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Scope of this Submission

This submission highlights the ineffectiveness of governments in protecting the environmental values which form the core of the Regional Forest Agreements.

Through years of independent assessment MyEnvironment Inc has documented many case studies where the Regional Forest Agreement is failing to be effective in meeting its environmental objectives.

This submission is a ground truth of the government and industries miss-representation of the effectiveness of the Regional Forest Agreement.

Executive Summary:

Section 38 of the EPBC Act specifically exempts Regional Forestry Agreements (RFA's) however, the RFA's are still supposed to protect endangered species. This submission will demonstrate that the structure that has been put in place to replace the EPBC Act in Victoria depicted in Figure 1 below is failing to deliver its environmental protection requirements at most levels and this is having a devastating effect on our rare, threatened, endangered and critically endangered species.



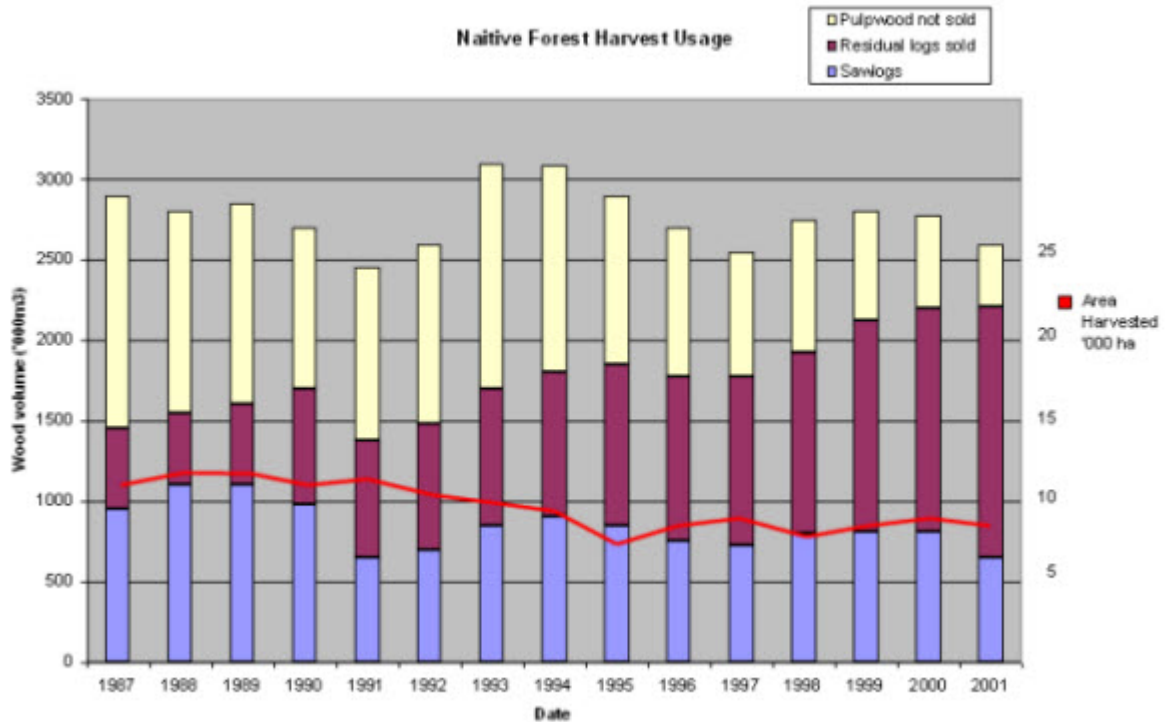
Figure 1: The Structure failing to protect Environmental values

This submission shows that the process under the RFA is failing to protect endangered species and in fact the RFA's have not been reviewed since being introduced.

Each of the entities in Figure 1 above will be reviewed in more detail to show how they are contributing to the failure of the RFA Process

Victorian Government

Since the signing of the Regional Forest Agreements (RFA's) successive Victorian governments have continued to support the transition of the high value, labour intensive, native forest logging industry to one of woodchip driven, low value, low labour, commodity market. Today approximately 80% of all timber being "harvested" from native forests is now going to export or domestic woodchip.



Source: Annual Reports of the Forest Commission (1979 to 1983) and Dept of CFL to 1989, 1990 to 1995 area data from regeneration treatment figures, 1996 to 2001 areas harvested provided from NRE (unpublished reports).

The Victorian Government have encouraged this transition via contracts with industry such as the wood pulp agreement with Paperlinx which guarantees wood supply for as little as \$7 per tonne whilst available plantations remain in the ground which would cost approximately \$35 per tonne. Meanwhile tax payers are subsidising the native forest woodchip industry by paying for transport, the value of water lost from logging catchments, government staff and roads. Due to this loss of value in the industry Vicforests last year ([Vicforests Annual Report 2007](#)) posted a net loss of negative \$15,000 from a 99 million dollar turnover.

This transition has seen government agencies and forest management legislation progressively skew regulations and guidelines to favour the wood chipping of native forests however, the environmental protection of threatened and endangered species both in the legislation and in a practical on the ground application have been widely ignored. The faith by the Victorian government in the structure underpinning the Regional Forest Agreements has been uplifted by audits carried out by the Environmental Protection Authority (EPA) however, these audits have been found to be statistically unrepresentative and biased towards logging operations rather than environmental objectives. This is covered in more detail in the EPA section of this submission.

References:

Vicforests Annual Report 2007

<http://www.vicforests.com.au/documents/VicForests%20Annual%20Report%202007.pdf>

GLP Woodlot Project 2002

Annual Reports of the Forest Commission (1979 to 1983) and Dept of CFL to 1989, 1990 to 1995 area data from regeneration treatment figures, 1996 to 2001 areas harvested provided from NRE (unpublished reports).

Department of Sustainability and Environment

The Department of Sustainability and Environment (DSE) are responsible for identifying areas of native forest to be logged in order to fulfil the governments contractual agreements with industry and these are allocated to a wood utilisation plan. In order to assess areas for potential environmental sensitivities one would expect the minimum requirement to be an on the ground survey of such areas however, often these surveys are only conducted from the air. This has lead to significant areas being allocated for logging when they should not be.

The following is a summary from appendix 1 – Baw Baw Report Chapter 9 Rainforests
<http://www.myenvironment.net.au/index.php/me/content/download/1103/6626/file/bawbawreportchapter9.pdf>

The issue of rainforest conservation has been the centre of intense environmental debate for several decades. The escarpments of Mount Baw Baw contain several Rainforest Sites of Significance and these have been impacted by forestry operations, especially in the construction of the South Face Road. This chapter provides an overview of the issues and the impacts of forest management on rainforest sites throughout the Mount Baw Baw area in the following:

- By providing recognised definitions of Rainforest (Section 9.2)
- Listing Rainforest Sites of Significance around Mount Baw Baw (Section 9.3)
- Describing inconsistencies between scientific surveys and the Central Highlands Forest Management Plan listing Rainforest Sites of Significance (Section 9.4)
- Rainforest Sites of Significance and the Impacts of road construction and Logging (Section 9.5)
- The impacts of Logging Cool Temperate Mixed Rainforest (Section 9.6)

The construction of the South Face Road has resulted in the degradation of a Rainforest Site of State Significance through the permanent removal of a section of the stand. The infection of the fatal pathogen 'Myrtle Wilt' in the forest following the intrusion significantly furthered the degradation. In addition, the extensive clearfelling of Cool Temperate Mixed Rainforest has also changed the floristics' of the region. These rainforest communities provide important habitat and refuge for the Baw Baw Frog

In a more practical example an area of forest allocated by DSE was marked out as a coupe by Vicforests which included rainforests. An [independent report](#) (Appendix 2 Royston range scientific proof that rainforest was planned to be logged) conducted by Practical Ecology and paid for by not for profit charity MyEnvironment Inc showed that the rainforest did exist and the coupe boundary was the subsequently moved.

MyEnvironment inc also commissioned a report on the Baw Baw region called the [Baw Baw report](#). This report is highly relevant to the current senate enquiry as it details many of the values in the Baw Baw region that would be protected by the EPBC Act if section 38 were omitted.

The following is a summary of Appendix 3 Baw Baw report chapter 2– Values of Mount Baw Baw http://www.myenvironment.net.au/index.php/me/reports/baw_baw_report/chapter_2_values



During the early 1980's, the Ministry for Conservation carried out several studies and surveys on the Central Gippsland region of Victoria to identify sites of natural significance. The results of these studies were published in several reports and all identified Mount Baw Baw and its associated escarpments as containing sites of outstanding natural value. These are listed below:

- Site of Global Zoological Significance (Section 2.2)
- Site of National Botanical Significance (Section 2.3)
- Site of National Geological and Geomorphological Significance (Section 2.4)

Further to these, later studies by the Commonwealth and Victorian Governments revealed that the area surrounding Mount Baw Baw also contained:

- Sites of National Estate Value (Section 2.5)
- Sites of Landscape Value recognised under the National Trust (Section 2.6)

This chapter explores the significance of each of these attributes and provides reference to the source documents from which they are detailed.

Environmental assessments may be conducted in areas of high environmental value however, through the freedom of information act a not for profit charity called MyEnvironment Inc in conjunction with Lawyers for Forests Inc discovered that critical chapters from environmental assessments of areas prior to DSE allocating regions for logging were not only suppressed but had the chapters which recommended no logging in certain areas removed.

The following is a summary of the Baw Baw Report chapter 5 Supressed Science
http://www.myenvironment.net.au/index.php/me/reports/baw_baw_report/chapter_5_supressed_science

Supressed Science



Summary

In late 1993, the then Department of Conservation and Natural Resources (DCNR) completed a study, 'Ecological Survey Report No.46 - Flora and Fauna of the Eastern and Western Tyers Forest Blocks and Adjacent South-Eastern Slopes of Baw Baw National Park, Central Gippsland, Victoria' (Davies et al 1993). The report was the first DCNR ecological survey for the Central Highlands' Gippsland area and was carried out by the Flora and Fauna Survey Team set up by the State-wide Planning Policy Advisory Group – an initiative of the then Minister for Conservation, Forests and Lands. The report was commissioned as the result of public concern over the potential impacts of major road networks and logging on environmental values in the forests of the Central Highlands of Victoria. The report initially comprised of the following chapters:

- 1) General aspects of the Upper Tyers River Catchment
- 2) Vegetation
- 3) Mammals
- 4) Birds
- 5) Amphibians and Reptiles
- 6) Fish
- 7) Butterflies
- 8) Conservation of Flora and Fauna
- 9) Significant Communities and Habitats
- 10) Effects of Land Use Activities on Flora and Fauna

11) Biologically Significant Sites and Wildlife Corridors

Upon the publishing of the report in 1994, Chapters 8, 9 and 10 were removed. Chapter 11 became Chapter 8, however, the biologists' recommendations for the management of Biologically Significant Sites and wildlife corridors were removed in Chapter 8. Upon being published, the report was withdrawn by the DCNR, and what remained of chapter 8 (originally chapter 11) and the map locating the sites, were removed. The report was reissued with the pages of chapter 8 and the map simply 'missing'. The removal of this information prevented forest management from being adequately informed about the significance of the region (Hansard 1999). Since then, the Upper Tyers River Catchment has been subject to extensive clearfell logging. MyEnvironment Inc. located the deleted chapters and presents their findings and recommendations below. The following also provide testimony of why the chapters were deleted. These are covered in the following sections:

- Purpose for reporting on the Upper Tyers River Catchment (Section 5.2)
- Details of the 'Deleted; Chapters (Section 5.3)
- Biologically Significant Sites and Wildlife Corridors (Section 5.4)
- Significance of Sites Identified (Section 5.5)
- Why were the Chapters and the Map detailing the Sites deleted? (Section 5.6)
- What are the Impacts? (Section 5.7)
- Sites of significance as outlined in the Central Highlands Forest Management Plan (Section 5.8)
- Implications for future management (Section 5.9)

The Chair of the Senate hearing on the Regional Forest Agreement Bill described the act of suppressing this information as a fairly serious charge (Hansard 1999). It reveals that forest management acted in the interest of meeting 'unsustainable' timber and pulp license commitments at the expense of forest biodiversity and the public good.

The chapters that were removed by the DSE contained areas that are outlined in the aforementioned Baw Baw report and some contained critically endangered species and areas of national geomorphological significance specifically;

Baw Baw Frog

The following is a summary of the Baw Baw report Chapter 3 Baw Baw frog

http://www.myenvironment.net.au/index.php/me/reports/baw_baw_report/chapter_3_baw_baw_frog

Victoria's Only Endemic Frog



Summary

The Baw Baw Frog (*Phyllorhina frosti*) is endemic to Mount Baw Baw and its associated escarpments and is listed under the IUCN red list as 'critically endangered (IUCN 2004). The confinement of the Frog to the mountainous environment of Mount Baw Baw predisposes it to rarity as they have a restricted distribution (Hollis 2004). The species has recently experienced a massive population decline and is extremely sensitive to logging and other forms of environmental stress (Hollis 2004). In

1996, the majority of the current known population was found on the western and southern escarpments of Mount Baw Baw. These forests were to be logged under existing licensing arrangements. In response to the discovery and given the significance of the Baw Baw Frog, the Department of Sustainability and Environment (DSE) proposed a 'scientific logging experiment' to take place in these forests to determine whether the frog can survive a 'logging operation'. This experiment will be further explored in Chapter 6.

This chapter will provide an overview of:

- Key findings of current scientific research on the Baw Baw Frog (Section 3.2)
- The cause of the decline in the species' population (Section 3.3)

The Full chapter can be found in Appendix 4 of this submission or by visiting the following link; <http://www.myenvironment.net.au/index.php/me/content/download/1095/6602/file/bawbawreportchapter3.pdf>

Leadbeaters Possum

The following is a summary from The Baw Baw Report Chapter 7 the Leadbeaters Possum
http://www.myenvironment.net.au/index.php/me/reports/baw_baw_report/chapter_7_leadbeaters_possum

Victoria's Faunal Emblem



Summary

The Leadbeater's Possum is a small arboreal marsupial that is one of the significant species inhabiting the forests surrounding Mount Baw Baw. It was thought to be extinct for the first half of the 20th Century until it was rediscovered in 1961 (Lindenmayer and Possingham 1996). Upon its rediscovery near Lake Mountain in 1961, the known global population range of the Leadbeater's Possum is currently restricted to the Central Highlands of Victoria. These include populations throughout the Mountain Ash, Shining Gum, Alpine Ash Forests and Snow Gum Woodlands surrounding Mount Baw Baw (Lindenmayer and Possingham 1996, DSE 2003, DSE BioMap 2006). The species is listed as 'Endangered' under the IUCN red list and its population trend is in decline (last count as of 2006 stands at approx. 2,500 individuals) (IUCN Red List). It has been widely documented that clearfell logging poses a serious threat to the survival of the species through the loss of hollow bearing trees. As most logged sites around Mount Baw Baw are clearfelled, the forest structure has been undergoing dramatic change rendering the landscape unsuitable for the species to inhabit. These issues are explored in the following sections:

- Habitat requirements for the Leadbeater's Possum (Section 7.2)
- Impacts of Logging on the Leadbeater's Possum at Mount Baw Baw (Section 7.3)
- Impacts of Logging on Dead Stags (Section 7.4)

- Surveys at Tyers River West Branch (Section 7.5)
- Protection requirements for the Leadbeater's Possum (Section 7.6)

A significant number of Leadbeater's Possum colonies have been found around Mount Baw Baw that fall outside the Zone 1A Special Protection Zones set aside under the Central Highlands Forest Management Plan. These unprotected colonies are under extreme risk of being destroyed by logging as the Environment Protection and Biodiversity Conservation (EPBC) Act 1999 has exempted all logging carried out under a Regional Forest Agreement (RFA). A number of these colonies fall within the boundaries of the coupes listed as part of the Baw Baw Frog Logging experiment

The full PDF of this chapter can be found in Appendix 5 of this submission or by clicking on the following link

<http://www.myenvironment.net.au/index.php/me/content/download/1098/6611/file/bawbawreportchapter7.pdf>

Geology with National Significance

The following is a summary from chapter 8 of the Baw Baw Report regarding the dynamiting of the Torres of National Significance

http://www.myenvironment.net.au/index.php/me/reports/baw_baw_report/chapter_8_south_face_road

All in the Name of Tourism



Summary

In 1995, the then Department of Natural Resources and Environment (DNRE) began substantial works of its largest and most complex infrastructure project, the South Face Road (EPA 2001). The majority of the road straddles the mid southern escarpments of Mount Baw Baw within the Upper Tyers River Catchment and

opened previously inaccessible forests for logging. The purpose of the South Face Road was to provide a permanent transport route to move timber from coupes west of Mount Baw Baw to mills located in the east (EPA 2001). These include the major Gippsland facility, the Maryvale Pulp Mill and the Neville Smith Timber Mill at Heyfield. The construction of the road has had a wide spread negative impact on the sites of significance along the escarpments of Mount Baw Baw. These include increased erosion and turbidity for the many rivers in the region, degradation of Rainforest Sites of Significance (detailed in Chapter 9), degradation of Sites of Biological Significance (detailed in Chapter 5) and the destruction of Sites of National Geological and Geomorphological Significance through rock blasting. This chapter provides an overview of:

- The EPA Tyers River Catchment Audit Findings (Section 8.2)
- Onsite observations made by MyEnvironment Inc (Section 8.3)
- Quarrying of Granite Tors (Section 8.4)
- Assessment of Quarrying made by Neville Rosengren (Section 8.5)

The construction of the South Face Road poses a severe environmental risk to the region. As the granodiorite derived soils in the region are highly susceptible to erosion, several sections of the road have 'collapsed', exposing the Upper Tyers and Tanjil River Catchments to continued erosion and increased sedimentation. The road has also permanently fragmented the forest, disrupting connectivity for 'non-flying' species, such as the Leadbeater's Possum, to forage (Lindenmayer and Franklin 2002).

The full version of this chapter can be found in Appendix 6 of this submission or by clicking the following link

<http://www.myenvironment.net.au/index.php/me/content/download/1099/6614/file/bawbawreportchapter8.pdf>

Following the removal of the chapters by the DSE the sustainable yield for logging in Victoria's forests were calculated and wood pulp agreements signed.

When logging commenced in areas containing the critically endangered and IUCN red listed Baw Baw frog MyEnvironment submitted reports to government and flew leading amphibian research scientists to talk to government. The DSE proposed 'Adaptive management' experiments to see if the last 2000 of the species would survive clear fell logging. Due to the efforts of not for profit organisations and unpaid volunteers 5500ha of this area have now been made a protected zone.

Incredibly when the South face road slipped into the Tyers river the Torres of geomorphological significance that were located in cleared logging coupes were dynamited to fix the road.

The recovery team for the Leadbeaters possum was supposed to be managed and outcomes implemented by the Department of Sustainability and environment. This has failed to occur at any meaningful level.

The 600 km Fire line

The DSE illegally continued logging firebreaks through national parks and endangered species habitat. Again this was brought to the attention of the federal government by not for profit volunteers.

A precautionary measure or a political stunt? The jury is out on whether this fuel break is anything more than a timber grab?



Deep in the heart of Victoria's Central Highland's wilderness, a vast fire containment line 270 km long and up to 90 metres wide has dissected forests and National Parks. It cuts through endangered species habitat and pristine ecosystems to allegedly buffer Melbourne's water catchments against the future threat of a bushfire.

The selling of the logs taken from these forests raises the question whether the control lines are an abuse of the state's emergency powers to allow the logging industry to access logs that would be otherwise out-of-bounds. There have also been questions asked by fire fighters whether the line itself increases the fire risk.

The final fire breaks are proposed to be permanent and run for 600 kms with widths of 20-60 metres. These highway sized scars traverse mountains and ridges fragmenting National Parks and state forests. Habitat of Nationally listed endangered species such as Leadbeaters Possum and the Baw Baw frog have been clearfelled and the logs sold. Both of these actions are in direct breach of Federal and State laws. The bark and other vegetation has been piled into 'Uluru' sized mounds to decompose, risking further ignition. Last February, one of these piles was struck by lightning. The fire was so intense, bulldozers and other fire fighting equipment were unable to get near it.

The fact that bush fires spot kilometers ahead of a front questions the effectiveness of using the break to back burn into wet forest. The state's Environment Minister, Mr Thwaites, has been unable to support this measure as having any scientific basis. However, the logging industry has taken massive volumes of very high quality timber.

In the 2003 bushfires, the illegal logging of the Snowy River National Park saw the Victorian Auditor General investigate the theft of thousands of tonnes of logs from the Park. He was highly critical of the process which allowed this to happen and the clear conflict of interest in hiring a logging company boss to oversee the back-burn line. It appears that the state government is now happy to oversee the very same type of looting operation.

There is no scientific literature that supports back burning in wet forests as these wet forests already contain micro firebreaks like fallen wet logs, luxuriant damp understorey, rainforest gullies and water rich mosses and lichens. These combine to cradle our water catchments. Prescription burning these forests will result in drying out and destroying these very attributes that impede fire.

It has been suggested by the scientific community that the most likely reason why Melbourne's catchments haven't burnt yet is due to their vast, undisturbed old growth forests. The bulk of the state's forests have been logged over the last century, transforming them from moisture-rich, diverse, old growth forests to fuel heavy, thickly regenerating tree crops of the same age and height. This is turning our forests into a tinder-box which makes them even more fire-prone. 'Control burning' is not the answer; we need sensible forest management that is not dominated by the demands of the logging industry.

It is clear from these reports and examples that the Department of Sustainability and Environment are fundamentally failing to implement environmental protection of significantly endangered species under the Regional Forest Agreements

References

The BawBaw Report
The Central Highlands Alliance Inc
http://www.myenvironment.net.au/index.php/me/reports/baw_baw_report

Regional Forestry Agreement

In relation to endangered species recovery, environmental protection the agreement is failing to protect or enforce any guidelines. Logging and woodchip interests are being pandered to. The RFA's were supposed to be reviewed every 5 years for their effectiveness on protecting endangered species and this has not taken place for a single RFA in Victoria since they were signed.

Forest Management Plan

The forest management plans were supposed to be reviewed every 5 years and to date there has not been a review.

A sustainable yield assessment was supposed to have been conducted 2 years ago but this has not taken place.

Baw Baw logging rates were supposed to be massively reduced due to over logging but this has not been enforced.

Wood Utilisation Plans

Public safety zones are now making it very difficult for any public scrutiny

Vicforests

Lack of training of staff in identifying ecologically significant areas and species such as rainforest and Leadbeaters habitat. We have been told by people that do the surveys that they are not suitably trained to identify areas such as Leadbeaters habitat.

Forest Coupe Plan

The code of practice for timber production states that instructions on the coup plan must be followed. However in the Royston Iron Pipe coupe review we found that Leadbeaters habitat trees were not marked with tape as per the coupe plan. See Appendix 7 Royston Report

As a potential breach of the Code and therefore at the time a potential breach of the law we were instructed by the DSE to contact Vicforests ie those that had breached the law to discuss this with them!

Incredibly the response from the Vicforests manager stated that under his interpretation of the code that when it came to the endangered Leadbeaters possum they should only retain "Living" habitat trees not dead habitat trees since they fall over

This is a detailed view of Vicforests plan to bulldoze a road through zone 1a endangered leadbeaters habitat and then take out zone 1b because their interpretation of the code is that you only keep living trees as habitat trees not dead ones where the possums currently live.

The marking of retained trees on the coupe is limited to living trees and does not include dead stags resultant from the 1939 wildfire as identified in your photo on page 16. The intent of retaining live trees is to provide for the retention of any existing hollows and for future hollow development.

To summarise I am confident that the planning for the Iron Pipe and Hook coupes and the subsequent harvesting operation comply with the Code of Forest Practices for Timber Production. It is likely that you will continue to differ on matters of interpretation hence my offer to meet with you to discuss your concerns remains open.

Yours sincerely



Bruce McTavish
Forest Operations Manager Central

This is a perfect example of how the entire RFA process is failing to protect endangered species on the ground because the regulations are open to interpretation and that interpretation is being used to benefit wood chipping interests rather than protect endangered species.

The Governments response is always that the EPA audits show that there is good compliance with the code and therefore nothing to worry about but as discussed in detail in the audit section of this submission. All audits are done after the clearfell logging operation is complete so in this specific example there would be no evidence that the dead habitat trees containing the endangered species ever existed.

Code of practice for Timber Production (Code)

There is a complicated interaction of documents and beaucroatic departments which make up the regulation and enactment of logging operations. These include:

- The Regional Forest Agreement (RFA)
- The Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act),
- The Forest Management Plans (FMP) for forest Management Areas (FMA)
- The code of forest practice for timber production (CODE)

In all cases the RFA's over ride the EPBC Act, the Forest Management Plans in some cases over ride the Code. In cases where the EPBC Act would not allow logging the RFA's are allowing it.

Background:

In the face of an environmental catastrophe fuelled by industry self regulation that would have destroyed Australia's "clean green image" and Australia's reputation on the international timber market, in 1989 almost 200 years after the first tree fell the Victorian Parliament ratified the first Code of Forest Practices (Code) for timber production in Native forests.

In 1996 the code was re written but contained ambiguous wording and was open to interpretation allowing government regulators to encourage native forest practices to support logging for wood chipping.

Clauses in the 1996 Code made much of the implementation meaningless e.g. The definition of guidance on page 9 is "Forest mangers are not obliged to conduct any of the actions covered under guidance" although "Guidance" made up a large amount to the practical environmental on the ground protection.

The Code was reviewed in 2006 but rather than strengthening the original premise to protect the environment the Department of Sustainability and Environment introduced measures such as "thinning" which clearly transition the native frosts from a state of nature to one of intensive agro forestry namely for wood chipping.

The code was recently reviewed and re released in 2007. A detailed review of the proposed changes was conducted by MyEnvironment Inc [read more](#).

The 1996 code stated that native forests are not to be converted to "timber production", whilst the revised code does not make this as clear and in fact focuses more heavily on "timber" conversion activities like:

- Thinnings
- Fertilizers
- Intensive harvesting practices
- Seed selection

It was identified by many environmental not for profits including The Wilderness Society, ACF and MYENVIRONMENT that the new code was being massaged to encourage forest practices that would benefit wood chipping and adversely affect biodiversity. Despite previous undertakings that the code would prevent the transition of native forests to production plantations the new code has 21 references to "Thinning" which is regular heavy machinery disturbance of the forest to thin out the number of trees and type. Much of the understory and critical food source for many endangered species is being destroyed during this process.

In other words the current revised code is focusing more heavily on converting native forests to "timber production" than on protection of the environmental values For this very reason the 2007 revised code was opposed by environmental groups who submitted concerns to the independent consultancy GHD. Unfortunately the Department of Sustainability and Environment used these comments to further close loop holes in the code. The Labour government of the time tried to rush the changes through and the changes to the code were illegally gazetted by the Victorian Environment minister of the time the Hon. John Thwaites (Ironically of legal background). Hence it wasn't passed till 2007.

Unfortunately the current code does not have a structure that reflects the bureaucracy that governs it.

The code is ambiguous because it references many other documents that govern it whilst those governing documents are much less prescriptive and much less binding.

A detailed review of the background section of the revised code and a review of the revised 2007 code is found in appendix 8 and appendix 9 of this submission

References:

A review of the background section of the 2007 Victorian code of forest practice http://www.myenvironment.net.au/index.php/me/submissions/victorian_code_of_forest_practice/a_review_of_the_background_section_of_the_2007_victorian_code_of_forest_practice

A Review of the 2007 Victorian Code of Forest Practice
http://www.myenvironment.net.au/index.php/me/submissions/victorian_code_of_forest_practice/a_review_of_the_2007_victorian_code_of_forest_practice

Logging Contractor

Encouraged to remove dead habitat trees for occupational health and safety reasons.

Audit Methodology

MyEnvironment – a **regionally based environmental group** has spent considerable time and effort reviewing the EPA’s Environmental Audit of Timber Production on public land and the audit process. In particular, MYENVIRONMENT have paid close scrutiny to the sampling methodology for coupe selection and have provided the previous environment minister, the EPA and more recently SKM with numerous areas for improvement. **We wish to advise that based on a statistical analysis of the coupe sampling methodology used by the EPA for the 07/08 Environmental Audit of Timber Production on public land that it is not possible to compare audit results between years.** This conflicts with the premise of the audit which is to show that the logging industry is demonstrating continuous improvement. read more

MYENVIRONMENT believe that there has been a short fall in the Environmental Audit of Timber Production on public land process as it does not focus on environmental issues (as detailed in Attachment 1 1.4 Shortfall in Audit Process page 5)

A recent review by SKM suggested that the audit focus on coupe selection rather than logging activities such as roading and drains. Specifically focusing on aspects such as endangered species habitat, old growth, and rainforest before logging takes place would identify environmental issues that should be monitored. Then, after the logging takes place and once an environmentally representative audit has been designed, (rather than measuring the number of drains and whether the log landing was dug up) the auditors could assess whether the logging practice breached significant environmental issues i.e. the core premise of the code of forest practice.

A detailed review of the audit process can be found in Appendix 11 in this submission as can recommendations to make the audit more relevant to protection of endangered species in Appendix 12

Finally due to a delay in the review process there was not an audit for the 07/08 year.

References

Forest Audit Program Failings
http://www.myenvironment.net.au/index.php/me/submissions/forest_audit_program_failings



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Audit Body

The audit body to date has been appointed by the EPA and will now be appointed by the DSE

Appendix

Appendix 1 Baw Baw Report Chapter 9 – Rainforest

<http://www.myenvironment.net.au/index.php/me/content/download/1103/6626/file/bawbawreportchapter9.pdf>

Appendix 2 Rainforest Assessment Royston River Catchment August 2005.pdf

http://www.myenvironment.net.au/index.php/me/reports/royston_report_the_code_of_forest_practice/royston_range_scientific_proof_that_rainforest_was_planned_to_be_logged

Appendix 3 The Baw Baw Report Chapter 2 - Values of Mt Baw Baw

http://www.myenvironment.net.au/index.php/me/reports/baw_baw_report/chapter_2_values/baw_baw_report_chapter_2_values

Appendix 4 Baw Baw Report Chapter 3 Baw Baw Frog

<http://www.myenvironment.net.au/index.php/me/content/download/1095/6602/file/bawbawreportchapter3.pdf>

Appendix 5 Baw Baw Report Chapter 7 – Leadbeaters possum

<http://www.myenvironment.net.au/index.php/me/content/download/1098/6611/file/bawbawreportchapter7.pdf>

Appendix 6 Baw Baw Report Chapter 8 – South Face Road

<http://www.myenvironment.net.au/index.php/me/content/download/1099/6614/file/bawbawreportchapter8.pdf>

Appendix 7 Royston Range Coupe Audit Against Code of Forest Practice

<http://www.myenvironment.net.au/index.php/me/content/download/1132/6717/file/Royston%20Issues%207.pdf>

Appendix 8 Review of the background of the 2007 code of forest practice

http://www.myenvironment.net.au/index.php/me/submissions/victorian_code_of_forest_practice/a_review_of_the_background_section_of_the_2007_victorian_code_of_forest_practice

Summary: The background section of the code is the very first section and simply details the history of how and why the code came about. Whilst this section bears no relevance to the implementation or effectiveness of the code and could easily be overlooked on closer examination it is an accurate reflection of the insular, ignorant and narrow minded attitudes of a self regulated government department. This arrogant approach is reflected in their ineffectual review of the rest of the code and anyone choosing to review it should seriously consider whether it's a worthwhile exercise or just a validation of their incompetence.

Please read the following "background" from the 2006 draft code and subsequent 2007 code of practice for timber production (in red). The statements from the code are in bold

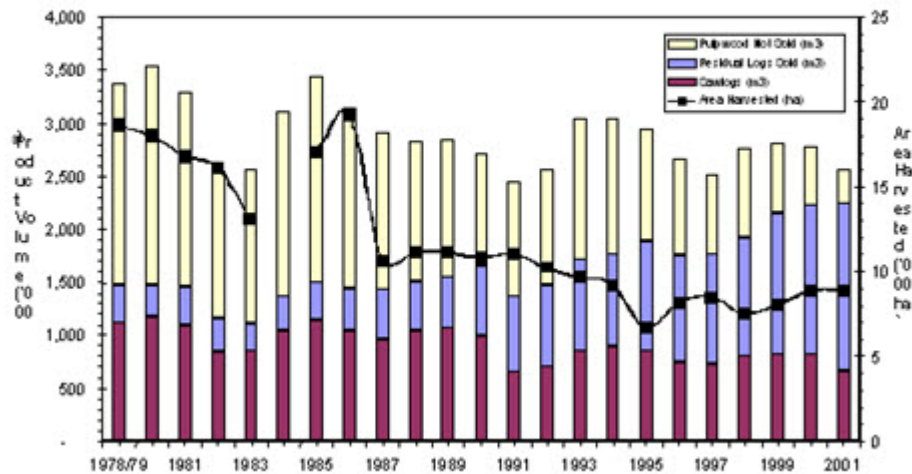
Extract from the Code of Practice for Timber Production – draft for public comment, February 2006 - Page 6 - Background

"Timber and fibre harvested from Victoria's native forests and plantations are integral to our way of life, providing a renewable, adaptable resource with a wide variety of uses. Timber production activities are an important component of regional economies across Victoria, creating jobs and wealth that are a cornerstone of the States prosperity."

In the past timber harvested from plentiful Victorian native forests were used to build towns and city's and employ the first European settlers. The logging of trees was unregulated and was encouraged to clear the land for agriculture. The free resources provided by these ancient forests formed the corner stone of the countries prosperity. Over the last two centuries logging and land clearing have contributed to a massive reduction in Native forests and bio diversity across Victoria.

Over the past decade the demand for sawn timber has been steadily declining whilst over the same period the demand for woodchip for pulp production has been steadily increasing. This is demonstrated in the following graph. This is evidence that the logging industry is transitioning from a high value, high labour industry to a low value, low labour commodity market.

Area of native forest harvested and log production



"Timber has long been harvested from our native forests. Over the past several decades, the native forest industry has increasingly responded to the need to provide for other uses and users of forest, such as biodiversity protection, yielding clean water and providing recreation opportunities."

All of the other values are inherent in a native forest we don't need the industry to respond for them to be recognised.

The logging legacy has seriously compromised the environmental values of Victoria. There is now only 1.7% of the original rainforest remaining. Logging has created a large number of endangered and critically endangered species including, the Leadbeaters possum (Victorias faunal emblem once thought to be extinct), the smokey mouse, the barred galaxis, the sooty owl, the powerful owl, the broad toothed rat, and the Baw Baw frog.

Modification of the make up of the native forest by logging has significantly altered the fuel ratio in these forests and has contributed to many of the states worst fires. Most bushfires in Victoria originate from escaped logging regeneration burns.

"National parks and other conservation reserves have been declared in areas that were once harvested and public scrutiny of forest operations is now acknowledged as a necessary part of the right to use public resources."

It is true that once areas have been destroyed by logging that they are typically made national parks or conservation reserves.

Community groups are encouraged and in some cases required to participate or comment on government processes to validate their findings such as the EPA audit process, the wood utilisation plans and even the code of forest practice however, neither the volunteers nor the not for profit groups that they work for are remunerated. Rather than legitimate public

consultation we are referred to by the ex federal environment minister for conservation fishing and forestry (Senator Ian McDonald) as “ a bunch of bong smoking hippies who should get jobs”. Meanwhile comprehensive scientific reports submitted to government for discussion are met with a generic letter along the lines of ‘thanks but we have already considered that, thanks for validating the public consultation process and we are going ahead anyway’.

It is highly questionable whether public servants should be able to be their own judge and jury in cases where members of the voting public raise questions about their work. Unfortunately this is the very situation that MYENVIRONMENT find themselves in relating to breaches of the code of forest practices (a potential breach of the law) by Vicforests in coupes in the Royston range that are currently being logged. To date we have had no meaningful response and we have a case before the ombudsman.

"Victoria has benefited significantly from a long period of scientific research and field based forest management experience. As knowledge of Australia's ecosystems develops, forest managers continue to improve their management of forests within sound ecological limits to ensure a long-term sustainable path for industry."

Scientific research has shown that logging has a dramatic effect on water yield. Five of Melbourne's water catchments are open to logging and it is estimated that logging is reducing the Thompson catchment (Melbourne's largest) by up to 50% or 1000 litres per second which significantly contributed to Melbourne's recent water restrictions.

Plantations are increasingly providing replacement timber resources as they have demonstrated they can provide good commercial returns while potentially improving the health of catchments, either as part of a farming operation or stand-alone.

Private sector plantation resources are now available for sawn timber. Whilst monoculture plantations are not void of other issues such as chemical pollution of water catchments, plantations can currently provide 100% of export woodchip requirements for pulp. These resources are not currently being used because a native forest wood pulp agreement for as little as \$8 per tonne v's the estimated \$35 per tonne from plantation coupled with a global glut of cheap paper products and a forecast decline in the global pulp price has meant that it is uneconomic to do so. The government and the Victorian taxpayers are now subsidising a local and export woodchip industry at the expense of our last remaining native forests, endangered species, water and tourist values. Plantation owners may even have a case for the ACCC.

"In 1989, the Victorian Parliament ratified the first code of forest practice for timber production. The code set out appropriate, responsible standards for timber production in State forest, to better manage the potential impacts of forestry."

In the face of an environmental catastrophe fuelled by industry self regulation that would have destroyed Australia's “clean green image” and Australia's reputation on the

international timber market, in 1989 almost 200 years after the first tree fell for logging the Victorian Parliament ratified the first code of forest practices for timber production in Native forests.

Unfortunately for the government, the woodchip industry and our environment it was discovered around the same time that the estimates of the sustainable yield from the Native forests that was to provide the export woodchip mills was massively over estimated. In other words the wood is currently not available from native forests but legally the pulp agreements such as the Paperlinx concession are still required to be met. This has seen younger and younger forests being logged with up to 80% going to woodchip. Ironically the new timber pricing mechanism that has been introduced this year pays the logging operator the same royalty for pulp wood as for A grade wood (except in East Gippsland where in some circumstances the logging operator is actually paid more for woodchip than A grade) and this has provided an economic disincentive since the effort to harvest A grade wood is greater than for woodchip.

"The code was revised in 1996 to take account of new research information and filed experience over the previous six years, and from the implementation of the code on private land which occurred in late 1993."

Scientific research showed major issues with water yield from logged areas in water catchments and the code was reviewed in 1996. The code was clearly viewed by Government as a guideline to stop environmental damage however, a Supreme court ruling found that a breach of the code was in fact a breach of the law giving it a greater status. Despite this ruling however, the current code in 2007 is ambiguous in its language and liberal in its reference to other documents such as the forest management plans that make the code redundant but are less prescriptive. Recent audits by the EPA in relation to compliance to the code of forest practice have found that 100% of coupes audited have breaches to the code.

"This 2006 revision of the code incorporates advances in scientific knowledge, the substantial changes in legislation and regulation governing forest management in Victoria and improvement in operational practices over the last ten years."

Unfortunately this naive and insular view of the very premise of the code of forest practice sets the scene for the rest of DSE's proposed changes to the code and the current 2007 code of forest practice.

Appendix 9 A review of the 2007 Victorian code of forest practice

http://www.myenvironment.net.au/index.php/me/submissions/victorian_code_of_forest_practice/a_review_of_the_2007_victorian_code_of_forest_practice

1. Background Section:

The background section of the code is the very first section and simply details the history of how and why the code came about. Whilst this section bears no relevance to the implementation or effectiveness of the code and could easily be overlooked on closer examination it is an accurate reflection of the insular, ignorant and narrow minded attitudes of a self regulated government department. This arrogant approach is reflected in their ineffectual review of the rest of the code and anyone choosing to review it should seriously consider whether it's a worthwhile exercise or just a validation of their incompetence.

2. Structure:

In order to provide a clear and unambiguous structure to the code it must be structured to reflect the bureaucracy that governs it. Namely:

- The government
- The DSE
- Vic forests
- The logger

Each of these entities are required to perform certain tasks that are supposed to comply with the code, however, the current proposed code structure mixes all of the roles and responsibilities together making it difficult to follow.

In practice this means that it is extremely difficult for members of the community to comment or communicate effectively with the logging bureaucracy because they can easily keep passing the buck.

In our experience when issues are raised with Government they ask us to talk to the DSE. The DSE ask us to talk to Vic forests and finally Vic Forests either blame the contractor or ask us to talk to the DSE or the government.

The proposed changes to the code do not address any of these issues.

3. Ambiguity

The key areas include:

3.1 References to other documents

Many other documents referred to in the code supersede the code but are either less prescriptive or less binding including:

1. The regional forest management plan – Page 16 of the revised code states “Forest Management plans are the fundamental plan for the management of environmental ,cultural and resource value within a region.”.
2. Timber harvesting regulations 2000 – Numerous references to this regulation are found in the revised code. In the regulation it states that the code is not legally binding which conflicts with its current status. This can only be viewed as a deliberately misleading by the DSE who reviewed it.

In practice this means that when community attempts to engage with Vic Forests or the Government on breaches to the code the reply is that the code is ”over ruled by these other documents”.

For example the code defines rainforest buffers but refers to the forest management plan. Ian Miles (DSE) in a personal communication has stated that the buffers in the code do not have to be followed if the prescriptions in the forest management plan for rainforest are adhered to. I.e. they have justified having lesser buffers than prescribed by the code. “it all comes down to interpretation of the code and we have much more experience at doing that than most.” Was the reply.

The revisions to the code will not solve any of these issues.

3.2 Ambiguous wording

Ambiguous wording is on every page in the revised code including:

- “Should” rather than must
- “are” rather than must
- “may” rather than must
- “Considered” rather than must
- “Generally” rather than a fixed value

Quite simply put if its not enforceable then its only making the code look better.

The ambiguity has not been addressed in the revised code.

3.3 Guidance

The definition of guidance on page 9 is “Forest mangers are not obliged to conduct any of the actions covered under guidance”. In effect this makes any guidance statements meaningless and just dresses up the code to make it look better. Why not put “try not to knock over any trees and don’t kill any animals and once finished make sure you leave it just as you found it”

It is incomprehensible why 80% of the items under “guidance” are not mandatory acts. Examples of such “guidance” include:

“Forest coup plans may include and specify where necessary the methods of marking, expected volumes to be removed, seasonal restrictions, fire protection restrictions and procedures for applying amendments to the plan” (page 19)

“The timber harvesting plan may include information on the periods which operations are to occur, methods of marking ...” (page 21)

Surely the purpose of “guidance” must be to explain what the mandatory acts are? They must give examples of the sorts of things that must be put in place to comply with the mandatory act.

Example Loggers must log inside the coup boundary and follow the coup plan.

Guidance: the loggers must be literate enough to be able to read a coup plan. A coup plan must be on site.

(Interestingly we have not been able to find a clause in the code that actually states that loggers have to log inside the marked boundaries)

Guidance statements must be immediately after every mandatory act they refer to so that they are not ambiguous.

The current method of grouping all of the guidance comments at the end is confusing and by their very definition they are irrelevant.

3.4 Responsibility

Each mandatory act must have the role or department responsible for its implementation.

Currently it is difficult to work out who is responsible for what and therefore who is responsible for breaches.

3.5 Nomenclature

Each mandatory act and subsequent guideline must have a unique number to identify it so that it can easily be referenced during audits or complaint process.

4. Education / Training / Literacy

Nowhere in the code does it mention training requirements, minimum education requirements or literacy requirements for any of the persons expected to implement the code.

5. Forest Conversion

The current code is more clear that native forests are not to be converted to “timber production”. The revised code does not make this as clear and in fact focuses more heavily on “timber” conversion activities like:

- Thinnings
- Fertilizers
- Intensive harvesting practices
- Seed selection

The revised code is focusing more heavily on converting native forests to “timber production” than on protection of the environmental values.

6. Rainforest protection

It appears that the proposed code has removed rain forest protection as a major heading and moved it under a sub section of “conservation bio diversity” Page 48. Furthermore these rainforest protection measures are under the “guidance” section (i.e. Forest managers are not obliged to conduct any of the actions covered under guidance)

There is an appendix in relation to rainforest however the appendix does not appear to be referenced in the text of the code.

As previously mentioned the statement on page 16 of the revised code “Forest Management plans are the fundamental plan for the management of environmental ,cultural and resource value within a region.”. means that nothing has changed in real terms other than the words.

Rainforest protection has taken a back seat in the revised code and there is only 1.7% left in Victoria.

7. Conclusion

The proposed revised code is such a farce that MYENVIRONMENT will not even put our name to reviewing it.

It is a deliberate attempt to reduce the legal impact of the code by the DSE by referencing other documents that make such statements.

It is a poorly structured, poorly worded and highly ambiguous document.

The very premise of the code is not reflected in its background, nor the rest of the document.

In practical terms trying to assign accountability or responsibility to breaches to the code will be as difficult as it is now.

The guidance is poorly thought out, poorly structured, and meaningless by its own definition. The guidance sections have the misleading effect of making some aspects of the code look more “accountable” than they are.



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Appendix 11 Forest Audit failings



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Appendix 12 Audit recommendations