



David Shoebridge MLC
Member of the NSW Legislative Council

The Greens NSW
Greens NSW Submission
7 April 2014

RE: **Remake of the Coastal Integrated Forestry Operations Approvals**

Remake of the Coastal IFOAs
Environmental Protection Authority
Level 12, PO Box A290
Sydney South NSW 1232
foa.remake@epa.nsw.gov.au

Thank you for the opportunity to respond to the proposed changes to the Coastal Integrated Forestry Operations Approvals (IFOAs).

At the outset I would like to note my very strong concerns regarding the proposed changes. What is being proposed is likely to substantially reduce protections. This is unacceptable when it is clear that our forests are already suffering from unsustainable wood supply contracts and aggressive industrial harvesting methods.

If implemented the proposed changes will erode the biodiversity of our precious public forests and degrade our catchments and will do so at an ongoing financial cost to the taxpayer. Propping up the failing woodchip industry by removing environmental regulations is a short-sighted and damaging strategy for the more than 2 million hectares of public forest in NSW.

This submission addresses four key areas:

- Strong opposition to the removal of prescriptions
- The need to improve enforcement and increase penalties
- The requirement to reinstate third party prosecution rights
- The urgent necessity to renegotiate unsustainable wood supply agreements

The core objective of this review must be the protection and enhancement of our native forests, with recognition that the future of the forestry industry in NSW is not wood-chipping native forests, but sustainably produced high quality plantation timber.

Please do not hesitate to contact my office at david.shoebridge@parliament.nsw.gov.au or (02) 9230 3030 if you have any questions regarding this submission or require further information.

Regards,

A handwritten signature in black ink, appearing to read 'D. Shoebridge', written in a cursive style.

David Shoebridge
Greens NSW MP



Objectives of remake

The discussion paper says at 2.1 “the objectives of the coastal IFOAs remake are to reduce the costs of implementation and compliance and to improve the clarity and enforceability of IFOA conditions”. It is deeply troubling that the objectives do not include improving environmental outcomes for these forests, or moving towards a more sustainable system for approvals.

Page 6 of the discussion paper says that “the new IFOA will better protect threatened species and their habitat through a greater emphasis on landscape-based measures”. While broader “landscape-based” measures are welcome, the proposal that they replace practical prescriptive measures will if anything exacerbate current threats.

The IFOAs were negotiated in the late 1990s and early 2000s. Since that time we have deepened our knowledge of the threats facing our public forests from climate change and other anthropomorphic threats such as Bell Miner associated die back (BMAD). This IFOA remake is therefore an opportunity to put conservation and sustainability front and centre, to ensure a viable industry and a bio-diverse forest estate well into the future.

It is however agreed that there is some duplication in the current system. Care must be taken that, where duplication is identified, as in the requirements under the EPL, TSL and FL for the drainage features and wetlands, the highest standard should be the one adopted.

Removal of prescriptions

The remake of the IFOAs sees the removal of the prescriptions which currently regulate logging. 5.1 of the discussion paper specifies that the proposed approach “involves moving away from a reliance on detailed and prescriptive rules towards more high-level, broadly-stated principles that set the standards of practice and make the required outcome clear”. Although it is acknowledged that there is a level of complexity in the existing rules, simplifying the rules in this particular way will dumb-down protections.

The proposal relegates current prescriptions to the status of protocols and guidance materials, which will not be strictly enforceable. Discretionary guidelines and protocols will not protect forests being logged by contracts far from the public eye.

This change also proposes the removal of the requirement to undertake pre-logging surveys for threatened species and key habitat features. This requirement is an incredibly important way of assessing the impacts of the proposed logging plan on the compartment in question, and has been a particularly important way of identifying logging that might impact upon koala habitat.

Pre-logging surveys are an essential safety net in any system and the imperfect (and necessarily limited) level of knowledge of the landscape, flora and fauna in any given compartment of forest means it cannot be abandoned without inevitable loss of threatened ecological communities and other precious natural features in our forests.



The removal of conditions that limit the intensity of logging will effectively allow clear-felling in native forests across NSW. This is simply unacceptable. Logging practices such as clear felling of native forest are inconsistent with a sustainable industry. They belong in the 1960s, not the 21st century.

The removal of EPBC species-specific prescriptions is proposed despite the fact that these were developed based on expert advice and following lengthy negotiations between stakeholders. The discussion paper recognises that the proposed “landscape approach” is likely to work for some species but entirely fail others. The suggestion that this can be remedied by “catering for species not captured by landscape-based protection” is not supported by any examples or details that would give any comfort that they will work.

The overall approach in the discussion paper is set out on page 12 as follows:

Outcomes-based regulation involves moving away from a reliance on detailed and prescriptive rules towards more high-level, broadly-stated principles that set the standards of practice and make the required outcome clear. It is proposed that the new IFOA be outcomes-based by introducing a focused, structured approach, with a clear hierarchy of outcomes and conditions supported by protocols and supplementary guidance material.

Despite these high level statements of intent the discussion paper fails to explain how “broad-based principles” will protect nature flora and fauna threatened by logging operations.

The example identified on page 20 of the koala prescriptions within the Lower North East IFOA as being overly prescriptive argues that these are too complicated and that instead we should consider “the objective of the condition, which is to protect important and currently identified koala habitat and retain preferred koala browse trees”. What is not clear is exactly what criteria would be used to undertake such identification. It is clear from the discussion paper that the existing standards are considered overly onerous, meaning the change will likely result in the substantial reduction in the requirements for investigation. This will place the already threatened NSW koala population at even greater risk.

One very troubling proposal is to have the threatened species license framework “reviewed by the Forest Practices Authority of Tasmania”. It is unclear why the FPA, with that State’s poor history of management of the biodiversity of its forest estate would ever be considered for this role.

The discussion paper further refers to the removal as providing “FCNSW with more flexibility to determine how specified environmental outcomes are met”. The kinds of discretion that this suggests for an entity that has a vested interest in financial outcomes, but not necessarily environmental outcomes presents a real corruption risk.



Compliance and penalties

We agree with the implicit finding in the discussion paper that the current compliance scheme has failed to ensure that conditions are complied with. We do however strongly oppose the suggested remedy of removing the prescriptions in the first place. A far more acceptable solution is to increase the number of compliance officers to check operations with a frequency that makes it reasonably likely that breaches will be identified, and action will be able to be taken.

The existing prescriptions have been repeatedly breached by Forestry Corporation, with damaging results. Their removal would result in this behaviour no longer even being identified, allowing logging contractors to practice more destructive methods to achieve their targets.

The EPA has consistently failed to prosecute the Forestry Corporation for their breaches of logging prescriptions. The Greens NSW are aware of a number of community groups who have brought these breaches to the attention of the EPA with disappointing results. By way of example a contribution made on the 23 September 2013 on this subject is annexed here.

We note that per 5.3 the Government intends to review the forestry related penalties and sanctions as part of the IFOA remake. Penalty regimes for non-compliance with environmental controls need to act as a genuine deterrent for Forestry Corporation and its contractors. Penalties currently issued are paltry in comparison to the damage done. As a result, it is conceivable that companies are able to see such fines as a modest cost of business rather than a genuine threat to their operations.

Consideration also needs to be given to penalties beyond simple fines, which to date have not resulted in any identified changes to practice. Measures that should be considered include cancellation of defaulter's wood supply agreements.

Forestry NSW publicly acknowledged that the FRAMES assessment tool that was used to determine so-called sustainable yields from NSW forests in 2000-2004 was grossly inadequate. It substantially over-estimated the sustainably yield of state forests and therefore led to wood supply agreements that cannot be met by State Forests without seriously damaging harvesting levels. So it is remarkable that this industry-wide review accepts these damaging harvesting levels as a given.

Wood supply agreements

The discussion paper specifies that the Government intends to remake the IFOAs with "no net change to wood supply". This is of concern considering current agreements allow companies to access wood at levels that should never before been allowed. As early as 2004 internal government reviews highlighted deficiencies in just about every aspect of the process Forests NSW uses to estimate the merchantable volume of timber available for harvesting.



The April 2009 Auditor General's report advised as follows:

'To meet wood supply commitments, the native forest managed by Forests NSW on the north coast is being cut faster than it is growing back... Forests NSW continue to look for new sources of hardwood timber to meet existing commitments including private property and leasehold land. As timber haulage distances increase and yields decrease, the overall cost of production will rise. These additional costs will have to be borne by both Forest NSW and the industry. Given that native forest operations already run at loss and increasing compensation payouts, this raises concerns about how much worse this financial burden may get.'

Unsustainable wood supply agreements have led to the clear-felling of forests and frequent breaches of threatened species licences, and are directly implicated in the threats to the viability of koala populations in NSW, particularly on the North Coast.

My office has undertaken a substantial amount of work on this issue, including analysis of the financial viability of these operations. From the information that is publicly available, the amount of native forest that was logged by Forestry NSW increased by [36% between 2011/12 and 2012/13](#). Despite this additional 8,300 hectares of native forest being lost, the amount of commercial timber recovered fell, showing ever diminishing returns from a stressed public forest reserve.

The review of the IFOAs should include a complete reworking of the wood supply agreements.

Legal rights to appeal

The rights for community groups or concerned individuals to take legal action where Forestry Corporation has breached its own regulations has been stripped from the IFOAs. It is undeniable that this lack of 3rd party appeal rights has created a sense of impunity within the industry who know that the worst they can expect for breaches is a slap on the wrist and a small fine.

Reliance on the regulatory agencies for enforcement of license conditions has largely failed. Penalties must be increased, compliance appropriately financed and enforcement through the courts pursued by the Government. Third party appeal rights must also urgently be reinstated to ensure that where public agencies fail to pursue breaches, that members of the public can step into the breach

Logging on slopes

The prohibition on logging on steeply sloping land (above 30 degrees) has been in place for decades. Removing this important environmental protection will increase soil erosion and water pollution, promote weed invasion and threaten landscape scale wildlife corridors. It must be retained.



There are disturbing reports that the NSW Government is intending to reinstate cable logging on these steep slopes. Cable logging is little more than industrial scale clear felling. It has no support amongst environmental groups and little support even in the logging industry. It destroys entire landscapes, damages the timber reserve and provides very few jobs. It's reintroduction in NSW would be an act of environmental vandalism.

Heritage

The proposal that the new IFOA will not cover heritage matters is not supported. The argument that the existing general legislative requirements are sufficient does not adequately reflect the unique heritage items and areas that exist within State Forests, nor the specific impact that logging operations have on these.

A system of dual protection, with IFOA conditions and the fall-back of statutory protections is a far preferable approach.

Weed control

The discussion paper fails entirely to engage with the topic of weed control in our state forests, continuing the decades of inattention that have seen weeds invade state forests and surrounding land.

The chronic under spending on weed control by the Forestry Corporation threatens the ongoing health of the NSW forest reserve and must be a key focus in any new IFOA licensing.



Annexure A

David Shoebridge MLC

Adjournment speech 28 September 2013

Mr DAVID SHOEBRIDGE [6.04 p.m.]: Koalas have a special place in the national psyche. We brag about them to overseas visitors, they feature on our T-shirts and tea towels, and we read books about them to our kids. However, the sad reality is that the koala population in the east of Australia is in free fall. The decline in New South Wales and Queensland has been so dramatic that the number of koalas has fallen by 42 per cent over the past 10 years and the Federal Government has listed the species as vulnerable. When it did so, the story made international headlines. How could a country that makes so much marketing mileage out of its adorable furry marsupial mascots endanger their existence by the wilful destruction of their habitat?

Given the sensitivity surrounding the declining koala numbers, one might expect that the Forestry Corporation would conduct logging operations with particular attention to compliance with Integrated Forestry Operations Approval [IFOA] licence conditions in areas where koalas are known to be present. An audit by the North East Forest Alliance [NEFA] that details a substantial list of Integrated Forest Operations Approval licence breaches by the Forestry Corporation in areas of Royal Camp State Forest, south of Casino—a stronghold of those beleaguered east coast koalas—therefore comes as a disappointment to those concerned with the welfare of the koala.

The [August 2012 North East forest Alliance](#) audit lists flagrant breaches, including the failure to detect evidence of koala activity, the failure to protect known koala high-use areas during logging operations, and the failure to retain important feed and habitat trees for koalas and gliders. All breaches are meticulously documented with independent expert evidence, global positioning system coordinates and photographic evidence. It has taken the Environment Protection Authority more than a year to produce a response to the North East Forest Alliance audit. When [response finally came from the Environment Protection Authority](#) it was so inadequate that it calls into question the expertise within the Environment Protection Authority and its willingness to regulate the activities of the Forestry Corporation.

Despite the evidence, only three penalty notices worth the grand sum of \$300 each have been issued to the Forestry Corporation for logging koala habitat in Royal Camp State Forest. Even more galling is the fact that there is no requirement for the Forestry Corporation to undertake remedial work or to protect compensatory habitat. It has been bulldozed and lost. The Forestry Corporation received nothing more significant than a warning for retaining only two hollow-

bearing trees and three recruitment trees instead of the required 42 hollow-bearing trees and 42 recruitment trees. In three deeply worrying instances, Environment Protection Authority officers who were sent to investigate claimed they were not able to find the sites in question, despite being given global positioning system coordinates.

On 25 August, I visited Royal Camp State Forest—16 kilometres south-west of Casino—in an effort to determine for myself the nature and extent of the breaches in question and to evaluate the adequacy of the response from the Environment Protection Authority. I was accompanied by Dailan Pugh, OAM, from North East Forest Alliance; David Milledge, a well-respected ecologist; and my parliamentary colleague Jan Barham.

Within five minutes we came upon a stand of half a dozen high-use koala trees. They all bore the distinctive scratches made by the claws of koalas. Under each of them we found a collection of koala scats, or droppings. The remarkable thing was that within five minutes we found the trees that had been missed by the Environment Protection Authority and the forestry inspectors whose job it is to find and protect koala habitat.



The failure by the Forestry Corporation to identify koala high-use areas was not the only serious breaches of licence conditions that were identified. A swag of other failures was identified by the North East Forest Alliance and were detailed in its audit of Royal Camp. One that was obvious was that the loggers had spared a tree from logging as a recruitment tree, but had left a pile of woody debris at its base. Recruitment trees are meant to be large and healthy trees that are left standing so that they can replace older hollow-bearing habitat trees when the older trees die. Leaving a pile of woody debris is a serious threat to the recruitment tree because it acts as a funeral pyre for the tree during a bushfire or a burn-off. It is common sense.

The North East Forest Alliance not only photographed the tree for its audit of the logging operation, but it also gave global positioning system coordinates for it. Despite this, the Environment Protection Authority told the North East Forest Alliance in its August 2013 report it could not find the tree and therefore failed to prove the breach. I asked the North East Forest Alliance for the report and a global positioning system coordinate, and I was dropped off at the logging dump to see what I could find.



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Within five minutes of walking and following the arrow on the global positioning system, I came across the recruitment tree. As was the photograph in the report that I was holding, the tree was surrounded by debris and had a big pink “R” spray-painted on it. I took a short video of the area and walked back to the logging dump, shaking my head at the wilful blindness of the Environment Protection Authority officers. [See video here \(.mov format\)](#). The Royal Camp koalas and the destruction of their habitat at the hands of the Forestry Corporation is particularly well documented, but it is far from an isolated incident.

Over the past decade, the Forestry Corporation has repeatedly been caught logging koala habitat in State forests, but it has never received anything more significant than a slap on the wrist from the Environment Protection Authority. There is no doubt that the Forestry Corporation has been responsible for the destruction of koalas and their habitat. The only question remaining is whether the sheer number and frequency of breaches of logging conditions suggests these actions are a result of wilful ignorance, incompetence, or something more akin to malice. We need a better result from our environmental regulator when koala numbers are plummeting.