

IFOA ‘Remake’ Discussion Paper

Submission by Harriett Swift, Chipstop Campaign
PO Box 797, Bega NSW 2550

1. General: Fourteen Years of Forest Failure.....	1
2. Admissions of Failure: Quotes.....	2
3. Specific Concerns	2
4. The Koala in South East NSW.....	3
5. Exemption from the EPBC Act.....	3
6. Protocol for dealing with forest fauna injured or displaced in logging operations.....	4
7. Forest Practices Authority of Tasmania - <u>not</u> a model to apply in NSW.....	5
8. Industry Expectations.....	5
9. Indigenous Heritage.....	6
10. Conclusion.....	6

1. General: Fourteen Years of Forest Failure

The State Government is rewriting rules for native forest logging because it admits the present rules have failed.

In the Discussion Paper: “Remake of the Coastal Integrated Forestry Operations Approval”, it admits it has no idea whether the current rules have protected wildlife and acknowledges that its rules have not even been enforceable.

Few, if any surveys were ever done after logging to see whether birds and animals survived, because nobody in the government wanted to know. After admitting to 14 years of abject failure, the government now expects us to believe that it can do a better job, while saving money and getting the same amount of wood out of the forests.

Those objectives simply are irreconcilable and cannot be delivered, especially here on the far south coast where we already have the most intensive woodchip logging in the state.

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.¹

2. Admissions of Failure: Quotes

- “monitoring and enforcing compliance with the coastal IFOAs has shown they do not achieve their original purpose. The IFOAs are difficult to understand and implement and the lack of clarity and enforceability of IFOA conditions makes regulation difficult.” (p.5)

¹ http://www.edovic.org.au/downloads/files/law_reform/One%20Stop%20Chop.pdf

- “ the structure of the current coastal IFOAs is neither efficient nor effective.”(p.11)
- “The existing IFOAs include many conditions that are unenforceable in practice..” (p.13)
- “procedure-based, administrative conditions with little or no impact on environmental outcomes” (p.15)
- “The current requirements are unenforceable” (Silvicultural practices, including thinning) (p.18)
- *On regeneration*, “The current requirements are unenforceable” (p18)
- *On forest products operations*, “the EPA has had no regulatory focus on forest products operations over the past five years” (p.18)
- *On grazing*, “the EPA has had no regulatory focus on grazing over the past five years and the same for weed and pest control and beekeeping.” (p.19). ***In other words in 6 out of 10 listed activities, the rules are either unenforceable or there has been no regulatory interest.***
- “The TSL component of the current coastal IFOAs is difficult to interpret, implement and enforce. Each TSL is over 100 pages long, is not integrated with the conditions of the EPL and the FL and in many cases, licence conditions focus on process not outcomes” (p.20)
- “These conditions give the impression that the species are ‘protected’ under the licence. However, the species protection zones are only triggered if a nest, den or roost is actually located.” (p.21)
- “highly inefficient.” (p.22)
- “...ambiguous language that makes them difficult to enforce.” (p.29)
- “The NSW Government recognises that the monitoring required under the current coastal IFOAs does not adequately allow for the evaluation of the effectiveness of IFOA and licence conditions in achieving their intended outcomes.” (p.38)

3. Specific Concerns

- It is a serious concern that the aim is merely “not eroding” ecological protection, rather than improving it.
- A new arrangement will be put in place without a genuine attempt to assess the impacts of the previous regime and the current state of the forests, which is in our view is worse than when the RFAs were put in place.
- The overriding concern is to cut costs for FCNSW, but there has apparently been no assessment of costs the new system of IFOAs would require, and just what they would cover. FCNSW’s claim that it currently spends \$7 million on environmental protection is not a large cost.
- There are doubts about whether “landscape” approach “with multi-scale protections” will actually work to improve protections. The “landscape” approach has been problematic elsewhere and is often merely a way to water down protection and avoid direct responsibility for damage done by logging.

- Failure to address the ecological impact of the POEO (General) Amendment (Native Forest Bio-material) Regulation 2013 to allow burning of native forest to generate electricity. The new regulation will allow anything that isn't a sawlog to be burned for electricity on the grounds that it is 'waste' from sawlogging.
- Failure to consider/include forest carbon values.
- A single IFOA for all the coastal forests is not appropriate: all coastal forests may, in the future, be subject to the same ruthless quasi clearfelling to which Eden forests are already subjected.
- Inevitable loss of ecological competence on the ground and vagueness of outcomes.
- The prospect of "Steep slope extraction" throughout the south east is horrific and should be ruled out forthwith.

4. The Koala in South East NSW

For the koalas of the far south coast, the proposed IFOA system could hasten their demise.

- The EPA is now saying it knows where the "last" koalas in the south east are, so there is no need to do prelogging surveys in other forests: "there is no point doing koala surveys in an area where no koala has been seen for 15 years." Two years ago, nobody had seen a koala in Tanja State Forest for more than 15 years, and now it is a hotspot.
- 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 unless NSW provides meaningful protection. 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).
- The Forestry Corporation of NSW currently operates under antiquated provisions:
 - 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, even if he were inclined to.
 - 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.

5. Exemption from the EPBC Act

RFA Regions are exempt from the principal Commonwealth law to protect the environment, the Environment Protection and Biodiversity Conservation (EPBC) Act. This is based on the assumption that protections under the RFAs are at least equivalent² to the EPBC Act.

² Question on Notice by Senator Lee Rhiannon, Budget Estimates 2012.

There is no mechanism envisaged to ensure that the protections under the new scheme will be equivalent to protections under the EPBC Act. This RFA exemption³ 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 woodchips⁴ has been carried out.

The exemption is based on the assumption that RFAs provide "equivalent protection" to the EPBC Act. However, in NSW (and other States), nobody actually monitors logging and its impacts to ensure that RFAs do provide equivalent protection. As far as NSW is concerned, the Commonwealth⁵ has shown no interest in finding out whether protection is equivalent and adequate or not. The report "One Stop Chop: How Regional Forest Agreements Streamline Environmental Destruction" documents how this has occurred nationally.⁶

6. Protocol for dealing with forest fauna injured or displaced in logging operations.

There is currently no protocol in existence to care for animals injured or displaced in logging operations for either threatened species or species which are not listed as threatened.

Topic: Wood Pellets and Regional Forest Agreements

Proof Hansard Page: Written

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 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.

³ 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."

⁴ 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.

⁵ 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.

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

Background: this issue arose recently in the public furore over koalas killed and injured in SW Victorian plantation logging. It is relevant to logging operations in NSW native forests as well.

- While the logging of NSW native forests assumes that threatened species are protected by IFOA prescriptions, there is no monitoring of these to see whether they work or not and little, if any, monitoring to see whether they are implemented.
- There are absolutely no measures at all to prove for any animals which are not listed as threatened.
- It is well known that animals *are* injured and displaced by logging.
- Indeed, in NSW the first ecological research⁷ was done (some 10 years after woodchipping started at Eden) by asking the loggers to count the dead bodies of the animals killed during the day's work. They used to pile them up and count them when they finished work. That was the basis of the research.
- These days, they deny that injuries/ deaths happen, but I have heard of loggers taking home injured animals and handing them over to WIRES for care.

Asking for a protocol to care for forest fauna injured in logging is obviously not a complete answer, but it is required urgently.

7. Forest Practices Authority of Tasmania - not a model to apply in NSW

Forest Practices Authority of Tasmania is a regulator with industry and government funding and representation on its Board. It cannot provide an objective point of view.

The FPA is looking to spread its wings as a consulting body (doing work in PNG etc) and this proposal is clearly part of that game plan.

The Tasmanian FPA threatened species licence system operates alongside its Threatened Species Protection Act. That Act provides that if a Forest Practices Plan for an individual logging operation has been approved, then that is deemed permission to 'take' threatened species. This is tantamount to permission for loggers to destroy threatened species.

The Tasmanian Forest Practices Code is much more deficient in most respects than the IFOA system, a particular product of forest politics and silvicultural belief systems in that State.

8. Industry Expectations

Based on our experiences at the recent consultations, industry intends to use this process to apply pressure for logging in National Parks and to weaken the already weak protections.

Contractors are concerned that effective, enforceable prescriptions will reduce timber supply. Some wanted an arrangement that would allow them to recover any timber foregone because of effective prescriptions in other tenures or other areas of State Forests.

⁷ Braithwaite, L.W., Binns, D.L., Nowlan, R.D. The Distribution of Arboreal Marsupials in Relation to Eucalypt Forest Types in the Eden (NSW) Woodchip Concession Area, Aust.Wildlife Research, 1988, 15: 363-73

Industry also sees the prospect of additional “burdens” on contractors such as compliance with the proposed logger work competencies as an opportunity to extract concessions on royalties.

This must be rejected since subsidies to the logging industry are already very high.⁸

9. Indigenous Heritage

The EPA has indicated that loggers’ obligations to protect indigenous heritage will henceforth depend solely on other legal instruments. It will no longer be an obligation required under IFOAs.

Forestry Corp will still have an overall responsibility to ensure the State law is followed, but there will be no specific requirement within IFOAs. This concerns me.

Under previous requirements within IFOAs Forestry responses were often minimal or tokenistic, but at least the box was there and it had to be ticked. If this disappears and the Land Councils or individuals are just left on their own to take action available to them under the Heritage Act, the potential for real accommodation of indigenous interests will be greatly diminished. The Discussion Paper (p.19) says:

"The new IFOA would not cover heritage matters. FCNSW will still be required to meet general legislative requirements under the Heritage Act 1977 and the National Parks and Wildlife Act 1974. This includes requirements for FCNSW to implement specific due diligence guidelines adopted under the National Parks and Wildlife Regulation 2009"

At least the inclusion of Aboriginal Heritage in the IFOA was a check on FC and potentially provided some additional scrutiny.

Conclusion

The aims of this “IFOA Remake” are not possible to achieve. Effective environmental protection is irreconcilable with maintaining wood supply volumes and reducing costs.

Native forest logging already costs NSW taxpayers millions of dollars every year and stands in the way of the State owned enterprise, the Forestry Corporation making a profit.

The values of native forests for sequestering carbon, protecting waterways and soil and ensuring the survival of threatened species are increasingly recognised internationally.

Other countries such as New Zealand and Chile gave up native forest logging more than a decade ago and the economic benefits have been substantial for them.

NSW should follow that example and begin reaping the environmental and economic benefits of ending native forest logging.

⁸ <http://www.chipstop.savetheforests.org.au/subsidies.htm>