



ONE STOP CHOP

HOW REGIONAL FOREST AGREEMENTS STREAMLINE ENVIRONMENTAL DESTRUCTION

BACKGROUND

Logging in Australia's native forests is treated differently from any other action that may impact on matters of national environmental significance. It is the only activity and only ecosystem type given an entirely separate purpose-built legal and management regime.

Forestry activities in publicly owned native forests are governed under 20-year Regional Forest Agreements (RFAs) – bilateral agreements between Commonwealth and state governments signed between February 1997 and April 2001.* Logging covered by an RFA is not required to obtain approval under federal environment law (Environment Protection and Biodiversity (EPBC) Act). Instead state forest management processes are accredited, leaving the Commonwealth largely powerless to enforce compliance with the RFA, even where nationally endangered wildlife or environmental values are threatened.

This report presents the results of a review commissioned by MyEnvironment, Environment East Gippsland and the South East Region Conservation Alliance, edited by Lawyers for Forests and conducted by the Environment Defenders Offices. It examines the operation of the RFA process over the past 15 years, drawing on data from court cases and other sources such as annual reports, RFA reviews and audits. It assesses whether the RFA regime delivers environmental protection standards equivalent to those likely to be achieved if the EPBC Act applied directly to forestry operations in RFA areas.

The report's findings have immediate implications for the protection of Australia's native forests and wildlife. They also provide a practical example of the potential consequences of accrediting state regimes under the EPBC Act as proposed by the Council of Australian Governments.

FINDINGS

1. RFAs have never delivered the conservation and environment benefits claimed for them for a mix of political, economic, cultural and legal reasons.

From a legal perspective, the main reason the RFAs have failed is that the states do not take the regulatory and legal actions required to protect matters of national significance. This failing cannot be addressed by differently wording the RFA and strengthening states' obligations: rather, the failure is fundamental to the concept of the RFAs and of devolving control of matters of national environmental significance from the Commonwealth to the states.

2. Protection of forests' biodiversity and threatened species would be of a higher standard if regulated by the EPBC Act than by the states, under the RFA regime.

This is because:

- state threatened species protections accredited by RFAs are inadequate and are failing to protect many species
- provision for responding to and dealing with site-specific or new environmental information is insufficient
- reviews are inadequate
- monitoring, compliance and enforcement is not taken seriously by the states
- the rights of the public to participate in and scrutinise decisions about logging operations are very limited.



The full report with annexures is available at: www.edovic.org.au/blog/RFA-report

*Table 1.1 **CURRENT REGIONAL FOREST AGREEMENTS**

Victoria	East Gippsland	February 1997
Victoria	Gippsland	March 2000
Victoria	Central Highlands	March 1998
Victoria	North East	August 1999
Victoria	West	March 2000
NSW	Eden	August 1999
NSW	North East	March 2000
NSW	Southern	April 2001
Tasmania	Tasmania	November 1997
Western Australia	South West	May 1999

QUOTES FROM REPORT

'The RFAs provide a cautionary tale for allowing States to assess and approve actions that will impact on matters of national environmental significance, as will occur should States be given approval powers under the EPBC Act.' [p.10]

'There is an inherent conflict of interest in State forestry agencies having a significant role in implementing threatened species regulations at a site-specific, on-the-ground level, without the requirement for government approval.' [p.17]

'The DSE/DEPI has not prepared Action Statements for 55 per cent of species and threatening processes listed under the FFG Act.¹ Some species that have been listed as threatened for more than 20 years still do not have Action Statements. Failure by the DSE to prepare Action Statements means that the majority of threatened species in Victoria are not protected at all under Victoria's forestry management regime.' [Vic] [p.16]

'... under the RFA regime, there is no flexibility to consider the actual conservation outcomes of the proposed action. Instead, there is a requirement to comply with the predetermined conservation measures developed in 1997, and no more. Even when there has been a substantive change in the state of an environment or a threatened species, there is no requirement for environmental impact assessment of individual logging activities.' [p.22]

1. EDO Vic. 2012. Where's the Guarantee? Implementation and Enforcement of the FFG Act, 23 March 2012, p12



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