based on detailed comprehensive regional assessments, undertaken over several years, of the environmental, economic, social and heritage values of Australia's forests. These assessments are the most comprehensive and thorough assessments ever undertaken of Australia's forests.

One of the key achievements of the RFAs was the establishment of a comprehensive, adequate and representative (CAR) reserve system based on three principles:

- inclusion of the full range of vegetation communities in the reserve system;
- ensuring the level of reservation is large enough to maintain species diversity, as well as community interaction and evolution; and
- conserving the diversity within each vegetation community, including genetic diversity.

The nationally agreed reserve criteria[ii] provide the means of putting a CAR reserve system into practice. Section 6 of the criteria pays particular attention to the needs of rare, vulnerable and endangered species and ecosystems and species as reflected in the EPBC Act and other State, Territory and local government legislation.

The reserve criteria also recognise the role of informal reserves outside the national parks system in protecting environmental values.

In addition, the RFAs provide for complementary ecologically sustainable forest management outside reserves to::

- maintain the ecological process within forests;
- preserve their biological diversity; and
- obtain for the community the full range of environmental, economic and social benefits from all forest uses within ecological limits.

All the RFAs require the independent accreditation of systems for achieving ecologically sustainable forest management.

In addition, all Australian States and a significant number of private forestry companies have or are in the process of obtaining accreditation under the Australian Forestry Standard (AFS) which is recognised by the Program for Endorsement of Forest Certification Schemes (PEFC). PEFC is a global umbrella organisation for the assessment of and mutual recognition of national forest certification schemes to ensure that forests are managed sustainably. PEFC is the world's largest certification scheme.

The AFS has also been recognised as a legitimate standard (AS4078) by Standards Australia after a detailed three-year assessment.

iii. Case study - Tasmania

TCA wishes to use Tasmania as a case study of sustainable forest management in Australia as Tasmania's forests have been the focus of much attention in recent years. While the details of forest management may be slightly different in other Australian States, the principles of sustainable forest management are the same.

Forestry Tasmania's sustainable forest management performance is supported by an integrated management system that meets three certification standards, namely the AFS (AS4708); the International Standards Organisation standard for environmental management systems (ISO14001) and the Australian Standard for the management of Occupational Health and Safety (AS4801).

Continued recognition under these standards requires regular independent audits of forestry operations. Third-party certification provides a clear and unambiguous statement that forests are being managed in accordance with a set of clearly defined environmental, economic, social and cultural performance requirements that supports the sustainable management of forests.

Forestry Tasmania's performance in sustainable forest management is independently audited against these standards publicly reported in the Annual Sustainable Forest Management report.[iii]

Before any logging operation can start in Tasmania, a Forest Practices Plan must be lodged with the Forest Practices Authority. Preparation of the plan requires a thorough understanding of the environmental and cultural values that might exist in the area.

Forestry Tasmania's Forest Practices Officers undertake detailed assessments of the proposed harvesting area to determine the natural and cultural values of the area. The FPO must prepare a detailed plan to minimise impacts on those values. A plan typically might include reserves to provide habitat for wildlife, to protect water quality in streams, to protect threatened species and a range of special prescriptions to manage the unique characteristics of the site.

Heavy fines can be imposed by the Forest Practices Authority for any breach of the plans.

TCA argues that while the EPBC Act does not directly apply to forestry operations in areas covered by RFAs, the requirements and objectives of the Act are met through:

- the comprehensive and scientifically-based regional assessments that were carried out before the signing of the RFAs;

- the certification of State forestry operations under the AFS and PEFC;
- regular independent audits undertaken to verify continued compliance with the requirements of the AFS and the PEFC;
- research and development to ensure that forestry operations continue to be based on the best and latest scientific information.

iv. Lessons from first ten years of operation of EPBC Act

The EPBC Act has assisted the continued development of truly sustainable forest management in Australia. International certification through the PEFC and other certification schemes has been assisted because Australia's forest managers have been able to demonstrate compliance with the objectives of the EPBC Act.

The EPBC Act has also assisted in overcoming the duplication and delays caused by overlapping State and Commonwealth endangered species and environmental protection legislation.

The effectiveness of the EPBC Act in protecting biodiversity was questioned by a legal action brought by Senator Brown against Forestry Tasmania in the Federal Court in 2005.

The legal action claimed that:

- the Tasmanian RFA was not an RFA within the meaning of the EPBC Act and the *Regional Forest Agreement Act 2002*;
- Forestry Tasmania's forestry operations in the Wielangta State Forest were likely to have a significant impact on three endangered species;
- Forestry Tasmania's forestry operations in the Wielangta forest have not been undertaken in accordance with the RFA.

In December 2006 Justice Marshall rejected the first claim and confirmed that the Tasmanian RFA is a legitimate RFA in accordance with the two Acts. However, he considered that forestry operations at Wielangta would have a significant effect on the three species, notwithstanding the presence of other natural and unnatural threats which may be even more significant. He also ruled that forest operations had not been undertaken in accordance with Clause 68 of the Tasmanian RFA which requires the State to protect priority species through the comprehensive, adequate and representative reserve system and by applying appropriate management prescriptions to forestry operations. Justice Marshall placed much emphasis on the meaning of the word "protect" stating that protection meant more than merely keeping threatened species alive, but actually meant restoring the populations so that the species cease to be threatened.

Forestry Tasmania appealed against Justice Marshall's decision and in November 2007 the Full Bench of the Federal Court upheld the appeal and overturned the decision. The Full Bench agreed that the establishment and maintenance of the comprehensive, adequate and representative reserves and management prescriptions required under Clause 68 provides the protection. The Australian and State Governments amended clause 68 after the judgement in December 2006 in order to put in clearer language the true meaning of the original clause. The appeal judges made their judgement on the basis of Clause 68 in its original form. They found that the clarification effected by the new Clause 68 would have been unnecessary but for the preliminary judgement of December 2006.

The Wielangta case provides a thorough examination of the effectiveness of the EPBC Act in ensuring that endangered species are protected during forestry operations. The Full Bench's decision is particularly useful in clarifying the meaning of the word "protect" in the Act.

The Wielangta case also confirms that the strict provisions of the RFAs provide protection for threatened and endangered species

TCA argues strongly that the Senate Committee confirm that "protect" under the Act does not involve restoring populations to the extent that they are no longer endangered. To expand the meaning of "protect" would be inconsistent with the Federal Court's decision and would have enormous repercussions extending far beyond forestry. It would also be impossible for the forestry industry to restore populations of species that are threatened by processes outside forestry's control (such as agricultural or urban development).

Forestry and climate change

Wood is essentially stored carbon removed from the atmosphere. Despite some claims to the contrary, when a tree is harvested, all the carbon is not immediately released back into the atmosphere. If the wood from the forest is converted into house frames, flooring, furniture, paper or other long-lived products, the carbon remains stored in those products for many years or even centuries. The production of alternative products, such as steel and aluminium and concrete, requires significant amounts of energy and results in the emissions of large amounts of carbon into the atmosphere.

Some parts of the tree, such as small or damaged branches, may have little current commercial value. However, this wood can be used to produce bio-fuels, thereby replacing the use of fossil fuels.

As the forest is regenerated and regrows, it continues to absorb carbon from the atmosphere. At a future date, the regrowth forest can be harvested, and the process starts again.

TCA draws the Senate Committee's attention to a report by international scientists on the Intergovernmental Panel on Climate Change[iv] which states that: "In the long term, a sustainable forest management strategy aimed at maintaining or increasing forest carbon stocks, while producing an annual sustained yield of timber, fibre or energy from the forest, will generate the largest sustained mitigation benefit."

TCA also notes that the National Association of Forest Industries' Strategy for the Australian forest industry[v] shows that Australia's forests have the potential to provide 81 million tonnes of carbon dioxide abatement each year by 2020, which is around 20 percent of Australia's total carbon abatement targets. Sustainable forestry therefore can play a major role in reducing the impacts of climate change, and this in turn will enhance the survival prospects of species that are threatened by climate change.

TCA's recommendations

TCA recommends that the Senate Committee:

- clearly differentiates between land clearing and sustainable forestry;
- agrees that the continued exemption of RFA forestry operations from direct assessment under the EPBC Act is justified on the grounds that the RFAs and the

processes leading to the development of the RFAs, combined with the strict requirements of the PEFC and Standards Australia, ensure that the objectives and requirements of the EPBC Act are met;

- agrees that "protect" under the EPBC Act does not involve restoring populations to the extent that they are no longer endangered, and that the meaning of "protect" under the Act should not be expanded;
- notes the positive role that sustainable forestry can play in reducing the severity of climate change and providing protection for species that may be affected by climate change.

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[v] National Association of Forest Industries, 2008: *Playing a greater role in Australia's future: A strategy for the development of Australia's sustainable forest industries.* See website www.nafi.com.au/NAFI_Industry_Development_Strategy.pdf