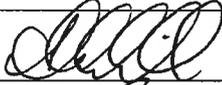


Forestry Corporation of NSW Internal Report

Investigation into allegations of deliberate breaches of harvest plan conditions

Compartments 2301, 2311 and 2321, Glenbog State Forest

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1. Context

The Glenbog State Forest is an area of native forest in the Bega Valley Shire in the south east of NSW. Glenbog State Forest borders a broader forested area including Tantawangalo State Forest, South East Forest National Park and Wadbilliga National Park.

Glenbog State Forest is declared Crown-timber land and contains numbered compartments. All areas of State forest are classified using a Forest Management Zoning (FMZ), which dictates the activities that are permitted or prohibited within them. The FMZ system was developed as part of the Regional Forest Agreements (RFAs), which are 20-year agreements between the Australian Government and the State Government of NSW. The RFAs were developed based on good science and extensive consultation and set out broad strategies to achieve a balance between conservation and a sustainable and competitive forest industry.

Compartments 2301, 2311 and 2321 of Glenbog State Forest are classified FMZ 4 - General management. All forest management activities, including timber harvesting and road construction, are permitted in land classified as FMZ4.

Native State forest harvesting in NSW is regulated by Integrated Forestry Operations Approvals (IFOAs), which set the approval conditions for all operations. Each IFOA contains a Threatened Species Licence (TSL), Environment Protection Licence (EPL) and Fisheries Licence (FL). These licences contain general prescriptions relating to all wildlife, environmental and soil and water features, and specific prescriptions relating to threatened species detailing survey requirements and the protection measures that must be implemented when records are found.

All scheduled timber harvesting in NSW native State forests must comply with the relevant IFOA for the region in which they are completed. The Environment Protection Authority (EPA) oversees compliance with the IFOAs to ensure that native forest harvesting operations are carried out according to the rules set by the approvals.

2. Scope of this report

This report summarises Forestry Corporation of NSW (FCNSW)'s investigation into allegations of deliberate breaches to harvest plan conditions published in the Sun Herald newspaper and its online edition on Sunday 10 August 2014. The articles alleged contractors ignored and callously disregarded harvest plan conditions relating to wombats in compartments 2301, 2311 and 2321 of Glenbog State Forest and deliberately removed the GPS markings and filled burrows in again once EPA officers had left the site.

This report contains a sequence of events (Appendix A) and the outcome of an investigation into these allegations. The investigation included interviews with the contractor and contractor's staff, interviews with FCNSW staff involved in planning and supervising the operation as well as ecology staff, a review of the field supervisor's notes and a meeting with forest neighbours Ray and Marie Wynan of the Wombat Protection Society of Australia (WPS).

3. Harvest plan conditions relating to wombats

FCNSW commenced planning timber harvesting in compartments 2301, 2311 and 2321 of Glenbog State Forest in January 2014. Plans were prepared in line with the requirements of the Eden IFOA.

Protective measures for wildlife habitat prescribed in the TSLs were developed by expert panels and have taken into account the specific fauna groups and individual species' habitat needs. Application of these conditions means native wildlife and their habitat are protected during timber harvesting.

The common (bare nosed) wombat is not a threatened species listed under the NSW *Threatened Species Conservation Act 1995*. Like all other native NSW wildlife species, it is protected under the *National Parks and Wildlife Act 1974*. The TSL sets out general habitat protection measures for all threatened and protected species. These include retention of rainforests, oldgrowth forests, riparian buffers on all watercourses and habitat trees. For threatened species not adequately protected by these general measures, specific conditions are prescribed for targeted surveys and additional protection measures are implemented.

During the planning of compartments 2301, 2311 and 2321 in Glenbog State Forest, FCNSW consulted neighbouring property owners. FCNSW met with neighbours Ray and Marie Wynan to discuss their concerns regarding the protection of wombats on 25 March 2014, at which time they indicated that they were members of the WPS. FCNSW was not previously aware of the WPS and has no record of any previous correspondence with this organisation.

In discussions with Ray and Marie Wynan, FCNSW became aware they were in the practice of releasing rehabilitated rescued wombats into the forest adjoining their property. This is an unusual situation and one that is likely to have impacted the resident wombat population. FCNSW's senior field ecologist in the region has noted it is reasonable to assume that wombat densities within these compartments would be higher than would naturally occur in other forested environments, as the population is supplemented.

This observation is made on the basis that individual home ranges for the species will typically overlap, so as long as the overall population size is within the carrying capacity of the habitat it occupies, the local densities will be artificially high and continue to increase as the resident population continues to be supplemented by additional individuals which derive from elsewhere. A caveat to this would be if the new individuals introduce diseases to the resident population which cause it to crash, but there is no evidence of this in that area.

Due to this unusual situation, FCNSW agreed to implement additional voluntary measures to protect wombat burrows as far as practicable. The following conditions were included in the harvest plan:

- Truck movements are restricted during the early morning and late afternoon. No haulage may occur in the morning before sunrise or from one hour prior to sunset (page 6).
- As far as practicable damage to wombat burrows must be avoided. In particular, care should be taken to ensure that burrow entries are not collapsed or obstructed by large woody material, rocks, etc. Approximately 100 wombat burrows have been marked with yellow/black striped paint [tape] in the field by local representatives of the "Wombat Protection Society" to assist machine operators in identifying their location (page 10).

Prior to the meeting, the WPS had begun to mark wombat burrows they had identified in the harvest area. The harvest planner advised the WPS to change the colour tape they were using from pink to yellow to avoid confusion with other tree markings and accepted the markings without verification. The WPS later provided FCNSW with an unscaled Google earth map showing the rough location of burrows.

At the meeting, staff involved in the planning indicated it would not be practical to avoid damage to all wombat burrows. The harvest planner advised the WPS that FCNSW would be able to apply restrictions to timber haulage, but not to general vehicle traffic associated with the harvesting operation. The WPS indicated that they were happy with this compromise.

FCNSW's Planning Manager approved the harvest plan, including the additional conditions specifically relating to wombats, on 28 April 2014.

4. Application of harvest plan conditions

Timber from the Glenbog State Forest is harvested and sold under stumpage arrangements, which means FCNSW has contracts with timber customers who engage harvesting and haulage contractors directly. The harvest plan is a contract document and the conditions outlined in the harvest plan must be adhered to by contractors.

FCNSW handed the site to contractors on 8 May 2014 and briefed them on the harvest plan conditions at that time and throughout the harvesting operation. Briefings were documented in the harvest plan. The WPS continued to access the site and mark wombat burrows throughout the operation.

The FCNSW Production Assistant assessed the status of marked wombat burrows that he came across in the course of his routine checks and noted this in the harvest plan.

The FCNSW Production Supervisor conducted five random transects through the harvested area to assess rates of disturbance to burrow entrances to ensure the harvest plan condition to avoid damage to entrances as far as practicable was being applied.

During the early course of the operation, FCNSW received a small number of emails from individuals noting they had seen photos of Glenbog State Forest operations and requesting a management plan for wombats in Glenbog State Forest. FCNSW responded to each email advising a management plan, in the form of additional prescriptions in the harvest plan, was in place. No correspondents raised specific allegations or incidents for further investigation.

The EPA visited the site on 29 July 2014 following similar correspondence. The EPA regulates FCNSW's compliance with the IFOA conditions and did not advise of any breaches to these mandatory regulations. However, the EPA did make some suggestions to improve the voluntary measures relating to wombat burrows that FCNSW had developed and implemented. Although not required under the IFOA the EPA regulates, the EPA also marked burrows on behalf of the WPS. The EPA sent an email to FCNSW on 30 July 2014 outlining these observations and opportunities for improvement. The EPA also wrote to the WPS about the matter, with the correspondence published on a community blog (see Appendix B). FCNSW briefed the contractor on suggestions made by the EPA.

5. Allegations of deliberate non-compliance by harvesting contractor

The serious allegations of deliberate non-compliance by harvesting crews published in the Sun Herald were not raised directly with FCNSW prior to publication and FCNSW had not been contacted by Ray or Marie Wynan of the WPS about any specific concerns. However, FCNSW moved swiftly to investigate the published allegations. FCNSW temporarily suspended operations on Monday 11 August 2014 and arranged a meeting with Ray and Marie Wynan of the WPS to clarify the allegations

of misconduct. FCNSW also interviewed the harvesting contractor and supervisory staff involved in the harvesting of these compartments.

The specific prescriptions and alleged breaches are outlined below.

5.1 Compliance with harvest plan condition relating to haulage times

The harvest plan condition stated:

Truck movements are restricted during the early morning and late afternoon. No haulage may occur in the morning before sunrise or from one hour prior to sunset. (page 6)

The WPS indicated in a meeting on 11 August 2014 that they believed this prescription had not been met for the following reasons:

1. A harvesting contractor drove his vehicle past their residence on Jumping Creek fire trail at 6:10 am (before sunrise).
2. The harvest contractor had a dog with him, which the WPS claimed was stressing the wombats and should not have been allowed.

FCNSW's assessment is that the instances detailed by the WPS do not constitute a breach of the harvest plan condition relating to haulage for the following reasons:

1. State forest roads are public roads and general access is not restricted. The harvest plan condition only restricted the movement of trucks related to the timber harvesting operation and prohibited haulage before sunrise. Haulage refers to the movement of trucks loaded with timber, not general vehicle movements. No instances of loaded haulage trucks using forest roads before sunrise or from one hour prior to sunset were reported to FCNSW.
2. There was no harvest plan condition relating to dogs. Dogs are permitted in all NSW State forests.

Accordingly, FCNSW is satisfied that this harvest plan condition has been met.

5.2 Compliance with harvest plan condition relating to burrow disturbance

The harvest plan condition stated:

As far as practicable damage to wombat burrows must be avoided. In particular, care should be taken to ensure that burrow entries are not collapsed or obstructed by large woody material, rocks, etc. Approximately 100 wombat burrows have been marked with yellow/black striped paint [tape] in the field by local representatives of the "Wombat Protection Society" to assist machine operators in identifying their location. (page 10)

The WPS indicated at the meeting on 11 August 2014 that the entrances to 11 out of 54 burrows in the harvested area had been disturbed. The WPS removed debris from the entrances of seven of these burrows, leaving the entrances to four of the 54 burrows disturbed. FCNSW's transect results indicate the entrances to around ten per cent of the marked burrows across the harvest area were disturbed. The WPS indicated at the meeting on 11 August 2014 that damage to any single burrow was not an acceptable outcome for the WPS and alleged this disturbance constituted a breach of the harvest plan condition. FCNSW had previously noted in discussions with the WPS that it would not be practical to avoid all burrow entrances.

Peer reviewed research (Evans 2008, Triggs 2009), states that common wombats use multiple burrows which often form extensive networks across a large home range. Not all burrows will be active at the same time as a wombat may use more than 10 burrows, frequently abandoning some

and excavating others. Larger burrows generally have several entrances. Therefore disturbance to a burrow entrance would not be expected to threaten wombat populations.

Around 90 per cent of the burrow entrances were found to be undisturbed, which FCNSW considers evidence that the harvesting contractor was actively avoiding damage to burrows as far as practicable. Of the 11 disturbed burrows, seven were cleared by the WPS and no evidence of harm to wombats was identified. The four disturbed burrows that the WPS did not clear were numbered 351, 352, 361 and 390 by the WPS. The specific circumstances relating to these burrows are outlined below:

1. Wombat burrow number 352 near dump H was located under a dangerous tree. The tree was removed for safety reasons and during this process a large amount of rotten wood fell into the burrow. FCNSW was aware of this incident and did not request that the crew manually remove debris from the burrow as it was not practical to do so. The contractors have denied the allegation that this entrance was deliberately filled. This entrance was directly below the stump of the felled dangerous tree, which contained large quantities of rotten wood. It is feasible that rotten wood continued to fall into the entrance after it was cleared and accordingly there is no conclusive evidence to suggest deliberate action to fill the entrance.
2. The WPS indicated that wombat burrow 390 was located under a road. Harvesting crews indicate they only became aware of this burrow after the road was constructed and the WPS returned to the site and marked it. The crew claims that there was no marking on this burrow prior to construction. Wombat burrows are large subterranean excavations that could undermine the stability of a road built above them, particularly a road built for the purposes of haulage by heavy vehicles, and would be avoided during any forest roading operation. FCNSW considers it unlikely that the crew would have knowingly built a road over a burrow that could potentially destabilise the road once constructed.
3. Wombat burrow 351 was located in the harvest area east of dump H. Harvesting crews only became aware of this burrow after the WPS returned to the site and marked it. The crew claims that there was no marking on this burrow prior to harvest.
4. Wombat burrow 361 was located next to a road. Harvesting crews only became aware of this burrow after the WPS returned to the site and marked it. The crew claims that there was no marking on this burrow prior to harvest.

FCNSW is satisfied that the harvesting crew were actively working to avoid damage to burrows as far as practicable and that there is no evidence of deliberate disturbance to wombat burrows. The perception of misconduct has stemmed from the disputed interpretation of the harvest plan condition to avoid damage as far as practicable. Before work recommenced, FCNSW reviewed all markings in the remaining area and, where they were not obvious to machine operators, improved their visibility to avoid any accidental disturbance.

5.3 Allegation of deliberate removal of markings and refilling of burrows

The WPS alleged in the article published in the Sun Herald's online edition on Sunday 10 August 2014 that contractors deliberately removed markings and filled burrows in again once EPA officers had left the site.

Allegations were made on the community blog that following the EPA's visit the same burrow was backfilled a second and third time. This timing is incorrect. The burrow was located at the base of a dangerous tree and filled with a large amount of debris when the tree was felled for safety reasons.

This occurred prior to the EPA visit. The WPS confirmed FCNSW's information relating to the date of filling was correct and stated that they were not responsible for what was published in the media.

There was no increase in disturbance to the entrances of burrows following the EPA visit. Harvesting crews and supervisors cooperated fully with EPA officers and continued to work under harvesting plan prescriptions. The EPA noted the attempt of FCNSW contractors to avoid collapsing burrows by avoiding machinery usage on burrows.

6. Conclusion

FCNSW voluntarily adopted measures to protect wombats in Glenbog State Forest, following consultation with local environment groups. These measures were in addition to the stringent environmental prescriptions that forestry operations must comply with that were developed by expert panels to ensure wildlife protection across the landscape.

There is no evidence of deliberate disturbance to wombat burrows in compartments 2301, 2311 and 2321 of Glenbog State Forest. The perception of misconduct largely stemmed from the differences in the interpretation of the harvest plan prescriptions and the expectation by the WPS that no disturbance would occur to any burrow entrance. There was some dispute between the WPS and the contractor over the presence and visibility of markings on a small number of burrows and an instance where it was not practical to avoid a burrow entrance. While FCNSW acknowledges the entrances to a small number of wombat burrows were disturbed during timber harvesting, the vast majority of wombat burrows remained undisturbed throughout the operation.

FCNSW believes it has complied with the agreed voluntary measures and is satisfied that the harvesting crew actively worked to avoid damage to burrows as far as practicable.

7. Areas for improvement

The harvest plan conditions relating to wombats were implemented in compartments 2301, 2311 and 2321 of Glenbog State Forest due to a specific and unique set of circumstances. FCNSW routinely works with community groups when planning timber harvesting and has developed and implemented voluntary measures to protect wildlife on other operations. In order to improve such arrangements, FCNSW has identified the following lessons:

- Monitoring methodology and performance targets in relation to any protection measures should be clearly specified at the outset and understood by both parties
- FCNSW staff should assume responsibility for marking areas for protection to ensure quality control, consistency of marking and verification of data
- FCNSW should continue to engage proactively with neighbours and community groups throughout the harvesting operation to ensure their concerns are raised and addressed
- FCNSW will engage with EPA to ensure that the different status of threatened and protected species and the EPA's regulatory role in relation to both is consistently communicated by FCNSW and EPA
- Where groups are found to be involved in the active rehabilitation and release of wildlife into a State forest, FCNSW will engage with them and the Office of Environment and Heritage on suitable release zones to minimise overlap with active operations and ensure compliance with other legislation on protected fauna.

These potential areas for improvement will be considered further by the Hardwood Forests Division Management Team and appropriate changes made to FCNSW processes.

Appendix A: Sequence of events

Date	Event
15 January 2014	Harvest planning commenced
25 March 2014	FCNSW met with Ray and Marie Wynan of the Wombat Protection Society (WPS) to discuss their concerns about wombats
28 March 2014	FCNSW received correspondence from Mr Alder the Chairman of the WPS relating to Mr and Mrs Wynan's concerns
31 March 2014	FCNSW received correspondence from Mr Alcock the President, Far South Coast Division of Wildlife Rescue South Coast relating to Mr and Mrs Wynan's concerns
14 April 2014	FCNSW's CEO responded to Mr Alder and Mr Alcock advising them of the harvest plan conditions implemented to accommodate their concerns
28 April 2014	FCNSW's Planning Manager approved the harvest plan, including the additional conditions specifically relating to wombats
March-May 2014	The WPS began marking burrows shortly after notification of harvesting was sent on 14/3/14. The WPS claim that all 150 burrows were marked prior to the commencement of harvesting and only previously identified burrows were remarked during the operation
8 May 2014	Contractors handed responsibility for the site and briefed on the harvest plan conditions
June-August 2014	First email through the general info email address was 30 June 2014. Seven emails came through between 28 July 2014 and 8 August 2014 alleging damage to wombat burrows.
28 July 2014	EPA met with FCNSW to discuss progress of operation and the voluntary measures being taken relating to wombats
29 July 2014	EPA visited site and indicated steps that could be taken to improve the voluntary measures relating to wombats
30 July 2014	EPA wrote to FCNSW and the WPS outlining suggestions for improvements to voluntary protection measures
10 August 2014	Article published in the Sun Herald alleges deliberate non-compliance with harvest plan instructions
11 August 2014	Work temporarily suspended. FCNSW met with Ray and Marie Wynan of the WPS to clarify their allegations of deliberate misconduct and interviewed the contractor
15 August 2014	Work recommenced at the site. Before harvesting recommenced, the markings on the burrows in the remaining area were reviewed to ensure visibility to machine operators and the harvest plan was amended to exclude a small area.
30 August 2014	Crews moved out of Glenbog State Forest on the weekend due to wet weather, which prevented construction of roads to the last remaining section of the harvest area. For logistical reasons, the few remaining days of work on this operation will be scheduled when crews are next working in the surrounding area
2 September 2014	EPA wrote to FCNSW requesting that debris around wombat burrows be removed prior to the conduct of post harvest burning, despite the non-IFOA, voluntary nature of prescriptions relating to wombats

Appendix B: Community correspondence with the Environment Protection Authority

Hi Ray and Marie,

Following on from the EPA visit to compartments 2311 and 2321 of Glenbog State Forest last week the EPA spoke to Forestry Corporation (FCNSW) staff. The EPA informed FCNSW that there is opportunity to improve their performance about protecting burrows that were identified, primarily by reducing the logging debris accumulation around the entrances of wombat burrows. We informed them that we also identified and flagged additional burrows in the field as well as double labelled some of the burrows previously identified to make it more visible in the field. FCNSW indicated that they are more reliant on the markings in the field to identify these burrows during operations. The EPA noted the attempt of FCNSW contractors to avoid collapsing burrows by avoiding machinery usage on burrows but also acknowledged opportunities for improvement. FCNSW have committed to moving log dumps "E" and "F" (which are not yet constructed) to suitable locations to avoid burrows that have already been identified and marked. We also requested FCNSW to use the information provided by you (including GPS) to ensure that FCNSW avoid damage to burrows.

In response FCNSW committed to speak with you directly (possibly today) around the ongoing forestry operations. They also committed that they will inspect the area in the south western corner of the compartment adjacent to Montane Peatland EEC to determine whether it is worthwhile to harvest in that area. In summary they committed to:

- Dumps E and F will be moved so that damage to wombat burrows can be avoided as far as practicable
- The contractor and crew will be briefed again on prescriptions for wombat burrows, including that tree heads should be avoided as far as practicable at burrow entrances
- Ongoing assessment of wombat burrows before and after harvesting will occur

We thank you for your time in meeting with us last week. We got a lot from our conversations with you. We will monitor the operation and how FCNSW implement wombat burrow protection measures both during and after the operations are completed (due to be completed late August). Please feel free to contact me directly on the number below if you have further comments.

Regards

Tim O'Connell