

Submission to the Senate Environment and Communications References Committee on Australia's faunal extinction crisis

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This submission deals with the exemption of areas covered by Regional Forest Agreements (RFAs) from the principal federal environment protection law, the Environment Protection and Biodiversity Conservation Act 1999. It addresses the Terms of Reference (d) and (e):

- d. the adequacy of Commonwealth environment laws, including but not limited to the Environment Protection and Biodiversity Conservation Act 1999, in providing sufficient protections for threatened fauna and against key threatening processes;
- e. the adequacy and effectiveness of protections for critical habitat for threatened fauna under the Environment Protection and Biodiversity Conservation Act 1999;

It also provides comment and recommendations on:

- i. the adequacy of existing monitoring practices in relation to the threatened fauna assessment and adaptive management responses;

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Introduction

RFA areas are exempt from the Commonwealth Environment Protection Biodiversity Conservation (EPBC) Act.

The exemption is based on the assumption that RFAs provide “equivalent protection”¹ to the EPBC Act. March 2, 2018

¹ 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 Forest Agreement where a Comprehensive Adequate Representative reserve

This has meant that for almost 20 years, since the establishment of the RFAs, the Commonwealth's principal environmental law has not applied in State Forests, including those where highly intensive logging for woodchips has been the norm.

It is particularly concerning because it is evident that in NSW (and probably other States) that neither the Commonwealth nor the State has made any effort to ascertain whether the protection provided is actually equivalent.

There is now also considerable legal doubt about whether the exemption is valid in the light of growing evidence that RFAs are routinely breached

The Victorian "possum" case judgement in March 2018 has put it under a huge cloud.

The logging industry across Australia must now face closer scrutiny, including from this Committee.

Some examples follow outlining some particular species harmed by the exemption.

1. Tiger Quoll *Dasyurus maculatus maculatus* (southeastern mainland population) Spot-tailed Quoll, Spotted-tailed Quoll, Tiger Quoll (southeastern mainland population)

The tiger quoll is listed federally as *endangered*, but in NSW it is only listed as *vulnerable*. Protection offered under the NSW State system, therefore, cannot be equivalent.

Further, although it has been federally listed as endangered since 14-May-2004

[http://www.environment.gov.au/cgi-](http://www.environment.gov.au/cgi-bin/sprat/public/publicthreatenedlist.pl?wanted=fauna#mammals_endangered)

[bin/sprat/public/publicthreatenedlist.pl?wanted=fauna#mammals_endangered](http://www.environment.gov.au/cgi-bin/sprat/public/publicthreatenedlist.pl?wanted=fauna#mammals_endangered) , it was only in May 2016 that a Recovery Plan was produced.

<http://www.environment.gov.au/biodiversity/threatened/pubs/fauna-plans-being-prepared.pdf>

For over a decade there was no means to assess whether the NSW State laws offered the same level of protection under its Integrated Forestry Operations Approvals (RFA logging rules) when there was no federal recovery plan.

The example of the quoll is clear evidence that Commonwealth and State RFA systems have not always provided the same level of protection as the EPBC Act.

For over 10 years after the federal listing of the Tiger Quoll the NSW Forestry Corporation was logging intensively in Badja State Forest and continues to do so. Badja forest was once the stronghold of the quoll in south east NSW. No attempt was ever made to ensure that protection provided was equivalent to protection available under the EPBC Act because that was next to impossible without a Recovery Plan.

Similarly, NSW Forestry Corporation also continued to log South Brooman State Forest for woodchips during this period.

2. Greater Glider.

Current media attention on Greater Gliders in Victoria makes it timely to also look at how the Forestry Corporation of NSW is providing for this species in NSW.

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.

Greater Gliders are listed as threatened federally “vulnerable” but are not listed in NSW, except for some particular populations which are listed as “endangered”, including within the Eurobodalla Shire.

The RFA logging rules, the Southern Integrated Forestry Operations Approval (IFOA) acknowledge that some provisions are applicable to it.

In 2016 a Question on Notice³ sought information about protections for Greater Gliders against logging in NSW. Reading between the lines of the answer, it is clear that rarely, if ever would any additional trees be saved for the gliders. They would have trees ascribed to them which were already being saved for some other purpose.

Examples can be seen in Harvest Plans for forests currently being logged in south east NSW where there are Greater Glider records.

1. Badja State Forest Cpt 2019. Badja State Forest has, historically been a Greater Glider hot spot. The Harvest Plan map for 2019⁴ shows 46 Great Glider records either in or adjacent to the compartment. The Harvest Plan states: “Additional H trees (3) for Greater Glider condition also applies.” This compartment also has over 20 Tiger Quoll records as well as numerous other threatened species.
2. Mogo State Forest Cpts 144, 145. The Harvest Plan⁵ shows a record within the compartment, but “Additional H trees for Greater Glider condition does not apply.” In other words, nothing additional for the threatened Greater Glider.

³ <https://www.parliament.nsw.gov.au/lc/papers/pages/qanda-tracking-details.aspx?pk=232635>

0972 - THE GREATER GLIDER

Shoebridge, David to the Minister for Primary Industries, and Minister for Lands and Water

1. What prescriptions exist to protect the Greater Glider *Petauroides volans* from logging operations within the Eurobodalla Shire?
2. When were these prescriptions adopted?
 1. On how many occasions have they been applied?
3. Does the Forestry Corporation conduct pre-logging surveys for the presence of Greater Gliders in areas of the South Coast other than in Eurobodalla Shire?
4. What measures are undertaken if Greater Gliders are located in or near forest to be logged in South Coast forests other than in the Eurobodalla Shire?

Answer -

1. The following conditions exist under the Threatened Species Licence:
2. High conservation value old growth forest, Riparian Habitat, Ridge and Headwater Habitat, Rare non-commercial forest types and Informal reserves under FMZ 1, 2 and 3A are all protected.
3. Hollow-bearing trees, Recruitment Trees and Eucalypt Feed Trees are retained, which are suitable den and feed trees.
4. Additional hollow-bearing trees are retained in compartments with a high Greater Glider density.
5. When the Southern IFOA commenced in May 2002.
 1. Each of these conditions have been applied to every approved harvest plan since May 2002.
6. Yes.
7. The same or similar conditions are applied in all coastal IFOAs.

Question asked on 11 May 2016 (session 56-1) and published in [Questions & Answers Paper No. 58](#)

Answer received on 15 June 2016 and printed in [Questions & Answers Paper No. 63](#)

⁴ http://www.forestrycorporation.com.au/_data/assets/pdf_file/0003/809571/Badja-State-Forest-Compartment-2019-Harvest-Plan.pdf

⁵ http://www.forestrycorporation.com.au/_data/assets/pdf_file/0005/799898/mogo-state-forest-compartments-144-and-145-harvest-plan-v3.pdf

This information suggests that the Greater Glider prescriptions in NSW are next to useless and do not adequately reflect to federal threatened listing. This is unacceptable, given that we have known for decades that logging kills Greater Gliders.

Loggers and scientists have known for over 50 years what happens to Greater Gliders when their forest is logged:

“In early 1950 our small group of trainees were engaged in what was to be later described as that ‘terrible’ activity known as clearing for the establishment of pine plantations in the Tumut area of Southern NSW (Billapaloola State Forest). We used axes and cross-cut saws, but reluctantly I admit that we got some entertainment out of watching the Greater Gliders *Petauroides Volans* volplane to the ground, climb the next tree, only to have it cut down again. I did not give much thought to the survival of the gliders because it seemed to me that there was a lot of similar forest available to them. The important work of Tyndale-Briscoe and Smith (1969) had not yet been undertaken. This demonstrated that these animals did not survive once their home range was destroyed. Unfortunately I did not become aware of this work until the mid 1970s.”⁶

4. The Yellow-bellied Gliders *Petaurus australis* of the Bago Plateau

In NSW, State Ministers have demonstrated their contempt for the welfare of forest animals by suspending the normal protection offered by the State’s own threatened species listing in order to facilitate logging in endangered animal habitat.

The Yellow-bellied Gliders of the Bago Plateau were listed as an endangered population in 2009 <http://www.environment.nsw.gov.au/threatenedspecies/>

On 7 November 2011, the then NSW Minister for the Environment, Robyn Parker amended the regulations to "authorise" loggers to do "harm to the Endangered Yellow-bellied Glider of the Bago Plateau" these endangered animals⁷ and to destroy their habitat for woodchips.

Once logging was over, the listing was restored. Seriously. That happened.

http://www.chipstop.savetheforests.org.au/help_the_bago_gliders.htm

There is a recovery plan for them now and top of the list of measures needed to protect them is minimising damage from logging. It would make a very good comedy sketch if it wasn't so serious.

<http://www.environment.nsw.gov.au/savingourspeciesapp/project.aspx?ProfileID=20102>

This demonstrates clearly that NSW RFA protection is unreliable and cannot be depended on the provide equivalent protection to the EPBC Act.

5. Swift Parrot *Lathamus discolor*

Logging of Bermagui State Forest⁸ in 2009 provided a perfect example of how Australia’s laws intended to protect endangered wildlife are not working.

⁶ The history of fauna conservation in the State Forests of New South Wales. R.A. Curtin, p.1022 – 1038 in The Conservation of Australia’s Forest Fauna, Second edition 2004 edited by Daniel Lunney , Royal Zoological Society of NSW

⁷ <http://www.chipstop.savetheforests.org.au/2011FOAamend2Sth.pdf>

⁸ <http://www.woodchippingsux.net.au/bermi%20HP%202001.pdf>

When logging resumed there on 10 September 2009 about 1,000 of the highly endangered Swift Parrots were sighted feeding there during their winter migration.

No meaningful measures were applied to protect them from the logging of their feed trees. Forests NSW said in its Harvest Plan that it would keep 5 trees per hectare for the parrots, but, in practice, this meant nothing extra for them.

The 5 trees to be saved were the same 5 trees that were already being saved for all other purposes, such as 'recruitment,' (i.e.; logging next time around) habitat and so on. They just added another label onto the same trees.

These parrots are federally listed as endangered, and yet the NSW Government RFA rules were worthless. There was apparently no concern expressed by the federal Government about NSW doing nothing to help save the Swift Parrots from extinction.

6. Conclusion

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. NSW State Ministers have shown they are prepared to arbitrarily override prescriptions when they clash with the perceived interests of loggers.
- The Hawke Review recommended that it should be reconsidered, but that recommendation was dismissed peremptorily by both the then federal Minister and Shadow Minister for the Environment.
- No effort has ever been made to ascertain whether NSW 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. If the exemption continues, the Commonwealth should, at the very least, require this monitoring and research post logging as a condition of the exemption.
- The assumption is that an equivalent level of protection is applied, but neither federal nor State Governments know or care whether it is or not. Nobody monitors this and neither federal nor state governments can be bothered finding out.
- Logging is the only industry protected from Australia's principal threatened species protection law; In RFA areas, the only species protected by the EPBC Act is loggers.
- The exemption of logging conducted in RFA areas from the EPBC Act should cease. It is not working to protect threatened species from logging.