

Submission to the draft Coastal Integrated Forestry Operations Approval from Lyn Orrego

Shifting the goalposts to where they've already kicked the ball

Introduction

I was the NSW Nature Conservation Council's representative for the Northcoast of NSW on the Ecologically Sustainable Forest Management (ESFM) Committee of the Carr government's Comprehensive Regional Assessment Process in the late 1990's. At that time I supported logging in public native forests on the basis that a Comprehensive, Adequate and Representative reserve system would be protected and there would be rules to ensure selective logging in non-reserved areas that preserved a canopy, retained a mixture of age classes (and a mix of species natural to the forest ecosystem type of the site) of trees across every hectare of areas available for logging and that protected threatened, forest depended native fauna and flora where they were found by pre-logging surveys.

All the above promises (also known as commitments) have been broken during in the 18 years since then. Not surprisingly, I now support the end to logging of our public native forests and a rapid transition to a 100% plantation-based timber industry while our public native forests recover their multiple, non-timber values, which they supply for the public good if left to grow old.

Having said that, as the state coalition government seems committed (policy wise and contractually) to allow logging of public native forests to continue, my submission argues that, while the transition to a plantation based timber industry takes place (albeit slowly) it is important that the logging rules are such that public native forests are restored as much as possible through true selective logging and rules that protect their non- timber values and deliver true Ecologically Sustainable Forest Management (ESFM) by genuine application of the ESFM principles committed to by governments still. This submission is far from complete but I have just offered some comments in the time I had available. Please also note I am a member of the North East Forest Alliance (NEFA) and support the NEFA by Dailan Pugh in its entirety and urge all to give it your serious attention and response. And to declare also I am a Committee member of the Nambucca Valley Conservation.

I submit the following recommendations for tightening the draft IFOA and setting out my opposition to the many destructive excesses proposed therein:

1A. All rules in the IFOA must be clear, unambiguous, defined and measurable to ensure better compliance, be fairer to all and save taxpayer money

The 'Have Your Say' website and all IFOA Remake documents since the original Discussion Paper of 2014 claim one of the main objectives of the proposed Integrated Forest operations Approval (IFOA) changes is to make the logging rules for public native forests enforceable.

"The NSW Government has developed a new draft Coastal IFOA which is efficient, effective and **enforceable**, and reflects modern best-practice regulation."

To be enforceable they must be clear to any and all who read them or must abide by them. To be clear, definitions must be provided (as many have), categorical words must be used in order that compliance can be assessed as being met or not and compliance must be able to be objectively measured.

These criteria are not met in much of the language in the Conditions and Protocols. In fact in many instances the language has reverted to the pre 1998 situation of being sprinkled with “where practicable” and “minimise.” **This must be fixed by deleting all such subjective terms throughout the Conditions and Protocols.** As the draft stands it is unfair to all parties, those who are supposed to follow the rules as well as the public, who, in caring about their public native forests, seek to be assured the rules are clear and are being abided by and the forests themselves are being managed for their actual survival, ecologically sustainable forest management (ESFM) - meaning the ecology, the forest s, are actually sustained – not an inflated cut level sustained.

The irony is that if the Environment Protection Authority (EPA) had become a stronger regulator its reputation alone would have ensured more compliance and hence lower costs to the taxpayer for the regulation and a better environmental outcome.

The importance of removing all subjective language from the Conditions and Protocols is highlighted by the case of Cherry Tree State forest where an EPA investigation confirmed that many habitat trees were damaged and debris left piled around them as had been reported by NEFA. However, one of the reasons EPA claimed (in a letter to NEFA on 1 December 2017) they could not fine or prosecute Forestry Corporation was because of subjective language:

“Adding further complexity to this is the wording of the condition 5.6(h) of the TSL (Threatened Species Licence). The TSL provides that damage to retained trees must be “minimised to the greatest extent practicable”. It also provides that logging debris must not “to the greatest extent practicable” be allowed to accumulate. The terms “to the greatest extent practicable” in both these conditions leave significant room for debate about what was reasonably practicable in the circumstances of each affected tree. It introduces a level of uncertainty and is a matter on which reasonable minds may differ. In these circumstances the EPA is not in a position to pursue a prosecution for this matter.”

Another example of a subjective phrase that undermines the actual clause of the Condition is:

21.1 The objectives of an **environment protection licence** are:
(a) to ensure **that practical measures are taken to** protect the aquatic environment and **waters** from the impacts of **water pollution** caused by **forestry operations**; and

The highlighted phrase must be removed so the objective of the EPL is “to protect” ...etc There are many more such phrases, easily recognisable, that need to be removed.

1B. EPA must be legally and politically able to and responsible for enforcing all requirements of any new IFOA including issuing stop work orders to Forestry Corporation (FC), imposing fines and undertaking prosecutions.

The second criteria for the IFOA Conditions and Protocols to be enforced is that the EPA can and will actually enforce them. I would like to be assured that the two recent examples of the current IFOA not being enforced WILL NOT be ongoing problems with this new Coastal IFOA.

A. Cherry Tree State Forest example

Many breaches were reported by the North East Forest Alliance (NEFA) in a logging operation in Cherry Tree State Forest in 2016. One of the final issues reported on, following the EPA investigation of the complaint, was the damage to habitat trees. In a letter to NEFA on December 1 2017 EPA stated:

“Inspections conducted by EPA officers identified 22 trees with crown damage, 51 trees with butt damage and 49 trees that appeared to have debris greater than one metre in height within a 5m radius.

Although it is likely the damage to the trees and the debris were as a result of the harvesting operations, the EPA would be required to prove beyond reasonable doubt that each individual instance of damage or debris was as a result of an action by those undertaking the harvesting operation. The investigation was unable to obtain evidence that satisfied this requirement beyond a reasonable doubt nor could it obtain evidence that would rebut a defence that the damage was caused by some other means.”

This means that currently the EPA cannot regulate (enforce) what it is supposed to. It is essential this is fixed in the new IFOA.

I fear that the only way it is being proposed to be “fixed” is to make many of the previous, sensible and necessary conditions contained in the current IFOA (eg to protect habitat trees from damage) into Guidance notes only (unenforceable). I object to this. The name and status of any “Guidance notes” must be changed so they are requirements ie linked back to being required by the Conditions.

I also request that EPA contact the lawyers who advised EPA they couldn’t prosecute in the case of the Cherry Tree breaches because someone else may have snuck in during the logging operation and caused the damage (as if!), and that EPA ask the lawyers to advise how the new IFOA can be phrased so as to SOLVE this problem and allow EPA to do its job of actually regulating forestry operations (enforcement).

I am no lawyer but could imagine it could be as simple as a clause being added to the Conditions that states: Forestry Corporation takes responsibility for each forestry operation, including any damage done and including responsibility for any breaches occurring during the operation **and** for securing the site during the operation.

Unless this problem is solved then absolutely NOTHING (no Condition and no Protocol) will be enforceable in the new Coastal IFOA, which is an unacceptable situation and counter to the claims made about the new IFOA being enforceable.

B.) Single Tree Selection (STS) under the current IFOA example

Forestry Corporation since 2006, and across 74,906 hectares of public native forests on the northcoast of NSW has been using an illegal interpretation of STS to log intensively (above the 40%

basal area removal cap) and even clearfelling areas as large as 280ha. They base their rationale for this on what they call “offsetting”. ... pretending to “set aside” adjoining areas where they won’t log in that operation so that overall, through averaging of basal areas, the removal on paper is still 40% while the removal across huge swathes is actually 80-90%. The offset areas have usually been logged within the last 5 or 6 years or will be logged in the near future. Thus FC have been and are still rolling through the landscape with intensive and clearfell logging that is “outside the authorisation of the logging rules” (Ministerial email to me by Gary Whytcross, EPA, May 2016, on behalf of the then Minister for the Environment, Hon Mark Speakman).

The saga of the Single Tree Selection (STS) debacle must not be able to be repeated in any new Coastal IFOA whether it be Forestry Corporation interpreting the new rules to enable them to log more often and more intensively or whether it be any other Condition or Protocol requirement that they decide to “re-interpret”, the EPA, as the regulatory agent, must be able to fine and prosecute FC for breaches and NOT claim, as they have regarding the STS unauthorised “re-interpretation” of STS, that 2 Ministers have to agree in order to stop them, fine them or prosecute them (because, EPA claimed it was an IFOA condition not a licence condition – and they said they could only enforce licence conditions.)

So we’re in a situation where the new IFOA will be deemed to be equivalent to and encompass the old EPL and TSL licence conditions. So it seems the licence conditions, which EPA has said ARE enforceable, have gone and only the IFOA requirements are left, which EPA has said are only enforceable with the consent of 2 Ministers (and so therefore do not get enforced).

It is fundamentally essential that the EPA can enforce the IFOA Conditions and Protocols without needing the 2 Ministers approval, including the ability to enforce the interpretation of the IFOA as they see it, and this must be spelled out in the IFOA document itself. I for one, would appreciate, having it explained to me if this problem has been solved in the proposed new IFOA.

2. Outcome statements must be re-written to be clear, measurable requirements of the IFOA

While all clauses should be clear and compliance with them measurable it is especially important to make the outcomes statements so. Outcomes are contained in boxes at the start of sections. The statements made in EPA policy and in the regulating documents themselves (the Conditions and Protocols) are inconsistent about the “standing” and place that the outcomes occupy. This must be sorted out.

The Conditions state that the outcomes

“are provided to assist understanding and interpretation. They do not otherwise form part of this approval and are not on their own enforceable” (Ch 1, Div 1, 6.1)

Yet other Condition clauses say they must be achieved,

“This approval must be interpreted in a manner that is consistent with achieving and giving effect to the outcome statements” (Ch 1, Div 1, 4.1)

And all IFOA EPA documents since 2014 have proclaimed that

“the Coastal IFOA is intended to be an outcomes based licence. It is looking only to prescribe the outcome and the critical settings – and where appropriate, not necessarily prescribing the process or steps to achieve this.” Received from EPA July 4 2018 and

“The “outcome statement” is “the required standard to be met” Slide 20 EPA IFOA Powerpoint, and

The problem here are the words “achieved” and “required to be met” which posits there is a need for an assessment process and way of measuring if that achievement has taken place. This is why **all outcome statements must be reviewed and changed to get rid of all the subjective terms and make sure they are measurable.** They should not be just to help interpretation, especially if continually claimed by EPA that they are required to be met. **Clause (Ch 1, Div 1, 6.1) should be deleted** as it proves the IFOA is not outcomes based as touted. **All Outcome statements need to be brought into the “requirements” of the IFOA by being given a Clause number.** As such they could be the clause that states the objective(s) of each section.

This way they can be requirements that must be achieved, requirements that all other authorised activities in the approval must be consistent with and also help make clear (interpret) the objective of each section.

3. Public access to all information, documents, survey results, plans and data related to management of public forests must be a requirement of the IFOA with reasonable timeframes and methods clearly spelled out.

Forestry Corporation and its previous incarnations have a history of using delay tactics to keep the public in the dark, especially about the details of their imminent logging operations. For example in all the more than 20 years I and our conservation group has sought information about operations planned in specific compartments ahead of logging (via release of Harvest Plans before logging actually begins) we have only been able to negotiate a few weeks with one plan, Buckrabendinni SF Cpts 384 and 385. All other areas we were interested in and sought information about, over the years, FC has refused to make the Harvest Plans available until the morning of the date the operation begins. This is a tactic to block public access to information and involvement until it is too late to raise legitimate concerns .

Also the FCs Annual Plan, required to be up on their website, always contains mostly compartments that have already been logged in the previous year – not a forward plan at all. In fact FC keep a separate, “real” annual forward plan that contains the actual compartments they plan to log. We know as this was received under a GIPA request a year or so ago. A GIPA request should not have been necessary to get this information.

FC resist in all ways they can, making the locations and details about their upcoming logging operations available to the public until the last minute. This is because they see the advantage of this but also because the current rules allow them to do this.

The draft IFOA as it stands will allow FC to continue these tactics unless clear timeframes are added to the requirements to supply the various documents. Clear methods of supply should also be set down as requirements for each document.

If the rules are clear, even though all parties may not agree with them, they will go a long way to helping minimise community frustration about finding out the basic information about what is planned, often on lands adjoining their own and so of genuine and strong concern to them.

All documents, information, reports, plans and data, in their up-to-date form must be available to the public online (FC website and EPA website) and NOT need a separate request to FC which is likely to take up time (often intentional as pointed out) and mean the public is not informed in a timely manner.

Below is a table which sets out as a request what timeframes and methods of supply that I request be added to the clauses related to the various documents/information/data.

Doc/info/report/plan	Timeframe for public access/Notes
Registers	
Operations Register (Cond 35)	Up to date version always available
Compliance Register	Collated and available monthly
Complaints Register	Collated and available monthly
Annual reports	
Annual Plan	Must be available June 20 of the year that begins the 12 months advance planning period (June 30 – July 1 st of the following year) and must not include areas already logged unless they are areas that have not yet been completed
Annual timber and biomaterial report	Within 2 months of end of reporting period
<p>Pre- operational plans (and Operational Plans) including all required assessments, surveys and their results (soils and water related, flora and fauna related etc) Cond 60</p> <p>Including: Operational map of a harvesting operation, location map, roading, preharvest burn, post harvest burn forest product operations, regeneration plans, all soil and water related assessments and results required by Protocols 9-16 , any site specific conditions and</p>	
Pre- operational plans (and Operational Plans)	What used to be called Harvest Plans and now are Pre-operaitonal and Operational Plans (and all their associated survey and assessment results) MUST be made publically available (on FC and EPA website) at least 4 weeks prior to the proposed commencement date of the forestry operation and that date that the operation

	<p>is permitted to start.</p> <p>This is most important and If agreed to will go a long way to minimising public complaints and frustration with a system that is unfair. It will give “cool” time (as opposed to angst ridden time) to enable sensible discussion and negotiation about planned logging operations.</p>
Aquatic habitat assessment Prot 18	As above
Broad area habitat search Cond 64.2	As above
Burn plan Cond 92.1	As above
Bat inspection survey results C 30.2	As above
Flora road management plans Cond 90	As above
Species management plans	As above
Data Layers - All data layers mentioned in the Conditions and Protocols must be available to the public in an up to date form and in a GIS layer format. (not broken into pieces as pdfs)	

Re data layers - - my reading of the Conditions and Protocols is that all data layers will be available to the public at all times via the NSW environmental data portal. I submit that if it is not already the case that it should be AND that these data layers must also be available as: downloadable at any time, GIS compatible, layers (perhaps through Google drive or similar).

The EPA is obviously moving to a map-based system so these maps must be readily and usefully available to the public. In the past we have received information requested from Forestry that they spent hours extracting from a useful GIS layer into tiny sections of pdfs before making it available (ie Lidar information and Owl Landscape information).

4. Burning conditions and protocols must apply - Forestry Corporation must not be able to opt out

I am opposed to the FC being able to decide whether the conditions for conducting pre and post harvest burns will apply to their burns or not. The burn is part of the harvest operation, silviculture regime and thus forest management .

It is claimed that it encourages regrowth when often it only encourages weeds. Burns also affect threatened species of fauna and flora, for example koalas and critical weight range species such as the fungi eating long-nosed potoroo. Assessment of environmental impacts of burns must be part of the considerations of a pre operational plan by keeping burn planning within the IFOA process as a requirement.

It is also widely known that burning exposes soils which can then be more subject to erosion when hit with heavy rainfall. The seasonality restrictions are particularly important to apply to all pre and post logging burning in our public native forests. But as burns are part of forest harvest operations and affect non timber values which the IFOA is supposed to protect the Burn conditions must apply.

I do not know why FC would be given such leeway in the first place. I am aware if they opt out they will have to follow other laws. Even though I'm not familiar with these I wouldn't think they would be tuned to protect soils and water from erosion after fires.

5. The draft IFOA should be checked for necessary small changes to small words in order to better align to their intended meaning and not create a loophole.

Page 3 of the Conditions clause 13.1 (a) v. states

v. that do not exceed 2,200 hectares of State Forest or other Crown-timber land subject to intensive harvesting in any financial year

The intended meaning is that in any one year 2,200 hectares is the most area – of State Forest and Crown-Timber land - that can be intensively harvested. I do not think the intended meaning is that 2,200 ha of State Forest and 2,200 hectares of Crown-timber can be intensively logged in a year. If my assumption is correct then the “or” in the above clause should be an “and”.

Things like this are important to sort out until they are crystal clear and true to the intended meaning as FC has a long standing reputation of jumping through any such loopholes and logging more or more intensively than the intent of the rules allow.

I have found other such instances in the draft IFOA where small words need changing to better reflect the intended meaning. If I have time I will include more:

Another eg: I query whether the below highlighted “or” was intended to be and should be an “and” :

17.1 The terms of the licence under the **POEO Act** are set out in:
(a) those conditions specified for the **environment protection licence** in **Schedule 3**; **or**
(b) the requirements of this **Chapter 1** and in **Protocol 39: Definitions** to the extent that they relate to the application and interpretation of the terms described in this condition; and

And similarly for clause 18.1 (a)

6. Demoting many of the current logging rules into just “Guidance Notes” is opposed

All matters and so-called “best management practice” that are intended to be written up (not yet available) as Guidance Notes should be brought into the Conditions and Protocols as requirements.

Best management practice (BMP) is the aim in some outcome statements. It must be defined and brought into the IFOA or it will just be words on a shelf – ignored. If some of the current IFOA requirements are demoted to Guidance notes then the new IFOA represents an erosion of environmental values. ... a weaker set of rules than currently.

This is important for all forestry practices but I would like to highlight the soils and water issues where many of the previously required practices will now just be Guidance. This weakening is opposed.

7. Timber Volumes:

*** The cap in Schedule 2 must be adjusted downwards in line with a scientifically based assessment of what is a genuinely ecologically sustainable level which cannot be known until the IFOA Conditions and Protocols have been decided, after the consultation submissions have been considered and changes made.**

*** The Lower northeast region must not have its cut level increased to subsidise the Upper northeast region: both must have ecologically sustainable levels.**

*** The native plantation component of the ecologically sustainable level must be taken out of the cap and**

The State government must know that the quantities of timber committed to the timber industry have been and still are higher than what exists on the ground....higher than what is ecologically sustainable (meaning the ecology is sustained not just the wood volumes sustained).

Why else would FC be desperate to keep pushing to change the rules to allow more intensive logging, reduce buffers on headwater streams, reduce prescriptions for threatened forest fauna assessment and protection, no longer protect recruitment trees and eucalypt feed trees, plan to redefine old growth to find 78% less of it, and similarly with rainforest to find 23% less of it, bring in the Intensive logging zone and double the intensity of selective logging that is allowed?

And why else decide, around 2006, to “re-interpret Single Tree Selection and proceed, over the next 10 years to decimate with intensive and near clearfells 74,906 hectares of public native forest from Coffs Harbour to Taree – illegally. It is obvious that everyone knows the future sawlogs are largely being cut out when young and that the promised timber volumes in Wood Supply Agreements are overestimates of what is available and especially unavailable if Ecologically Sustainable Forest Management is going to continue to be claimed on paper – which it is.

Even the old foresters are disgusted with the devastation that is happening on the ground with one of them in April 2015 in Background Briefing stating that ‘its criminal ..that 200 years of timber has been knocked down in the last 20 years’. Indeed there is a strong scientific case that the public native forests need restoration and certainly to be brought back to mixed aged, multi species forest ecosystems ie to natural forests.

So if this is the case as I argue then the only other reason for the weakening of the logging rules to enable access to so many previously protected areas is that, whether the timber is there or not, the

companies that seem to have this government in their thrall will not lose, in fact, they will still gain in the form of massive compensation drawn from the public purse because in 2004 a clause was inserted in the wood supply agreements promising compensation if the timber volumes weren't met. Before then compensation was not payable. If anyone reading this has any means to call for an Inquiry into this cosy (and entrenched) "arrangement" I beg them to do it.

In any case the cap of 269,000 m³ for High Quality timber from northeast contained in Schedule 2 of the proposed IFOA Conditions (109,000m³ from Upper Northeast region and 160,000 m³ from Lower Northeast region) MUST be reduced drastically. This was the start point level back in 1998 and has since been considered to be a gross overestimation by many reports and has continually been adjusted downwards. Also that figure included the native forest plantations which are not covered by the IFOA anyway. So to claim that as an upper limit of Timber volumes allowed to be extracted per year from the NE region is outrageous.

Just as an overview, three years after 1998 a review found the long term sustainable yield to be 40% less than what was promised, however, in 2003 the annual volumes committed in contracts were only decreased by 15%. In 2009 the Auditor General's report found that unsustainable logging was still going on. In 2014 the State Government paid Boral 8 and a half million dollars to buy back 50,000 cubic metres of sawlogs a year, for 9 years, to try to reduce the promised amount to more sustainable levels. Further reductions followed through smaller buybacks and cancelling of some mill allocations. There has been nearly 20 years of effort trying to adjust downwards the unsustainable promises based on the overestimated original figure of 269,000m³ and yet here it turns up as a cap in the proposed new IFOA. This is totally opposed.

I commend to you the work that Dailan Pugh of NEFA has been doing to try to make sense of the many and varied figures, claims and obfuscations around this issue. This new IFOA cannot be a chance for the industry to suddenly undo years of scientific reporting that has deemed the levels to be unsustainable and so reduced them, and suddenly up the allowable amounts to grossly unsustainable levels again. I support Mr Pugh's analysis, his integrity and his call for the cap to be lowered to at least meet the Minister's promise of no net change to the existing wood supply levels (a claim made repeatedly since 2014). Any cap must have deducted from it the amount of m³ attributable to plantations as this IFOA does not have anything to do with plantations or plantation management.

This government claims to like metrics and evidence-based decisions. I urge the cap in Schedule 2 to be adjusted downwards in line with a scientifically based assessment of what is a genuinely ecologically sustainable level (which has not been presented in any of the documents on display as far as I can see).

I also object to the Lower northeast having to subsidise short falls from the Upper northeast in order to meet the proposed levels of cut. This just proves that the Upper northeast allocation is too high and that the Lower north east will have to be unsustainable overlogged because of that.

As a member of the public asked to consult about the logging rules when a.) Boral has been promised about half of the best quality timber out to 2028 and b.) Forestry Corporation has let a tender for over 400,000 tonnes/annum for 10 years of the lower quality timber and pulpwood I am aggrieved. The logging rules effect the amount of timber available so the fact that the promises to industry have already been made long into the future makes a mockery of any genuine consultation being able to occur. I hope I am proved wrong and some notice is taken of the call in so many submissions to NOT weaken the IFOA (it needed strengthening instead) at the expense of the non-timber values of public native forests.

8. The government must live up to its promise of “no erosion of environmental values” and NOT remove from protection ANY of the areas that have been mapped and protected for the last 20 years as High Conservation Value Oldgrowth (HCVOG).

The mapped layer of High Conservation Value Old Growth (HCVOG) has been protected for the last 20 years on the basis it is counted towards meeting the targets of the requirements of the Comprehensive Adequate and Representative reserve system, targets which are still not met. As such any logging allowed in those areas is logging the reserve system. The community will strenuously oppose this move. It also flies in the face of the government promise to ensure “no erosion of environmental values” in any new IFOA. These areas were protected around 1998 not only for being the best of the remaining old growth but also for their high conservation value based on a sum of all their values - the areas that were old growth plus had the highest “summed irreplaceability” score were included in the HCVOG layer.

The revised criteria and methodology being used to remap oldgrowth and rainforest out of existence is inconsistent with the original criteria and methodology applied in the Comprehensive Regional Assessment and the application of these reduced criteria is objected to.

The community can see through the transfer of areas of dubious values to koalas into parks and some other areas already protected on state forests as a cynical attempt to begin the National Party agenda of “Nil tenure” ie shifting tenure boundaries between National Parks and State Forests, putting areas into Parks that are no longer “commercially viable” (such as the Mt Lindsay area where 67% is dead trees from logging related Bell Minor Associated Dieback (BMAD)) and then attempting to justify logging of protected areas and then able to claim there’s no change in hectarage protected. This incursion into the Reserve system will be vigourously objected to for the rort that it is.

I do not understand why, when the trend is towards a 100% plantation based timber industry for NSW that the millions of taxpayer’s dollars annually spent on the timber industry (eg latest: \$9.2 million in the last budget for this “re-assessment” of old growth!) isn’t instead spent on plantation establishment on already cleared land and native forest restoration to bring back the 100,000 hectares of BMAD effected native forests. The short term (jobs) and long term benefits (a growing nature based tourism industry) would far outweigh what’s going on at the moment with the public paying to have their public native forests destroyed.

The government must live up to its promise of “no erosion of environmental values” and NOT remove from protection ANY of the areas that have been mapped and protected for the last 20 years as HCVOldgrowth.

9. IFOA must not “Re-assess” rainforest that has been protected for 20 years and expect to find that 23% of it will no longer be deemed rainforest so will be opened up for logging.

The government must live up to its promise of “no erosion of environmental values” and NOT remove from protection ANY of the areas that have been mapped and protected for the last 20 years as Rainforest.

10. IFOA must not reduce buffers on headwater streams from 10m to 5m but rather increase the minimum protection to 30m

If more streams have been found through better technology (Lidar) then those streams should be adequately protected just like the ones already know and mapped on 1:25,000 topographic maps. 30m buffers are recommended by science as the minimum effective (to trap and filter soil particles moving downhill to waterways) buffers on creeks.

I also oppose removing the stream buffer exclusions for most threatened fauna (ie barred frogs, golden-tipped bat). These are usually 30m in width, thus helping two environment features, clean water and threatened species

According to a paper by Dailan Pugh which assessed the impact of reducing Lidar 1st order stream buffers from 10m to 3m the loss of protected area within buffers was 3% . This is an erosion of environmental values.

11. IFOA must not remove most species specific protections for threatened species found in native forests and must not remove the need to survey for them before logging

Pre logging surveys which identified the actual areas used by threatened species meant areas were protected that the animals themselves chose as suitable. The proposed habitat clumps only need to have one of a list of features in them which could be just one dead tree and they are chosen by FC. The tree retention clumps are chosen by FC 100m ahead of logging and are likely to be chosen on the basis of not being suitable timber. With no pre logging surveys the choice of both of these clumps are flying blind. Also, as small islands of vegetation they are subject to the well known edge effects which diminish their value to wildlife.

The statement in Protocol 31 that prefaces the 9 page list of threatened species and says that they are the “Threatened species and endangered populations considered adequately protected by the multiscale protection measures of the approval” is objected to entirely. I support the detailed submission of NEFA on this topic.

12. IFOA must not remove the need to look for and protect koalas and their high use areas

The number of koalas on the east coast of Australia declined by more than 40 per cent in the 20 years between 1990 and 2010. (i) And on the north coast koala populations have crashed by 50%.(ii)

(i)McAlpine, C, Melzer, A, Lunney, D, Foley, B, Adams-Hosking, C, Lawler, I, Whisson, D, Phillips, S, Kavanagh, R, Baxter, G, Gordon, G, et al. (2014). Working Group Workshop - Conserving koalas in the 21st century: synthesising the dynamics of Australia's koala populations. *Australian Centre for Ecological Analysis and Synthesis*. http://www.aceas.org.au/conserving_koalas_report.pdf

(ii) Koala populations in NSW and Queensland fell 42% from 326,400 to 188,000 (a loss of 138,400 individuals) in the 20 years from 1990 to 2010. On current trends, koalas will be extinct in the wild in NSW by 2030. Habitat loss, fragmentation and degradation, predation (dogs and vehicle strike), disease, drought, climate change, and inbreeding are keys threats.

www.environment.gov.au/cgibin/sprat/public/publicspecies.pl?taxon_id=85104#population_information

Removing the need to look for and protect core Koala habitat before logging, while zoning 43% of the highest quality Koala habitat for near clearfelling in the Intensive Zone is not supported.

Koalas must be surveyed for by independent and qualified ecologists and their home ranges identified and permanently protected.

13. The establish a North Coast Intensive Zone across 140,000 hectares where near clearfelling will turn native forests into quasi plantations is absolutely opposed

In an answer to a question on the IFOA website the EPA stated, “

“The EPA will maintain the right to make minor changes or urgent changes to remedy perverse outcomes at our discretion – and notify the public of any changes made.”

I submit this part of the IFOA would result in a perverse environmental outcome (and that it is in fact diametrically opposed to Ecologically Sustainable Forest Management) so therefore should be ruled out on the basis of Div 5 clause 28.3 of the Conditions, regarding perverse environmental outcomes.

It also clearly causes and erosion of environmental values and so breaks the government promise that any new IFOA would not do this.

The impacts on biodiversity are huge. According to Ecologist David Milledge, “Clearfelling has a substantial adverse effect on biodiversity, reducing forest structure and floristics and severely disadvantaging forest-dependent vertebrate species requiring tree hollows for nesting and denning, and nectar, pollen and exudates for food. This is evidenced by the high proportion of such species

listed as threatened under the *Threatened Species Conservation (TSC) Act 1995*. It is diametrically opposed to Ecological Sustainable Development.” And “The practice is likely to lead to breakdowns in ecosystem functioning and an attendant exacerbation of Key Threatening Processes (*TSC Act 1995*) including the Invasion, Establishment and Spread of Lantana and Bell Miner Associated Dieback.”(Personal Communication to NCEC David Milledge Ecologist, Landmark Ecological Services May 2016 and Brief report on a field inspection to demonstrate proposed changes to IFOA prescriptions designed to protect threatened species and their habitats during forestry operations, Compartment 10, Queens Lake State Forest, 30 June 2015 David Milledge July 2015.)

In fact, biodiversity decreases as logging intensity increases. Undoubtedly, damage has already been caused by the illegal application of STS and must be assessed and reparations made, especially as it was a huge and illegal kick of the ball by FC.

I refer you to the report by Dailan Pugh Clearing Koalas Away pages 9- 23 for detailed information regarding the metrics (over time, location and intensity) of this unauthorised practice of STS. This warrants an Inquiry.

Clause 52 sets out how the first of three of the Intensive harvesting cycles must begin and then not be returned to for 10 years when the second third of the net harvest area of the local landscape area can be intensively logged .

52. Intensive harvesting limits

52.1 **Intensive harvesting** is only permitted within the **intensive harvesting zone**.

52.2 **Intensive harvesting** must be conducted in a minimum of three separate **intensive harvesting cycles** across the **net harvest area** of a **local landscape area**, where:

(a) the first **intensive harvesting cycle** must commence on the first day of the commencement of this **approval**; and

This assumes something is beginning that should happen to one area only every 10 years. It completely fails to recognise that this intensive and near clearfelling regime has been applied to 74,906 hectares (between Coffs Harbour and Taree) within the proposed Intensive Zone over the 10 year period 2006-2016 and continued since then, and been carried out for 10 years also between Coffs Harbour and Taree. Therefore any area that has been subjected to Single Tree Selection Medium, or Heavy or “Regeneration” style MUST NOT be allowed to receive the treatment again for at least 10 years. ... not that this type of logging is supported as stated before.

14. Doubling the intensity of “selective” logging that’s allowable in the rest of the public forests is opposed

In a natural forest basal area can vary from as low as 18m²/ha on a low productivity site, up to 47m²/ha on a high quality site (Smith 2000), with up to 60m² on better quality sites. The NRC effectively identify the basal area range as 17-40m² per hectare and so identify the current 60% retention requirement (under genuine Single Tree Selection) as equivalent to the retention of 10 to 24 m² per hectare.

However, if the site is a better quality site with 60m² /ha (of trees more than 20cm dbh) then retaining only 10-12m² /ha as the IFOA proposes is an 83% basal area reduction (more than twice the current legal reduction under STS).

For the IFOA the experts kept referring to an average existing basal area of 30m² for already partially degraded forests, so retaining 10-12m² is something like a 66% reduction. Compared to the existing rules of only allowing a 40% reduction this is still much more intense “selective” logging. In general it would be fair enough to say a doubling in logging intensity under the new rules.

The classic study on Blackbutt Forests by Florence recommended retention of a minimum basal area of 22m² per hectare.

In accordance with the current rules the minimum basal area retention must be increased to at least 20 m²/ha across all forests.

And setting basal area retention rates, though an improvement on the previous definition of how much is taken – which was useless as each area would have a different condition as a start point – is not on its own adequate to ensure selective logging – for that it must also require that a mix of age/size classes also be retained as well as a mix of species for that forest ecosystem type.

Insert A smith true selective logging parameters

The EPA representative on the expert panel, Brian Tolhurst stated:

... Removal of standing trees below a basal area of around 18 - 20m²/ha will reduce the structure of these native forests to such a simple form that the ecological processes will be severely diminished or non-functioning. Even in the best case scenario it will take many decades or even centuries of recovery for any level of native forest ecological function to be restored after this intensity and scale of impact.

So unless the 10-12m² /ha is revised upwards and becomes at least 20m² /ha then not only the proposed Intensive Zone will be degraded, the whole public forest estate will have its ecological functioning “severely diminished or non-functioning”. This is unacceptable.

This is the chance to restore the true intent of the original selective logging term Single Tree Selection and slowly restore to function the valuable public asset of the public forest estate.

Two other requests:

FC is required to report annually as per condition 41:

41. Annual report on timber volumes

41.1 Within 90 days after the end of each financial year, **FCNSW** must submit an **annual timber and biomaterial report** to the **EPA** that demonstrates how it complies with limits on **harvesting operations** contained in condition 13 and Division 2 of Chapter 3 of this **approval** and includes, but is not limited to, **the following details for each State Forest compartment** or other **Crown-timber and** where **forestry operations** occurred during the financial year:

And one of the inclusions is:

x. **average** retained **basal area** in the **harvested area** subject to **selective harvesting** (square metres per hectare);

I request that the word “average” must be removed as FC will use it to manipulate the intention of “selective” logging, which is for the retained basal areas to be spread evenly across each hectare. FC

will use that word to huddle some increased basal areas in the corner of the net harvest area and decimate the rest but of course the averaging ability will make it all legal. Compartments are regularly around 250 hectares and often 300 hectares, very large areas on the ground. Any area where the contours open up a bit into flattish pieces of land will be clearfelled under this averaging arrangement.

I request that the Please legal drafters create a phrase which requires every hectare of the net harvest area to have the allowed basal area reductions from forestry operations spread evenly over it.

Also, I request that as well as the annual reporting of all the details of logging operations required under Clause 41 that within 1 month of a forestry operation being completed the information should be available to the public. Then the Annual reporting will just gather all the individual reports together for totalling. Otherwise it could be 15 months (if a forestry operation was at the beginning of the reporting period) before any assessment of whether breaches had taken place or not could be made.

15. Removing the need to protect mature recruitment habitat trees and eucalypt feed trees currently required to be protected is opposed

I do not think the proposed habitat clumps and tree retention clumps are adequate to replace the current required protections of recruitment habitat trees of eucalypt feed trees. This an erosion of environmental values as these trees were required to be mature trees actually of known value to wildlife.

16. Allow ongoing logging of dieback affected forests (logging related) without requiring rehabilitation is opposed

17. Giant trees should be ones with 100cm diameter at breast height

The size thresholds for protecting giant trees are too large. All trees greater than or equal to one metre diameter should be retained and protected as a matter of urgency. These trees are nominally 100 years old, approaching the age when they will form hollows which are scarce across State Forests due their being systematically destroyed by FC over many years. I have seen some trunks with H on them intentionally buried under logging debris. Also, seeing as the new IFOA proposes to remove protections for recruitment habitat trees and eucalypt feed trees, which is opposed, it is all the more important to protect trees that are large enough to be on the verge or have just started forming hollows.

“No erosion of environmental values” does not mean trading an existing environmental protection for one that even common sense can assess as a lesser protection.

But question is will it also take 2 ministers to enforce the ifoa conditions as was the claim re why the sts rort was not enforced to stop it – will epa be able to enforce it this time??? ***

19. Ecologically Sustainable Forest Management must be required by the new IFOA including detailed reporting to targets set for indicators under the Montreal Process

Forestry Corporation NSW are not meeting their reporting obligations under the Montreal Process in regard to detailed reporting against targets of the Montreal Process Indicators. For example they have avoided reporting growth stage information on public native forests, also called successional stage. The new IFOA is a chance to make sure this is a requirement.

They have not met:

Montreal Process Criteria and Indicators (Fourth Edition 2015)

“Criterion 1 Conservation of Biological Diversity

1.1 Ecosystem Diversity

1.1a Area and percent of forest by forest ecosystem type, successional stage, age class and forest ownership and tenure” www.montrealprocess.org

FC have minimised and all but dismissed this requirement stating, “Because the areas of forest growth stage categories do not change significantly over short periods growth stages are not reported annually. ... “ From: Australia’s State of the Forests Report 2013

This is repeated, word for word in the **Forestry Corporation Sustainability Supplement 2014-5**

ESFM was never meant to be a motherhood statement with loose definition and evaded outcomes.

To that end:

One of the objectives of the new IFOA under clause 19.1 is:

(b) the implementation and monitoring of **the Principles of Ecologically Sustainable Forest Management (ESFM)** as they relate to **forestry operations**.

It is important that this condition is rephrased to reflect the meaning that Ecologically Sustainable Forest management (ESFM) is what should be implemented NOT the Principles of ESFM. ESFM should be implemented and the way it is done is by using the Principles to guide the implementation. To leave it as it is, is using a sleight of language to slip off the main point that ESFM itself must be implemented. Rephrasing would be along the lines:

(b) the implementation of **Ecologically Sustainable Forest Management (ESFM)** using the **Principles of ESFM to guide implementation** as they relate to **forestry operations** and the monitoring of same.

18. The state government must also:

Recognise that the Regional Forest Agreements have failed to deliver environmental protection or industry security.

Recognise that the benefits and of non-timber forest values are vital for the future of regional economies and ecosystems.

The world loses an area of forest the size of 48 football fields *every minute* due to deforestation and forest degradation. (Planet Explorer website)

Establish the Great Koala National Park as an immediate priority.

Commit to a just transition out of native forest logging on public land and the transfer of public forests to protected areas when the RFAs expire.

Ensure that public forests are managed for the public good (ie: tourism, environmental repair, carbon sequestration and storage, wildlife habitat and provision of clean, abundant water)

Stop propping up the rapacious native forest logging industry at the cost of species extinction, logging dieback, reduced stream flows and water quality decline and sustainable forest based jobs.

End the logging of public native forest and complete the transition of the timber industry to 100% plantations.

Transfer all existing subsidies from native forest logging into native forest restoration.

19. Other

Premises

Regarding:

17.3 For the purposes of section 56 of the *POEO Act* the *environment protection licence* applies to **the premises**.

It is incorrect to call land on which forestry operations occur, "premises". I understand it is a relic from or related to the way the POEO Act primarily concerns pollution from factories. My concern is that The FC could argue that a premises is an indoor area so, as forestry operations takes place outdoors, then they are not subject to the requirements and so evade them..

I object to the transitional arrangements. These allow even more intensive logging for the first 2 years of the approval and include clearfell patches of up to 60 ha; 45 hectares is objectionable of course too, up from the current allowable clearfell patch of ¼ of a hectare. Unjustified and destructive, both large hectarages. ... vandalism actually.

I note there are huge areas of failed regeneration across the state forest landscape...estimated at around 100,000 hectares across NSW. Lantana beats the eucalypt seedlings than dominates for years, inviting Bell Miners to proliferate, farm the sap sucking psyllids and slowly kill the adjoining

eucalypt forest. This needs to be addressed and could be a worthy project for public subsidies providing jobs in forest restoration.

I urge your consideration of the reports by Michael Eddie retired senior soil scientist of the Office of Environment and Heritage submitted as part of this process by the North Coast Environment Council. I believe they raise huge issues that show up the current and proposed soil erosion and water pollution hazard assessments and constraints as being hugely inadequate to prevent erosion and pollution from forestry operations. The thresholds, especially in the area of the Nambucca Beds MUST be tightened as he suggests. I also draw your attention to his proposal for a Slope Hazard Class that takes into account terrain and mass movement, bringing into the Inherent Hazard Assessment process valid factors that are currently left out. Also his recommendation to bring the dispersibility assessment into the Regolith assessment is supported.

Time constraints force me to stop.

Thank you for your attention and consideration of my submission and its requests.

Sincerely,

A solid black rectangular box used to redact the signature of the sender.

Lyn Orrego

July 13 2018