

Draft EPBC Act referral guidelines for the vulnerable koala (combined populations of Queensland, New South Wales and the Australian Capital Territory)

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This submission has a focus on the koalas of south eastern NSW, particularly the exemption of Regional Forest Agreement (RFA) areas from the Commonwealth Environment Protection Biodiversity Conservation (EPBC) Act¹.

This RFA exemption has meant that for about 15 years, since the establishment of the RFAs, the Commonwealth’s principal environmental law has not applied in State Forests where Australia’s most intensive logging for woodchips² has been carried out.

The exemption is based on the assumption that RFAs provide “equivalent protection”³ to the EPBC Act. However, in NSW (and other States), nobody

¹ Part 3 of the EPBC Act exempts “forestry operations undertaken in accordance with a Regional Forest Agreement (RFA), unless the operation is being undertaken in a property on the World Heritage List, in a Ramsar wetland, or is incidental to another action whose primary purpose does not relate to forestry.”

² Approximately 95% of all timber taken from logging native forest in south eastern NSW is to supply wood to the South East Fibre Exports (SEFE) woodchip mill at Eden, owned by the Japanese paper giant, Nippon Paper.

³ Question on Notice by Senator Lee Rhiannon, Budget Estimates 2012.

Division/Agency: CCD Climate Change Division

Topic: Wood Pellets and Regional Forest Agreements

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Senator RHIANNON asked:

(7) On what basis has the Government decided to continue to exempt Regional Forest Agreement areas from the EPBC Act, in the absence of any evidence from the Hawke review, RFA reviews or independent scientific research that there is no concern about threatened species?

Answer:

7. This is a decision of the Parliament. 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

actually monitors logging and its impacts to ensure that RFAs do provide equivalent protection. As far as NSW is concerned, the Commonwealth has shown no interest in finding out whether protection is equivalent and adequate or not.⁴ The report One Stop Chop: How Regional Forest Agreements Streamline Environmental Destruction documents how this is a national problem.⁵

1. Relevance of the federal listing to the south east NSW Koala

Phascolarctos cinereus

Regardless of the merit or otherwise of these guidelines, the federal listing of the koala as a vulnerable species in April 2012 has and will do nothing for NSW far south coast koalas living in State Forests.

Virtually all far south coast koalas are in State Forests and thus do not benefit directly from the Commonwealth listing because of the EPBC Act exemption for RFA areas.

All State Forests in south east NSW are covered by Regional Forest Agreements (RFAs) and the current law falsely assumes that these provide equivalent and adequate protection for threatened species, including the koala.

We have seen time and time again that threatened species prescriptions are either useless or are flouted with impunity by State logging agencies. Since the commencement of the RFAs there have been hundreds of instances of well documented threatened species rules being breached either by the Forestry Corporation of NSW or by logging contractors engaged by it or by South East Fibre Exports.⁶

2. NSW Measures to protect the Koala in Logging

The Forestry Corporation of NSW currently operates under antiquated provisions applying an outdated Integrated Forestry Operations Approvals (IFOA) regime. These IFOAs have been under revision for many years now and have still not been finalised. Whatever the flaws in these draft guidelines, it is not possible to state whether they are better or worse than their NSW State counterparts because there are no State counterparts.

- When logging in koala habitat, one of the current IFOA provisions requires loggers to look up into the tree they are about to cut down, to determine whether there is a koala in it.
- This measure is clearly absurd because virtually all logging these days is done by mechanical harvesters, which have solid steel roofs. It would not be possible for the operator of the mechanical harvester to look up the tree through the roof.

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.

⁴ At a meeting in Sydney between the NSW Environment Protection Authority and forest conservationists on 25th February 2013, EPA officers said: "We are not hearing a lot of concern from the Commonwealth on that." They also stated that it was a matter for RFA reviews, which did not, in fact, deal with it.

⁵ "One Stop Chop," <http://www.edovic.org.au/blog/RFA-report>

⁶ http://www.edovic.org.au/downloads/files/law_reform/One%20Stop%20Chop.pdf

- Neither would it be possible for another worker on the site to perform this task because occupational health and safety requirements would not permit another worker to stand close enough.

3. Biodiversity Fund project: Corridors and Core Habitat for the Koalas of the NSW Far South Coast.

This Biodiversity Fund project (Commonwealth funded and NSW Government managed), intended to protect the koala, could actually harm koalas in Tanja State Forest, near Bega.

- Corridors and Core Habitat for the Koalas of the NSW Far South Coast is a project granted \$1.9M under the Biodiversity Fund. However, it could actually pose a bigger threat to the recently discovered population of koalas in Tanja State Forest⁷ near Bega than “normal” logging before the project.
- The project provides for a 6 year moratorium on some (but not all) known koala habitat in Bermagui, Murrah and Mumbulla State Forests to the immediate north of Tanja. This may or may not work to protect those koalas (although it is fragmented, will not allow for expansion of populations and, of course, it is temporary) but any positive result will be at the expense of koalas and other species in other forests in the Eden Region.
- To compensate for logs forgone from the moratorium areas during its 6 years duration, Forestry Corporation of NSW intends to obtain replacement pulp logs and saw logs by logging more intensively elsewhere in the Eden Region.
- There will be approximately 10,000 m³ of extra sawlogs and 100,000 tonnes of extra pulp logs to be sourced from elsewhere in the Eden Region⁸. In the present market, the Eden woodchip mill is likely to fall short of its normal export sales by approximately 400,000 tonnes this year, so there is no need to find these pulp logs from elsewhere.
- Eden logging is already the most intensive in NSW. It is the only region where trees are felled solely for the purpose of woodchipping. To intensify it on a pretext that is not even supported by market realities is not justified.

⁷ **Background to the Tanja logging.** The proposed logging is primarily for woodchips which are unlikely to be sold due to depressed market conditions. Eighty one percent of trees will go directly to the Eden chipmill and over 90% of the wood taken will ultimately end up there, via sawmills.

The future of the chipmill is in doubt and many local residents expect that it will close in the coming months.

Forestry Corporation of NSW will make a loss on the Tanja logging (and most other native forest logging) and South East Fibre Exports (owner of the Eden chipmill, owned by Japanese paper giant, Nippon Paper will not be able to sell the woodchips produced from the trees.

⁸

<http://www.parliament.nsw.gov.au/prod/lc/qalc.nsf/18101dc36b638302ca257146007ee41a/44ad6475e4d09988ca257a61002db3e3?OpenDocument>

- One of the first areas affected by intensified logging was to be Tanja State Forest where a new population of koalas has been discovered. Between the draft Harvest Plan⁹ (before the Biodiversity Fund grant announcement) and the final approved Harvest Plan (after the Biodiversity Fund announcement), the estimated yield of pulp logs increased by more than 20 percent.
- The situation of the Tanja koalas highlights the futility of national measures to save the koala (following its recent listing as ‘threatened’) when the Commonwealth’s principal law to protect threatened species, the Environment Protection and Biodiversity Conservation (EPBC) Act exempts forests covered by Regional Forest Agreements.
- Worse still, Forestry Corporation of NSW’s response to more koalas having been found as a result of the Biodiversity Fund surveys has been to push for the removal of the exemption (moratorium) areas.

4. General

- Definition of “Koala habitat” in the Guidelines

There is a serious deficiency in the definition of koala habitat, which covers only feed trees but omits shelter trees.

“For the purposes of these guidelines, koala habitat is defined as any forest or woodland containing species that are known koala food trees or shrubland with emergent food trees. This can include remnant or non-remnant vegetation in natural, agricultural and urban environments. Koala habitat is defined based on the plant community present and the vegetation structure; the koala does not necessarily have to be present.” (p.14)

Shelter trees are essential to the survival of koalas, especially in periods of extreme weather. Protecting feed trees alone is not enough, as acknowledged elsewhere in the Guidelines.

- The Koala habitat assessment tool

Koala habitat assessment tool (p. 19, Table 3) is weak. It would be quite hard to score 5 points even in areas of known koala presence in good habitat scheduled for logging. It also fails to take account of other longer term issues necessary for the survival of the species, such as fire, hydrology and shelter trees.

- Increased Fire risk

Logging of a sclerophyll forest increases the likelihood and severity of fires, when old, moist, multi-aged forest is replaced by even-aged, denser, drier regrowth.

⁹ The Forestry Corporation of NSW “Harvest Plan”, the official approval document for the logging is available at:

http://chipstop.savetheforests.org.au/HP_ED_2102_2104_11_pub%20Tanja.pdf

For more background information:

http://chipstop.savetheforests.org.au/let_tanja_forest_live.htm

Fires are among the biggest threats to koalas as they have no means of sheltering from them, as do hollow dwelling species such as possums and gliders.

- Water/ Hydrology

Logging of a native forest is followed by several decades of dense, young regrowth. Young regrowth trees use more water and will often lower the water table. This can effect the species composition of the regrowth forest and the nutrient value of the trees for koalas, including the nutrient value of any retained trees. It is potentially serious for koalas.

5. Conclusions

Exemption of RFA areas from the EPBC Act has not served Australia's threatened species in forests well.

- The RFA exemption from the EPBC Act should cease. State Ministers have shown they are prepared to arbitrarily override prescriptions when they clash with the perceived interests of loggers.
- The Hawke Review¹⁰ recommended that it should be reconsidered, but that recommendation was dismissed peremptorily by both the then Shadow Minister for the Environment and the Minister.
- No effort has ever been made to ascertain whether State Government prescriptions under Regional Forest Agreements are adequate for the needs of threatened species and research is never conducted to test whether they work or not. In the event that the exemption is not ended, the Commonwealth should require this monitoring and research post logging as a condition of the exemption, at the very least.
- The Guidelines should provide for better protection of koalas in Commonwealth funded projects, such as the Biodiversity Fund project: Corridors and Core Habitat for the Koalas of the NSW Far South Coast. This should have conditions imposed on it to require that:
 1. no increased intensity of logging to provide for logs forgone by the 6 year suspension of logging in koala habitat in Bermagui, Murrah and Mumbulla State Forests; and
 2. Tanja State Forest be added to the koala habitat moratorium areas.
- Shelter trees should be included in the definition of koala habitat.
- Hydrology and its impacts on availability and nutritional quality of habitat trees should be included in the Koala Habitat Assessment Tool.
- Increased fire risk should be included in the Koala Habitat Assessment Tool.

¹⁰ <http://www.environment.gov.au/legislation/environment-protection-and-biodiversity-conservation-act/epbc-review-2008>