



'NSW Regional Forest Agreements: A report on progress with implementation of the New South Wales Regional Forest Agreements, Second and third five-yearly reviews July 2004-June 2014' Response by Nativesrule Incorporated.

nativesrule

Our primary concern is that ESFM cannot have been demonstrated to have been achieved in the NSW RFA 2004-2014, regardless of claims of the departmental report.

Due to time and capacity constraints our submission must be limited and succinct although we have copious amounts of evidence that the NSW RFA has failed to achieve its aims. For this reason we are supplying primarily visual evidence and testimonials of those involved in implementing the NSW RFA.

FCNSW Harvest Operation Supervisor reporting on gross mismanagement in relation to the lack of compliance with the regulatory system <https://youtu.be/Npc2y3RA8kM>

Citizen Scientist report into the Mismanagement of NSW Forests under the NSW RFA (Appendix 1)

Citizen Scientist Audit of Logging Operations Mid North Coast NSW (Appendix 2)

Power Point Presentation on the impact of systematic clear felling and conversion of NSW North Coast native forest (awaiting advice on your department on preferred method of receipt of this supplementary material – a large file)

Aerial footage of the scale of clear felling and intensive almost clear felling under Heavy Single Tree Selection across a landscape scale with the simultaneous clear felling of historic plantations producing what is effectively an ecological desert out of the public native forest estate <https://www.youtube.com/watch?v=wNCkeoJ98g0>

State forest workers reporting disastrous forest management 'experiments' across Mid North Coast NSW Forests instituted by Forests Corporation CEO, Nick Roberts. Along with concerns about planned full automation, their concern is that minimal and ever shortening harvesting rotation times are destroying regeneration. They testify to the agenda of the CEO to manipulate species composition of the native forest estate so that it functions as a 'pseudo' or manipulated Blackbutt plantation.
<https://www.youtube.com/watch?v=DDp60gf0Lmk>

Nativesrule summary of NSW RFA management as at 2011
<https://www.youtube.com/watch?v=mybeo-uaYls&feature=youtu.be>

Ecologist talking about impact in Lansdowne State Forests
<https://www.youtube.com/watch?v=zjHGeszDwo>

Google Earth Imagery with associated ground images and explanation of the process of 'sterilisation' occurring in NSW public forests with conversion of mixed species native forest ecosystems into 'pseudo' Blackbutt plantations across the entire Lower North East RFA Area from 2004-20014 (and continuing)

Burrawan Forest
<https://www.youtube.com/watch?v=9uLhtY8o1zA>

Kerewong Forest 2016
<https://www.youtube.com/watch?v=Y0q8jTHu7a8>

Queens Lake Forest
<https://www.youtube.com/watch?v=SSRJ9hOR9IA>

Comboyne Upsalls Creek
<https://www.youtube.com/watch?v=Nr4yIEc3xPI>

To our submission and first, general comments: The complex format of the consultation document '*NSW Regional Forest Agreements: A report on progress with implementation of the New South Wales Regional Forest Agreements, Second and third five-yearly reviews July 2004-June 2014*' for which the government seeks a response is restrictive and not conducive to obtaining feedback from the community.

It's an absurd, perhaps even cynical exercise, to expect the public to make sense of a report when 'the community' don't have the databases, records, field notes, mapping and statistics on which the report is based. The community have access only to what a semi-privatised Forests Corporation allows them. As also in dealings with the regulatory authority, the EPA, if they require hard data they usually have to go through onerous and sometimes expensive GIPA processes. As so much of what Forests Corp NSW does is now concealed under 'commercial in confidence', for all the community know aspects of this report might be based on flawed statistics presented in such a fashion that it appears milestones have been met. This report could be largely fiction.

Our input to the independent assessor therefore is based on our own field experience, i.e. ground truthing of Forests Corporation NSW operations. Frequently we monitored adherence to what we consider an inadequate RFA regulatory system, the NSW IFOA, supposedly capable of delivering an ESFM outcome.

From our measuring, mapping and recording we determined that far from achieving ESFM, Forests Corp NSW RFA management actively works against ESFM. The breaching of the IFOA is so frequent, so systematic, that NSW RFAs can only be regarded a failed exercise that should cease immediately. This is clearly stated by a FCNSW Forest Harvest Supervisor: <https://youtu.be/Npc2y3RA8kM>
This is an extract only from a 2 hour interview detailing multiple aspects of mismanagement.

Common sense and a rudimentary understanding of ecological principles compel observers to conclude that NSW RFA industrialised logging is endangering native forests in terms of ecological processes and endangering the existence of lifeforms dependent on them. Clear felling and 'almost' clear felling, i.e. removal of over 80% of basal wood from adjacent forest compartments across an entire forest region will obviously threaten mammals (marsupials), reptiles, amphibians, insects, birds. National Parks bordering state forest buffers dependent on a genetic replenishment from healthy populations within forests will be threatened. Across tenure a decline in species populations will render species vulnerable to extinction. This RFA intensive unsustainable logging is not only endangering state forest ecology. It is endangering the viability of forested lands regionally which in turn is impacting other industries i.e. fisheries.

An example: If you deliberately 'maximise soil disturbance', a directive in multiple harvest plans, in order to promote the generation of one species, Blackbutt, at the expense of others, not only will biodiversity suffer. There is massive ongoing soil erosion – again at landscape scale - with consequent impact on hydrology. Over hundreds of thousands of hectares it is only to be expected that there will be impact on the downstream water supply, in this case that of the Mid North Coast of NSW. However interference with regional hydrology, especially when this interference is applied across the entire NSW east coast will translate to atmospheric interference (See the document 'Clearing our Rainfall Away' by Dailan Pugh which will be referred to in other submissions).

Addressing various sections of the combined review are, below, further extracts from reports, visual documentation of field trips to forests across the Lower North East RFA area, and further interviews with Forests Corporation staff providing information to prove our assertion, that the foundation principles on which RFAs are based, (ESFM) are not and have never been upheld under RFAs. Thus, in relation to:

2.3 Ecologically Sustainable Forest Management (ESFM) The NSW RFA has not upheld its commitment to:
Maintain or increase the full suite of forest values for present and future generations across the NSW native forest estate

Evidence <https://www.youtube.com/watch?v=DDp60gf0Lmk>

We have mentioned that in the above link state forest workers explain the impact on (multiple) forests from Forests Corp CEO, Nick Roberts' failed experiments in forest management. The workers themselves warn that rotation times are destroying regeneration along with the impact of the machines brought into sensitive and regenerating areas. They describe the attempt by the CEO to manipulate species composition of the native forest estate so that it functions as a Blackbutt plantation. This film confirmed our observations in field work at that time where we were amazed at the obvious fact and scale of 'sterilisation' occurring via species modification. This was obviously not ESFM. This discussion refers to both the failed experiments of AGS (now bare patches across an entire regional landscape), and the heavy Single Tree Selection especially in its intensified form (Heavy Single Tree Selection) wherein in excess of 80% of basal wood is removed from adjoining compartments resulting in a landscape that simply does not provide habitat. No trees or barely any trees. No understorey. Few lifeforms. The consequences of not only threatened species but the viability of entire populations of previously un-threatened species is obvious.

The NSW RFA is not maintaining the full suite of forest values for present, let alone future generations. We argue that this is true both for future generations of animals as well as humans. In the case of forest dependent animals/lifeforms there will in many instances not be any future generations.

Lansdowne State Forest: https://www.youtube.com/watch?v=zjHGEsz_Dwo

Dr Geoff Williams Entomologist and Forest Ecologist indicates deliberate removal of old habitat trees from forests that had wildlife supporting hollows and the impact of not allowing others to grow to maturity to form new hollows for future forest dependent species shelter, roost, reproduction.

Ensure public participation, access to information, accountability and transparency in the delivery of

ESFM Not met – citizens have to GIPA for documents; citizens have no mechanism by which they can redress breaches of standards or practice, no 3rd Party Rights. That the IFOA precludes this makes a mockery of accountability. This is not adequate public participation. It makes public participations a (tragic) joke. Witnessing planned species elimination across a vast area with no legal redress is disempowering. It makes a (tragic) joke of words like, accountability, transparency etc.

Ensure legislation, policies, institutional framework, codes, standards and practices related to forest management require and provide incentives for ecologically sustainable management of the native forest estate

As above and add to this the absurdity of timber supply agreements with multinationals so powerful that they manipulate contractual arrangements with government. This is so well understood in the local community that most of those who work or have worked with BORAL, principal client of FCNSW, refer to the company locally (albeit crudely) as B.O.R.A.L – Buys Out Roots and Leaves. BORAL dictates deliveries from these forests via its automated transport systems. It is no longer Forest Corp NSW in charge of what timber goes where. (Audio testament from transport workers).

Apply precautionary principles for prevention of environmental degradation

This is so obvious that we don't think we need to address it in detail. To undertake a vast experiment of species modification across landscape scale, to craft silviculture purely in order to maximise one species and to ensure delivery of that preferred species simply because of the demands of a client for as much wood as possible is not 'applying the precautionary principle for prevention of environmental degradation.

Apply best available knowledge an adaptive management processes

The adaptive management focused on during implementation of NSW RFAs between 2004-2014 was not how to preserve the biodiversity or ecological sustainability of native forests. It was how to get as much wood out as quickly as possible and without losing as much money as was being lost. Hence the management applied to developing procedures and harvesting methods that could be described in such a manner that they looked like attempts at 'forest management improvements' when in reality there were a

ruse to 'cut to the guts of a forest to get the wood for a multinational client' which, if not satisfied would mean further demands for monetary compensation. To quote the Manager of BORAL operations in this area at that time: 'BORAL is a Hungry Beast that needs to be fed'. To do this FCNSW had to 'automate' and create a Blackbutt 'factory' out of native forests. See the Power Point Presentation illustrating what this looked like on the ground, when implemented.

2.8 Competition Principles – we ran out of time to address this but have testimonials from operators of the lack of competition. These matters will eventually find their way to the NSW ICAC.

3.2 Flora and Fauna and Ecological Communities – overwhelmingly negative evidence about the impact on Flora and Fauna you will find in others' submissions. We have had to witness animals fleeing for their lives as adjacent compartments of hundreds of hectares are cut simultaneously or one after another in such a short time frame that there is simply no habitat left.

4 Public Reporting – the claim of Worlds' Best Practice Forest Management, constantly made by Forests Corporation NSW and not refuted by the EPA means the people of NSW are simply being lied to. Current federal and state policy to renew RFAs based on the assertion of sustainability is flawed and this will be publically exposed. Hopefully that can occur before the RFA is renewed.

3.5 Improvements to the NSW Forest Management System

That so called improvements in relation to silvicultural practices, involving an arbitrary determination of logging intensity and scale, are outside the boundaries of the IFOA, i.e. illegal has been admitted to by the EPA.

The failure of AGS to achieve intended silviculture results is admitted in the review report. Weeds, bare ground and so on are mentioned.

The failure of Single Tree Selection in its light and moderate forms is described as frequently not capable of achieving regeneration in accordance with Forests Corp harvest objectives.

The Heavy Single Tree Selection method, whereby Forests Corp NSW removes in excess of 40% basal wood and often as much as 80 and up to almost 90%) is described by the EPA via Gary Whytcross, Director South and Forestry, EPA, as 'not consistent with the definition and intent of STS in the Integrated Forestry Operation Approvals (IFOAs) as well as FCNSW's own silvicultural guidelines.' *To quote from the email in which this is admitted:*

Re: *'Intensive harvesting is outside the authorisation of the IFOAs
The EPA has previously indicated its view that "regeneration harvesting", as practised by FCNSW, is not consistent with the definition and intent of STS in the Integrated Forestry Operation Approvals (IFOAs) as well as FCNSW's own silvicultural guidelines.'*

As this practice was adopted and used increasingly throughout the review period (and beyond) without legal consequences, despite it having been acknowledged by the EPA as a breach of regulation) we cannot understand how this report could begin to assert 'improvement in the forest management system' as a result of the RFA. Forest management under the NSW RFA is not improving forest management but destroying the resource. In no way either could this be described as upholding any other ESFM principles given the shocking impact of removal of over 80% of basal wood from compartments across a region with the consequent barring of earth, loss of trees for lifeforms and regeneration induced bushfire traps that this form of harvesting is producing. It is unsustainable as these forest workers attest:

<https://www.youtube.com/watch?v=DDp60gf0Lmk>

Below is an excerpt from an ABC Background Briefing Programme looking at what has happened in NSW forests during the review period. Forest worker for 30 years (Pat Murphy) and another logging contactor explain the impacts of Forests Corporation logging practices instituted purely to adhere to an unsustainable timber supply agreement during the review period. This intensive overcutting continues and is poised to increase with the re-zoning of approximately 100,000 ha across the state as 'intensive zone'. Meanwhile the shocking virtual clear fell that is Heavy Single Tree Selection is being re-branded as 'regeneration' logging. Overlogging is the norm. Nativesrule has further evidence of the illegality that resulted from the pressure to 'get the wood' and if requested will supply this to the independent auditor. It is not as yet 'on line'. But for the moment here is Pat Murphy who appears again below with Background Briefing: <https://youtu.be/Npc2y3RA8kM>

www.abc.net.au/radionational/programs/backgroundbriefing/from-axes-to-ipads-logging-native-forests/6628110

5. Results of monitoring sustainability indicators

1. Conservation of biological diversity

How could one possibly claim this has been achieved when a process of deliberate sterilisation is taking place across hundreds of thousands of hectares, i.e. deliberate manipulation of the forest landscape through harvesting and burning practices in order to promote one species at the expense of others, as occurred throughout the review period and as is continuing across almost half of the coastal area covered by the Northern RFA? https://www.youtube.com/watch?v=QE_1p19zLgU

Also, how can this possibly be claimed when breaches into sensitive and no go zones are routine. See Appendix 2 illustrating systematic incursion into rainforest gullies, ecologically endangered communities

3. Maintenance of ecosystem health and vitality

As above and with reference to the massive soil disturbance accompanying heavy logging by massive industrial harvesters which overseas research now demonstrates can so impact intertwined subterranean root systems within a forest that it can lead to forest ecosystem collapse – tree death and lack of regeneration.

4. Conservation and maintenance of soil and water resources

As above and with reference specifically to harvest plans which throughout the review period stipulated 'maximise soil disturbance' in order to achieve Blackbutt regeneration at the expense of forest soils and the impact this has had on east coast hydrology, beginning in the most remote drainage lines (which Forests Corp NSW decided in 2010 it could encroach upon having stated that they had decided they would interpret their EPL a new way, i.e. enter unmapped drainage lines). This has continued without consequence, i.e. the EPA have not questioned this practice. In fact they are throwing most rules in relation to soil conservation and water in the 'Remake of the Coastal IFOA'

5. Maintenance of forest contribution to global carbon cycles

How could one possibly claim this is occurring when vast tracts of forest are being systematically degraded and soil is being deliberately disturbed to manipulate species composition? You will be able to determine by common sense if you consider it possible that the NSW RFA maintains and contributes to a removal of carbon emissions from the atmosphere when a regime of almost clear fell is the norm.

This completes our submission. It is all we have time for. Citizens in the environmental field have had to leave their employment to report this tragedy and undertake monitoring where the EPA will not. We hope you will appreciate our efforts in (again) attempting to redress the wrongs now being done to NSW

Forests, a critical carbon sink, a critical biodiversity reservoir, being knowingly trashed for the greed of corporations and the self-interest of public servants unwilling to tell the truth.

We believe that when you have considered all the evidence from all the community groups and scientists you will also be appalled at the impact of the NSW RFA and the absolute danger it presents to the ecological integrity and even the existence of native forests in NSW. We hope that you will see fit to extend your interest to examining the impact RFAs generally are having across Australia. They must not be renewed.

The state of mismanagement of NSW Native Forests

under the NSW Regional Forest Agreement

Reported by Nativesrule October 2011



The NSW forestry industry in economic and environmental crisis

Economic/Resource Crisis - In 2004 the NSW Government issued new Wood Supply Agreements for north-east NSW, entrenching further unsustainable logging. During the 2009 review the NSW government removed a clause that allowed for reductions in commitments in line with yield reviews and in fact allowed for compensation for lack of supply.

Since then Forests NSW have been unable to satisfy the commitments for quota sawlogs in any year, and the situation is declining. In 2006 FNSW paid \$500,000 compensation to BORAL for their failure to supply for the previous 2 years. Boral once again have Forests NSW (hereinafter FNSW) in court for failure to meet commitments every year since then. Logging of public native forests in NSW doesn't generate revenue. Losses reported by state government trading enterprise FNSW: \$14.4 million in 2007-08, \$4.67 million 2008-9, \$4.11 million 2009-10 (pre-tax) **but after tax loss of \$233.38 million**, (including the reversal of a tax asset relating to pre-1994 plantation establishment costs).

With rapidly escalating costs and yield in decline, FNSW is effectively subsidising the devastation of NSW's forests. To limit immediate liability FNSW is jeopardising the resource it should be protecting by removing even the smallest of sawlogs (what would have been the large sawlogs of the future) and by promoting plantation-style regrowth.ⁱ Industry experts estimate a collapse of the saw log industry for at least 50 years (maybe 100) depriving the people of NSW of access to domestic hardwood.

From the Auditor General's report, April 2009 'To meet wood supply commitments, the native forest managed by Forests NSW on the north coast is being cut faster than it is growing back.... Forests NSW continue to look for new sources of hardwood timber to meet existing commitments including private property and leasehold land. As timber haulage distances increase and yields decrease, the overall cost of production will rise. These additional costs will have to be borne by both Forest NSW and the industry.

Given that native forest operations already run at loss and increasing compensation payouts, this raises concerns about how much worse this financial burden may get.’ⁱⁱ

How has Forestry NSW addressed this? Instead of renegotiating yield when there was a chance it has dismantled its research division, is in the process of dismantling the ecological management division (ecologists and harvesting supervisors).ⁱⁱⁱ

Through illegal logging much of the native forests resources of northern NSW is undergoing conversion into a same age, single species dominated landscape with Blackbutt promoted as principal species north of the Central Coast. Challenged by community concern FNSW is lying to the NSW public maintaining that these forests require human intervention by way of a massive cut to retain the Blackbutt dominance.^{iv} Contrary to the warnings of Australia’s leading forestry economist, FNSW is promoting a plantation approach to the native forests of NSW.^v This resource plan is ignoring the economic and environmental realities of the present, and sabotaging the potential of future forestry in NSW.^{vi}

Environmental/Legal/Governance Crisis

FNSW is contributing most to the worst factors threatening NSW environmental health, i.e. biodiversity loss and weed invasion. *‘NSW native forest logging is accelerating rapidly the impact of clearing and disturbance of native vegetation and the introduction of threatened species, these being the highest two identified pressures on biodiversity with the former affecting 87% of threatened species and the latter (70%).’*^{vii} The method of logging is also severely undermining future native forest potential for carbon sequestration. But these impacts are interconnected; they compound and magnify. **FNSW practices now are lethal to the NSW environment** and those impacts extend beyond this state. In 2009 a comprehensive study by Australian scientists reported that *the 6th greatest extinction crisis of Earth’s history is centred in our region, Oceania, with 70% of Australian forests already ecologically degraded by logging being a major factor.*^{viii}

Illegality, lack of regulation and corruption of governance: Unlawful practice and strained interpretation of environmental guidelines is exacerbating the horrendous onslaught on NSW native forests. ***An arbitrary application of the concept of offset areas verges on corruption of the intent and spirit of the Regional Forest Agreements and Integrated Forest Operations Approval legislation,*** at least. It appears that FNSW is exploiting an unclear definition of the *relevant tract of land* in a harvesting operation to attempt justification of removal of sometimes 95% - 99% basal wood, instead of the maximum 40% allowable when employing Single Tree Selection. This is probably one of the greatest contraventions of sustainable forest policy. It needs to stop immediately but remains unchallenged.

Justice R A Pepper, ‘In my view, the number of convictions suggests either a pattern of continuing disobedience in respect of environmental laws generally or, at the very least, a cavalier attitude to compliance with such laws.’ NSW Land and Environment Court, 8 June 2011.^{ix}

‘It is clear that native forests are not being managed in a way that complies with the principles of ESFM and the conservation of biodiversity.’ The Environmental Defenders’ Office in joint report with the Nature conservation Council of NSW^x

Removal of 3rd party prosecution rights:^{xi} This means that citizens are deprived of the right to challenge the legality of FNSW’s operations in court. Only through the intensive unpaid work of environmental scientists working with communities has the Office of Environment and Heritage, (OEH) been compelled, in the wake of media pressure, to invoke its capacity to issue fines. But instead of applying fines proportionate to seriousness of the impact of an illegal action, OEH is virtually making a mockery of its office.

- **South Coast \$300** - for Forests NSW failure to undertake Koala surveys in accordance with Condition 8.8.12 of the Threatened Species Licence (TSL) prior to the commencement of harvesting operations in compartments 1375, 1376 and 1377 of Cathcart State Forest - **when the maximum fine for an infringement of this nature is \$110,000 or one year**

imprisonment or both, and also a possible \$5,500 per koala feed tree destroyed. (This is taking place while a national review is underway to protect Koalas now identified as far more vulnerable to extinction than previously thought)

- **North Coast \$1000** for numerous breaches involving the logging and burning of stream banks including that of habitat of endangered eastern freshwater cod in Yabbra Forest when FNSW should have been fined for each of breach was cautioned only for 'marking, recording and harvesting' within wetland exclusion zones.

Environmental breaches by FNSW are being documented by the community across NSW in an effort to stop wholesale destruction of the native forest estate.

South Coast – An 8 page table lists breaches in Appendix 1 of “Compliance failures in the public forests of New South Wales”, S.E.F.R. ^{xii}

Mid North Coast – ‘A report on forestry operations in The Lower North East Forest Agreement Region of New South Wales’, Nativesrule, Citizen Action Group

North Coast – ‘Audit of Compliance of Forestry Operations in the Upper North East NSW Forest Agreement Region’, Dailan Pugh for the North East Forest Alliance, January 2011

Increasingly the media have been compelled to report:

Koala Colony to be logged <http://www.smh.com.au/environment/conservation/logging-plan-poses-threat-to-precious-koala-colony-20100124-msm7.html>

State forest breaches taken to parliament of NSW

<http://www.parliament.nsw.gov.au/prod/PARLMENT/hansArt.nsf/V3Key/LC19951018025>

Kyogle northern NSW <http://abc.gov.au/news/stories/2010/01/14/2792254.htm?site=southeastsa>

Illegal logging in Riverina <http://www.theaustralian.com.au/news/state-accused-of-logging-wetlands/story-e6frg6o6-1111117634415>

General breaches everywhere <http://www.wilderness.org.au/campaigns/forests/greenpolice>

Destruction of the potential of NSW’s Carbon Sink: FNSW False Carbon Accounting

Forest Biomass and Carbon Pool – Instead of reporting as required, on CO₂ storage by forest type, age class, and successional stages, FNSW is falsely reports its contribution to the state’s carbon emissions, neglecting to take into account emissions created by native forest logging. This misleading accounting is delivered to the community and government based on statistics from plantations alone.^{xiii} Actively destroying the more valuable components of the state’s carbon sink - the older growth native and regrowth forests – the current management is diminishing the capacity of NSW forests to function effectively in relation to carbon sequestration and storage. Huge emissions result from transporting heavy product from one end of the state to the other. Regional resource destruction means more need for resource transportation. FNSW can be charged with contributing to climate change impact when it should be doing all it can to mitigate it. Meanwhile the full potential of more mature forests to sequester carbon is being lost. Recent Climate Commission findings confirm this.^{xiv}

‘Although a fast-growing, mono-culture plantation forest may have a rapid rate of carbon uptake for the years of vigorous growth, it will store less carbon in the long term than an old growth forest or a secondary regrowth forest on the same site.... 2. Natural ecosystems tend to maximise carbon storage, that is, they store more carbon than the ecosystems that replace them after they are converted or actively managed for production. An observational study of temperate moist forests in southeast Australia identified the world’s most carbon dense forest and developed a framework for identifying the forests that are the most important for carbon storage....Recognition of the need to protect primary forests has helped to catalyse formulation of the REDD (Reduction of Emissions from Deforestation

and forest Degradation) agenda item under the UNFCCC negotiations (<http://unfccc.int/methodsandscience/lulucf/items/4123.php>).’

Sabotage of potential outcomes from state wide natural resources expenditure

Catchment Management Expenditure - The NSW state government has boasted of allocating \$380 million for Catchment Management Authorities and Crown Lands.^{xv} It neglected to mention that at least and probably more than 25% (probably more) of this funding (along with the concomitant effort of affiliated community organisations and countless volunteers across NSW) will be rendered void by the (immediate and delayed) impacts on catchments from industrialised logging practices, i.e. loss of water resource from evaporation of unmapped drainage lines in upper catchments, stream bank erosion and siltation due to the exposure of slopes of 30 degrees and other forest floors to bare earth, with loss of huge areas of native ground and understorey vegetation from machine damage. And this, despite the supposed priority given to the retention of native vegetation diversity in catchments.

The Audit of Forestry Operations in the Upper North East RFA area found “*that Forests NSW routinely breach prescriptions intended to protect water quality and fish habitat, most notably failing to adequately protect unmapped drainage lines, wetlands and drainage depressions, dropping trees into stream buffers, poorly constructing and failing to rehabilitate stream crossings, failing to establish adequate drainage on tracks and roads....Forests NSW are ignoring the requirement to remap and appropriately rezone streams delineated as FMZ 8 areas when preparing harvesting plans and are often logging them. It is of particular concern that Forests NSW refuse to turn on Environmental Protection Licences (EPLs) in over 90% of logged compartments in order to avoid external regulation. Their agenda is to be allowed to log unmapped drainage lines. Breaches are documented of the IFOA (s. 6, 8, 9) EPL (App4 s. 6, 15, 17, 19B, 20, 20C, 20J, 20R, 20S, 20T, 21, 22, 23, 30, 45, 46, 50, 51, 52, 53, 54, 56, 70, and App5 s. 37), FL (s. 7, 7.1, 7.2, 7.4, 7.5, 7.8, 7.9, 8.4), Harvesting Plan (s. 7.1), UNEFA (s. 2.2.2), –Forest Management Zoning in State Forests, and AFS (s. 4.1.4, 4.6.2, 4.6.4).*”^{xvi}

Irreparable weed damage: FNSW operations sabotage The NSW Invasive Species Plan

FNSW is jeopardizing the effectiveness of the over \$55 million dollars of tax and rate-payer investment in weed control. \$11 million pledged to one state agency for weed control while another agency in the same Primary Industries portfolio sabotages its efforts. Despite Forestry and Invasive Species co-existing under the Department Primary Industries, FNSW practices directly contradict the objectives of the comprehensive plan formulated to address the state side weed crisis. FNSW is currently abetting weed invasion on a scale never before seen. This is happening as a consequence of industrialised logging methods, and FNSW are doing this, they say, deliberately. They maintain that vast areas of the NSW forest estate need to be exposed to bare earth to promote Blackbutt regeneration. The straightforward message of the *NSW No Space for Weeds Campaign* is that you **do not** leave ground bare; this will permit germination of any available weed seeds. Numerous written statements by FNSW purporting to justify this denudation explain that Blackbutt requires bare earth and its needs are being supplied (ignoring the overriding need also for preservation of the biodiversity of ecosystems). Lantana and Camphor Laurel infestation, respectively a weed of national significance and one now identified as a biological pollutant of aquatic ecosystems. along with countless other invasive species, are being introduced ever deeper into the landscape by highly industrialised logging machinery working in proximity to infestations on cleared rural land. More critically it is damage that can never be undone. To clean up what FNSW are currently doing in terms of the promotion of weed invasion would consume more than the entire NSW NRM budget.

‘*Meanwhile the only indicator that NSW Forests uses in its sustainability reports for weed management is expenditure on weed control. They provide no information about the status of weed invasions and effectiveness of management. However, even the financial indicator suggests that NSW Forests assigns low priority to weed management. NSW Forests reported spending just \$1.1 million on weed management over 2.4 million hectares of forest in 2009-10, an average of \$0.46/ha. This is less than 20% of the estimated \$2.37/ha spent by NPWS for national parks. Weed management reporting by NSW Forests also compares unfavourably with that of NPWS, which has published status reports on its weed and pest management program in national parks. NSW Forests’ expenditure on weed management is 15% less than it was a decade ago.*’^{xvii}

Bell Miner Associated Dieback (BMAD) – this form of dieback is recognised as a threat to thousands of hectares of forests in the Upper North East RFA region. As such it has been listed as a Key Threatening Process (KTP) and affects timber and water yields, as well as many plants and animals. It is associated with the invasion of forest understoreys by the weed Lantana (another KTP) and *Cissus antarcticus* following logging. 870,000 ha in NSW are currently impacted by dieback. The majority of this is Bell Miner Associated dieback. FNSW are a partner in Bell Miner Dieback studies and programmes yet their forestry practices are indisputably the major cause of the problem. Independent scientific modelling indicates more than 2.2 million ha moist NSW coastal forest at risk of BMAD. There is now governmental and scientific consensus that dense weed understorey caused by logging, (understorey thickening) as a result of canopy removal, is the cause of BMAD. It so happens that the susceptible eucalypts are the widespread species Flooded Gum, Grey Gum, Ironbark, White Gum, all very productive sought after timbers. Bell Miner dieback is most common and relevant in the most productive of forests which house these Eucalypt species. Logging causes Lantana invasion which causes BMAD.

With BMAD NSW Forest Resources – not just their wildlife – are at risk of Extinction Now.

Biodiversity Impact: The region's ecologists, (whether independent and some affiliated with FNSW), will attest (publically in the case of the former and only privately the latter), that FNSW operations as practised are quite likely to lead to local, if not more far reaching extinctions. Geoff Williams OAM, Research Associate, Australian Museum explains that this form of logging 'imposes a significant adverse impact on the ability of ecologically-specialized fauna (e.g., those with specialized host/food plant relationships, narrow habitat niches, flightless ground fauna with limited dispersal capabilities etc.) to persist in, or recolonise sites. They are usually replaced by generalist species that have wide habitat and ecological tolerances and readily disperse over greater distances.' And concludes that 'an extended forest regrowth cycle and the consequent formation of new ecological niches and an increase in floristic composition in older regrowth forests may allow occupation by some specialized fauna. This is dependent on the existence of populations in adjacent areas or viable residual populations. Some species however may become locally-extinct.' FNSW is sabotaging the entire NSW budget on biodiversity protection. It is the success of measures aimed at implementing threatened species and endangered ecological system recovery. Industrialized logging is taking place regardless of the presence of threatened species. FNSW has even made incursions into endangered ecological communities. To behave this recklessly is to be complicit in the insanity that has already brought us to the 6th Greatest Extinction Crisis of Planet ^{xviii}

ⁱ North East Forest Alliance submission to Inquiry into the Australian forestry industry Dailan Pugh, North East Forest Alliance, March 2011

ⁱⁱ Auditor General Report, 2009 etc

ⁱⁱⁱ Ibid, and also put articles job losses

^{iv} Justin Williams, FNSW Central Region Planning Officer, numerous publications, harvest plans, media comments

^v Dr Judith Adjani

^{vi} The Climate Commission *The Critical Decade Climate Science, Risks and Responses*, Section 3.3, p.58, © Commonwealth of Australia (Department of Climate Change and Energy Efficiency) 2011

^{vii} **Statutory Review of the Noxious Weeds Act 1993**, Submission by: Invasive Species Council, Nature Conservation Council of NSW, The Wilderness Society, National Parks Association of NSW, Total Environment Centre, North Coast Environment Council Inc., Blue Mountains Conservation Society, Colong Foundation for Wilderness

^{viii} Richard Kingsford et al "Major Conservation Policy Issues for Biodiversity in Oceania" (2009) 23: 4 Conservation Biology 834.

^{ix} "In my view, the number of convictions suggests either a pattern of continuing disobedience in respect of environmental laws generally or, at the very least, a cavalier attitude to compliance with such laws." Justice R A Pepper, NSW Land and Environment Court, 8 June 2011 Department of Environment, Climate Change and Water v Forestry Commission of NSW

^x Hammond-Deakin, N. and Higginson, S. (2011) *If a tree falls: Compliance failures in the public forests of New South Wales*, Environmental Defender's Office (NSW) Ltd, Sydney, Australia.

^{xi} Forestry Operations on public land (state forests) in NSW are governed by the Forestry and National Parks Estate Act 1998 which removed any 3rd party community rights to challenge the validity of logging operations that are the subject of the Act. <http://www.legislation.nsw.gov.au/maintop/view/inforce/act+163+1998+cd+0+0+N> The only intervention possible after the documented systematic failure of either FNSW to self – regulate or the so called regulator Office of Environment and Heritage to do so is through their respective Ministerial appointees.

^{xii} Ibid.

^{xiii} FNSW media release 25th October 2011 – Appendix 4

^{xiv} Extract: The Climate Commission *The Critical Decade Climate Science, Risks and Responses*, Section 3.3, p.58, © Commonwealth of Australia (Department of Climate Change and Energy Efficiency) 2011

^{xv} NSW Treasury Budget Papers

^{xvi} *Audit of Compliance of Forestry Operations in the Upper North East NSW Forest Agreement Region*, Dailan Pugh for the North East Forest Alliance, January 2011

^{xvii} **Statutory Review of the Noxious Weeds Act 1993**, Submission by: Invasive Species Council, Nature Conservation Council of NSW, The Wilderness Society, National Parks Association of NSW, Total Environment Centre, North Coast Environment Council Inc., Blue Mountains Conservation Society, Colong Foundation for Wilderness

^{xviii} Kingsford et al "Major Conservation Policy Issues for Biodiversity in Oceania" (2009) 23: 4 *Conservation Biology* 834.

**A report on forestry operations in
The Lower North East
Forest Agreement Region of New South Wales**

by Nativesrule

(Citizen Action Group formed to address the emergency of the
destruction of native forests across NSW)



February 2011

Table of Contents

Introduction	1
REPORT FINDINGS	4
Harvest Planning.....	4
Preliminary survey of compartments prior to logging:	5
Pre–logging Breaches:	7
Inadequacy of Flora and Fauna Survey	7
Nil or inadequate mark up of a range of features identified on the harvest plan	8
Nil mark up of drainage lines.....	8
Inadequate mark up of drainage lines	9
Nil mark up in relation to retention of habitat/food sources for threatened species.....	9
Failure to consider weeds as a problem and identify mitigation measures	10
Post-logging breaches	11
In relation to tree retention:	11
In relation to exclusion zones:.....	16
Trees felled into marked drainage lines. This occurred in all compartments.....	16
Trees felled <i>into</i> rainforest exclusion zones.....	17
Trees felled <i>within</i> rainforest exclusion zones.....	19
Trees felled <i>within</i> 30 metre drainage line exclusion zones Cpt. 136.....	20
Harm to threatened species and endangered ecological stems.....	21
Breach of silvicultural prescription.....	23
Summary and Recommendations	30

Table of Figures

- Fig 1:** Typical condition Habitat Trees. Example from Cpt.135: Note lack of basal trunk and termite damage.
- Fig 2:** Habitat Tree 3, Cpt.136
- Fig 3:** Habitat Tree 3, Cpt. 136: Its base, a burnt out hollow, now surrounded by and filled with debris, waiting to be annihilated in the post logging burn.
- Fig 4:** 1 (a): Below rocky escarpment C.136: Cut, abandoned trunk of un-marked, potential habitat tree now useless for arboreal species.
- Fig 5:** 1 (b): Details of felled tree above, below rocky escarpment, C.136
- Fig 6:** Cpt.136 on ridge at end of Trail 2
- Fig 7:** Photo left: 2 bar drainage line mark beyond which multiple felled trees protruded well into drainage line. Photo right: felled trunk continues beyond photo and (soft) exclusion zone to near drainage line centre
- Fig 8:** Trees felled into rainforest and stuttering frog habitat drainage line exclusion zone
- Fig 9:** Trees felled into rainforest and stuttering frog habitat drainage line exclusion zone
- Fig 10:** Trees felled into rainforest and stuttering frog habitat drainage line exclusion zone
- Fig 11:** Above right citizen walks within exclusion zone within which trees have been felled and into which they have been often pushed. Cut stumps of trees illegally felled within exclusion are visible to the left of the figure in fore and mid- ground.
- Fig 12:** Compartment 136: Recorded 13/11/2010
- Fig 13:** Compartment 136: Recorded 13/11/2010
- Fig 14:** Compartment 135: *Recorded 13/11/2010*: Exclusion zone marker tree for both 2nd order stream and warm temperate rainforest pushed over (by the roots). Big machinery then marched up the hill through the rainforest destroying all in its path
- Fig 15:** Treatment typically afforded to currently unfashionable rainforest species
- Fig 16:** Note in far right photo left newly germinating *C. camphora* seedling ready to invade forest if burn doesn't consume all
- Fig 17:** This exclusion zone boundary is meant to protect endangered rainforest

A preliminary report on forestry operations in the *Lower North East Forest Agreement* region¹ by Nativesrule, (Citizen Action Group formed to address the emergency of observable clear felling of Native Forests in the Lower North Coast)

Introduction

This introduction is a citizen's perspective on the necessity of having to undertake community monitoring that should be done by two government departments, Forests NSW and the Department of Environment Climate Change and Water (DECCW), **or 'having to do the work of the government with neither remuneration or guarantee of justice'**.

In the Lower North East Regional Forest Agreement (RFA) area, Forests' NSW harvesting is not just unsustainable, but frequently illegal. The licensing conditions set out in an Integrated Forestry Operations Approval (IFOA) established through the Regional Forest Agreement are considered by independent scientists to be inadequate for ecological protection. Yet even these most minimal conditions are not adhered to.

Monitoring whether or not licence conditions are breached requires visiting sites in terrain made hazardous by the degree of soil disturbance, and the residue of waste left by logging operations. This means climbing over and through piles frequently 2-3 metres above ground level of smashed non target species left to die. The responsible citizen feels compelled to do this because of the obvious abuse by Forests NSW of its self assessment processes on the one hand, and the apparent absence from duty, and possible negligence of the state environmental regulatory authority, on the other, (i.e. the Department of Environment Climate Change and Water, DECCW).

The concerned citizen feels that she/he is witnessing a crime against civilised or *legal* society, in particular, but more alarmingly, potentially fatal crimes against precarious biodiversity, in general.²

It is an indictment of this society that government is condoning this environmental vandalism with what we collectively now know about impacting on earth's processes, and of the peril our natural systems are in.

That this is apparently carried out now with impunity, on most occasions³, on such a scale, *all the time*, discredits the NSW and the federal government, for the latter are also responsible for this RFA process permitting this environmental slaughter, and both levels of government will remain responsible, whoever is in power, as long as this situation is allowed to persist.

¹ Lower North East Integrated Forestry Operations Approval incorporating amendments, Forestry and National Park Estate Act 1998.

² "Earth is experiencing its sixth great extinction event and the new report reveals that this threat is advancing on six major fronts," says the report's lead author, Professor Richard Kingsford of the University of New South Wales. "Our region has the notorious distinction of having possibly the worst extinction record on earth." Loss and degradation of habitat is the largest single threat to land species, including 80 percent of threatened species. In Australia agriculture has modified or destroyed about 50 percent of woodland and forest ecosystems, and **about 70 percent of remaining forests are ecologically degraded from logging**. Extinction Crisis in Oceania, Conservation Biology, the first comprehensive review of more than 24,000 scientific publications.

³ Sydney Morning Herald, 13/1/2010. Forests NSW accused of breaching licence 50 times. In relation to further recent breaches by Forests NSW of the licensing conditions, the NSW Greens MP Ian Cohen said such breaches during logging were widespread. "The department doesn't have the resources to check out these areas, yet we know that these sorts of breaches go on all the time because Forests NSW and industry can get away with whatever they want," Mr Cohen said.

What is going on in NSW forests now makes a mockery of the Australian accrediting authority JAS-ANZ purporting to adjudicate on environmental sustainability, should that authority (knowingly) continue to accredit unsustainable practices in contravention of the IFOA of the RFA, as now administered by Forests NSW.

It is a travesty of common justice that citizens, who take the time to become aware of clauses within the IFOA legislation, (that they might do the work of the regulatory authority in their own time and at their own expense), have been rendered powerless to take legal action when the regulatory authority neglects to do so⁴.

That the regulatory authority usually only takes action in response to persistent community pressure, and even then fails to apply penalties that could possibly act as a meaningful economic deterrent, implies something amiss, and takes citizen confidence in the integrity of the government departments, or at least their competency, yet another step lower.⁵

This report is a sad testimony to the need of civil witnessing and recording of:

- inadequate flora and fauna surveys and recording before industrial machinery moves in and destroys habitat of threatened species
- poor and inadequate marking up procedures for features required to be retained and protected
- failure to retain adequate habitat trees and inadequate protection to the few permitted to remain standing
- wanton destruction of non target trees, many of which appear to have been deliberately pushed over to manipulate the planned regrowth of more desirable ‘mono-culture’ species, to satisfy temporal market requirements
- the cutting down and pushing over of marked trees meant to delineate exclusion zones (destroying the possibility of monitoring operations long term)
- trees and tree crowns routinely pushed over into drainage lines and rainforest exclusion zones so that post log burning will compound the effects of desiccation from wind now that these precious zones lie exposed
- the imminent destruction of endangered ecological communities and species as a result of the edge effects resultant from the removal of surrounding vegetation, including massive landscape scale weed invasion

and many other disgraceful environmental breaches and outcomes.

⁴ **Appendix 2:** Removal by statute of the right of third parties to prosecute in relation to non-adherence by Forests NSW or others to the Lower North East Integrated Forestry Operations Approval incorporating amendments, Forestry And National Park Estate Act 1998.

⁵ Northern Star, 6/8/2010 “Last week, Fisheries NSW issued two penalty infringement notices to Forests NSW for breaches of its Fisheries Licence at Yabbra State Forest. The breaches included logging in exclusion and buffer zones of unmapped drainage lines. **Forests NSW was fined \$1000.** The agency was also cautioned for ‘marking, recording and harvesting’ within wetland exclusion zones.” In this case Forests NSW was only fined once for numerous breaches on many streams. D.Pugh, NEFA commentator was right to observe that “Like anybody else, Forests NSW should be fined for each individual breach. These buffers on stream banks are required to be implemented to protect water quality and, in this case, the habitat of the endangered eastern freshwater cod.”

Most distressing is the fact that the forestry department, in being so intent on proceeding with this wilful destruction to meet its flawed wood supply agreement, conceals the truth of what is happening in the NSW landscape and misleads the public at meetings and in its published rationales.

The department operates behind a screen of legal denial. The almost labyrinthine set of prescriptions that are the IFOA licensing conditions have exceptions for many rules. Where they do not exist in face, they are created by interpretations. By reference to flawed environmental prescriptions, and with the option of operating with multiple exceptions to even the most basic ecological recommendations, Forests NSW is able to maintain that they undertake their activities legally, and therefore 'sustainably'. It is irrelevant that *everyone* can see the damage. In effect, the IFOA licensing conditions are the screen by which a plethora of environmentally destructive activities can be deemed legal, even sustainable.

Even then, breaches of regulations are regarded as 'accidental', subject to a minor fine, or a 'warning'. This lack of regulation makes it necessary for citizens to go in and measure what any eye can clearly see, i.e. that instead of 60% of harvestable wood remaining (and here substitute *habitat* also), in any one compartment, 2% is quite often all that really remains. It is a pathetic exercise to have to go in and measure stumps taken versus the volume of wood left standing, in order to prove that logging operations equate to square kilometres of precious native habitat destroyed and removed.

This is because of the already contentious, but still legal practices, i.e. Australian Group or Single Tree Selection (amongst others) imported from overseas into an Australian context, wherein they simply do not function and cannot protect this country's ecosystems, or their wood resources. While the limitation that these prescriptions impose is intended to stop broadscale clearfelling, they are misinterpreted and misapplied to condone intensive logging and clearfelling.

Being as obviously environmentally catastrophic as the existing licensing conditions of the IFOA are, (readily attested to by not only thousands of Australians, Forests NSW personnel who are willing to speak, and independent scientists)⁶, it seems almost a folly to even bother to document the numerous breaches. The licensing conditions with their arbitrary exclusions bear no relation to the reality of requirements for environmental preservation. They do not mirror established ecological standards for the preservation of terrestrial and aquatic biodiversity, water quality, soil health or prevention of the release of CO₂ into the atmosphere.

However the documentation must be done by the public despite the difficulties because the self assessment process under which Forests NSW operates is untenable, as is the intended back up process of regulation through DECCW. Neither department ensures compliance by Forests NSW with even this most limited set of environmental standards.

This report documents breaches of licensing conditions of the IFOAs in the Lower North East Regional Forest Agreement Area. The urgency of the need to convey this message to accrediting authorities and to the public is so great that there is simply not enough time to even commence to report in detail on the overall inadequacy of this RFA/IFOA arrangement to deliver sustainable biodiversity or future timber resource outcomes.

⁶ In addition to a body of independent scientists, Forests NSW personnel are also expressing their deep concern but are unable to speak or write publicly about this for fear of job loss. This however is documented and available on request.

What is easily witnessed, but less easily reported in writing, (though film and photography will convince the average person), is that the rate and scale of the logging operations is beyond what any native ecosystems could bear. It has already led to an extreme increase in threat to species diversity and is probably right now causing local extinctions.⁷

We hope that this report will assist in convincing the relevant authorities that accreditation of Forests NSW through Australian Forestry Standards should never have been given and should be immediately revoked.

REPORT FINDINGS

Harvest Planning

Information regarding the context of Forestry Operations in Kerewong State Forest in 2010 was obtained from Forests NSW prior to preparation of the harvest plan:

In March 2010, Nativesrule contacted the Harvest Planning Officer (HPO) (Central Region, Wauchope) to find out what was intended for the compartments which FNSW had advised would be logged in Kerewong State Forest compartments, C.134, 135 and 136.

When asked why it was now possible to log in this extremely steep and vulnerable terrain the FNSW officer advised that these areas would once have been out of bounds but that logging has now changed. To quote from the phone conversation: *“In this case since 6 yrs ago, FNSW wanted to log the unmapped drainage lines. It was this, (them being unmapped), that prevented them accessing the area. Now they don’t need to apply for licence coverage under the EPL. That is because Forests NSW (FNSW) have a self assessment risk management process whereby FNSW they (self) assess re whether or not they need to apply for licences in relation to pollution (sediment and fisheries issues). FNSW has assessed compartments 134, 135 and 136 from an Inherent Hazard Classification which registered likelihood of erosion as Hazard Class 2, (on a scale of 1-4), thereby exempting FNSW from applying for a licence from Fisheries in relation to soils and their dislodgement. Notwithstanding this it is FNSW intention to apply 5 m filter strips to unmapped drainage lines, and that slope limits in excess of 18 degrees will not be logged.”*

Later information given was that logging could occur on slopes up to 30 degrees.

In relation to their operations under the Threatened Species Act 1995, May amendment, the following response was provided: *The TSA needs to be adhered to and a pre-harvest survey underway for Threatened Species (TS) will refer to records on a dbase provided by DECCW, Bio-data (subsequent to the Wildlife Atlas). From these records FNSW will apply a set of rules for the survey dependent on likely threatened species.*

The HPO advised in a subsequent email that:

“This operation will be undertaken and be expected to adhere with the following legal requirements:

- *Licence Conditions issued by Forests NSW under the Forestry Act (1916)*

⁷ Australian Koala Foundation Report 2010 that Koalas are in much more peril than hitherto thought to be the case

- *State Forests of NSW Forest Practices Codes part 2 Timber Harvesting in Native Forests February 1999*
- *State Forests of NSW Forest Practices Code part 4 Forest Roads and Fire Trails (February 1999)*
- *Integrated Forestry Operations Approval issued under part 4 of the Forestry and National Parks Estate Act 1998 (IFOA) as amended May 2003*
- *Threatened Species Conservation Licence (TSCL) issued under the Threatened Species Conservation Act (1995) as amended May 2003*
- *Part 7 (Div 3) Fisheries Management Act (1994) as amended May 2003”*

As of March 22nd 2010 the approved Pre logging Flora & Fauna Report was not complete. The HPO undertook to provide this report once prepared, along with the Harvest Plan. These documents were not supplied until 25th August 2010, well after logging had commenced.

When asked how audits occurred it was explained that these are not a standard or routine event, i.e. that it is not mandatory for the authorised Department of Environment, Climate Change and Water (DECCW) to undertake these in relation to any given harvest operation under the IFOA.

Preliminary survey of compartments prior to logging:

Nativesrule undertook a pre-logging survey of compartments 134, 135 and 136 of Kerewong State Forest (KSF) in March and April 2010. During this process a variety of threatened species records and issues were identified. Records of all features with the exception of Stephen’s Banded Snake and the social tree were recorded by GPS points and with film. The latter was recorded on film alone, the batteries of the GPS having run out at that remote point in c.136.

These findings were reported to the regional ecologist.⁸ This occurred at a meeting 27/4/2010, the primary purpose of which was to alert Forests NSW to an escalation in the proliferation of Camphor Laurel, *Cinnamomum camphora*. Seedling germination of this noxious weed was occurring with the observable increase in light throughout Kerewong Cpt.136 as light penetrated from surrounding clearing by both AGS and single tree selection from surrounding areas. In 2009 FNSW personnel explained during an incidental meeting that this was a deliberate experiment in opening up the forest and altering light regimes to promote Blackbutt stand dominance.⁹

⁸ Notes from this meeting with regional ecologist April 2010 available on request.

⁹ An incidental meeting with FNSW personnel along Greens Highway occurred in 2008, well in advance of notice of the intent to log the unmapped drainage lines of Kerewong State Forest. The local citizen who took the opportunity to advise the forestry officials of the proliferation of *C.camphora* seedlings is a weed professional and founding member of the Mid North Coast Weeds Advisory Committee. From where they sat in their truck forestry workers could see the example the citizen glanced around to find, i.e. 20-30 seedlings within one metre to the side of the track. At a meeting with Forestry Officers 22/2/2011, the Planning Manager for Central Region advised that he was one of those workers to whom this was reported at this incidental meeting.

Threatened species/markings and/or potential habitat features identified to the ecologist during preliminary community survey and prior to finalisation of harvest plan were:

- Koala (pock) claw marks identified in all compartments a social tree identified in c.136. A social tree is
- Stephen's Banded Snake, adjacent to compartment 134.
- Habitat trees and stags (all compartments)
- Rocky outcrop microbat habitat (compartment 136)

(The ecologist agreed he had found all those features with the exception of Koalas which he did not rule out as a possibility, explaining that he had had little time to search compartments).

It had been observed that germination of *C. Camphora* had been increasing, corresponding with greater light penetration of these compartments following heavy logging in surrounding ridgelines of both Kerewong and adjacent forests.¹⁰ In the 2010 community inspections, *C. camphora* was found to be germinating across all terrain types in all compartments. At times this was in extreme density, 10-15 seedlings per m² being recorded. It occurred as both seedling and as young trees, the former ranging typically between 2 cm – 6 cm, the latter 0.25 - 0.5 m. The young trees tended to exist on tracks or along drainage lines under canopy, whereas the seedlings were scattered through all types of terrain and often occurred quite far from tracks, and where canopy was thinner.

It is greatly feared that this noxious weed will come to dominate Kerewong State Forest as a result of this logging operation, (and in particular precious drainage lines), regardless of planned pre or post logging fires. The reason for this is that the weed is presenting also along drainage lines where fire is not encouraged. (However the intrusion of logging debris into those exclusion zones against prescriptions will assist fire to penetrate those areas).

If fire does not penetrate the precious rainforest remnants typically lying within and around drainage lines, *C. camphora* is likely to increasingly dominate them over a short time. If fire does penetrate them they, and numerous rainforest species, will be destroyed by that. It is obvious that it is dangerous to open up these remnants to the edge effects of increased light, desiccation and weed invasion by removal of surrounding vegetation and dropping trees into them.

Logging in this manner in KSF, and indeed any of these hardwood forests along the coast and coastal hinterland, where the Endangered Ecological Communities Warm Temperate and Lowland Subtropical Rainforests exist, is therefore a threatening process and this style of logging in these contexts needs to be declared as such. There is now irrefutable evidence that Camphor Laurel (and other weed invasion) proliferates with silvicultural practices such as AGS or single tree selection,¹¹ and indeed any other highly mechanised method. Vehicles and heavy machinery are notorious for weed spread. Having heavy machinery traverse a forest landscape is like asking for weed invasion. These styles of

¹⁰ The increase in *C.camphora* germination was first observed by citizens in 2008.

¹¹ The Invasive Species Council Submission re Review of Noxious Weeds Act 1993, Appendix 3, Case study of ISC Appendix 3 Forestry and Weed Invasion, February 2011

logging operation promote excess light, spread weed seed on machinery and permit light and weed seed to penetrate and flourish in previously closed and protected canopies.

Pre-logging Breaches:

Pre- logging breaches identified included:

- Inadequacy of Flora and Fauna Survey
- Nil or inadequate mark up in relation to a range of features identified on the harvest plan
- Inadequate mark up of drainage lines:
- Nil mark up in relation to retention of habitat/food sources for threatened species
- Failure to consider weeds as a problem and identify mitigation measures

Inadequacy of Flora and Fauna Survey

Forests NSW's official opinion is that allocations of time provided for Flora and Fauna surveys under the IFOA conditions are adequate. The opinion of Forests NSW personnel however can be that these are not adequate,¹² and this has been proven.

In April 2010 koala presence reported as likely in Cpt. 136¹³, and known from previous records, was undetected in pre-logging Fauna survey. The appropriate searches were not undertaken, despite confirmed sightings and Kerewong being preferred habitat. That Kerewong is a 'preferred forest types' was confirmed by FNSW personnel at a meeting 22/2/2011.¹⁴

The presence of koalas has since been re-confirmed by three separate reports, sound and sightings in late 2010. This was reported to FNSW at meeting February 22nd 2011, to ensure comprehensive future searches and official recording of sightings.

It is obvious that 4 person hours per 200 ha for a fauna survey and 6 person hours per 200 ha for a flora survey is not an adequate allocation of time to do a thorough survey for the presence of threatened species, (particularly if there should be multiple records). Nor does it allow for comprehensive recommendation of measures to protect those species and their habitat from the impact of the heavily industrialised conditions that now prevail in a compartment undergoing *heavy* single tree selection.

The need for adequate surveys is highlighted by the fact that many prescriptions are only applied to known localities. If a threatened species requiring prescriptions to reduce logging impacts is not found then the prescription is not applied.

¹² Meeting 27/4/2010

¹³ The community reportings were based on studying individual trees for marks identical to thick indentations or pock marks purported to be a more reliable indication of koala use than scratches. Citizens in pre harvest survey were not at that time aware of star search or transect methods.

¹⁴ Only a traverse of the compartment was undertaken prior to logging and this by the regional ecologist. None of the searches or mark up for koalas occurred despite the trigger for these existing in Kerewong (recorded species; preferred habitat) and therefore required under the Threatened Species Licence (See Appendix 3). This was admitted by Planning Manager Central Region at meeting 22/2/2011.

This situation is exacerbated by the fact that logging contractors with neither training nor experience in threatened species protection are left to fell the landscape, largely unsupervised, and sometimes without adequate, or any, mark up of exclusion zones.¹⁵ This latter has been admitted now by FNSW personnel. (See next section),

It has been proven in KSF compartments 134, 135 and 136 that the IFOA conditions are grossly inadequate to protect Koalas. The problem is exacerbated by Forests NSW's refusal to implement the limited requirements. There was a total failure to follow up records of Koalas and to undertake the pre logging mark up that could have identified their presence in specific locations. (The community survey succeeded in this in part, but the 'professional' Forests NSW survey did not). As a result of this koala habitat was logged without any attempt to exclude core areas or otherwise mitigate impacts.

Nil or inadequate mark up of a range of features identified on the harvest plan

During pre and post logging survey by private citizens it was found that there was either nil or inadequate mark up in relation to range of features identified on the harvest plan.

As a preamble to reference to neglecting to mark features the FNSW appendices to the Harvest Plan are referred to and in particular Appendix 2 – Tree Marking Code. Re trees to be retained it states, “Retained trees referred to in this plan must be marked. The only exception to the marking of the retained trees can occur where the understorey consists of thick impenetrable lantana greater than one metre high or other impenetrable understorey. The SFO must document and justify such situations as it becomes apparent during compartment mark-up.” The exception provided for in Appendix 2 does not occur in KSF Cpts. 134, 135, or 136.

Nil mark up of drainage lines

Compartment 135: 3 ha area of the northernmost extremity of the zone logged (in this 2010 operation). Recorded 18/2/2011. No mark up was made of exclusion zones that should have been identified around the 1st and 3rd order drainage lines (between 459000 and 460000).

It is relevant at this point to report that during a meeting with the Central Region Planning Manager 22/2/2011 he stated that a possible cause of non-mark up of exclusion zones in Cpt. 135 could have been because trials were being conducted that involved providing logging contractors with GPS and maps. This is a feeble excuse given the widespread failure to mark-up such features (see Pugh 2011), and does not negate the illegality of the operations.

¹⁵ That is, machinery operators with nil ecological training rely on visual marks and a harvest plan when felling in sensitive ecological terrain. Forests NSW officials are not necessarily present. There can be inadequate or missing essential mark up. This is because there have been moves to omit the stage of 'mark up' personnel and give contractors maps and GPS access and let them loose in the environment. Perhaps this absurd scheme, to eliminate the 'mark up' teams which would translate ecologists' prescriptions into exclusion zones visible within the forest, is indicative of the commitment of Forests NSW to protection of threatened species. Industry action put a stop to this scheme obviously designed as a factor in an economic rescue for a failing government department suffering disastrous fiscal effects of a flawed wood supply licence with BORAL.

Inadequate mark up of drainage lines

Compartment 136: Recorded 13/11/2010: An exclusion zone marker that should have been at least 30, (possibly 40) metres from stream was 9 metres from centre of stream.¹⁶ GPS 56J 0458962; UTM 6500783. (At this point ridge and headwater habitat meet a 3rd order stream so it is difficult to ascertain whether the marker should have been at 30 or 40 metres from stream centre).

Nil mark up in relation to retention of habitat/food sources for threatened species

Compartment 136: Nil mark up occurred for Koalas – refer to Appendix 3 and note that Kerewong State Forest has been acknowledged as a ‘preferred’ forest type. Forests NSW personnel have admitted there has been nil mark up as per prescriptions for koalas, pre-logging.

Compartment 136: Despite threatened species sightings and their feed trees being identified in pre logging fauna survey and recorded on harvest plan, there is no mark up of the individual trees that are required to be retained. This is the case with the Yellow Bellied Glider food sources.

On 22nd February 2011, when members of Nativesrule met with Forests NSW personnel re threatened species protection, a Nativesrule member requested that the ecologist and planning manager identify the trees marking Yellow Bellied Glider feeding marks and sightings, and then indicate which trees had been marked for retention, within the 100 and 200 metre modified felling habitat areas marked on the harvest plan. The Forests NSW workers admitted that they were unsure of where the trees where although they could see the modified exclusion zone marked on the harvest plan. It was agreed all would go to have a look; this did not occur. Nativesrule members cannot find any trees marked for retention as food source for Yellow Bellied Gliders.

Extract from the Flora and Fauna survey re the Yellow Bellied Glider:

- Records (heard and observed) occur within the compartments.
- Within a 200 metres radius of a Yellow-bellied Glider call detection site record, 15 feed trees must be retained. Retained feed trees must have good crown development and should have minimal butt damage and should not be suppressed. Mature and late mature trees must be retained as feed trees where these are available. *Retained trees must be marked for retention.*
- Within a 100 metres radius of each retained Yellow-bellied Glider sap feed tree, observation or den site record, 15 feed trees as described above must be retained. Yellow bellied Glider sap feed trees must not be counted towards these 15 feed trees. *Retained trees must be marked for retention.*
- Trees retained must be of the same species as the sap/den tree or should be trees which shed their bark in long strips

It appears that this prescription from the Terms of Licence under the Threatened Species Conservation Act 1995 for the LNE has been contravened, i.e. that “*Retained trees must be marked for retention*”. Given this failure, nobody can be confident that the prescription to retain the required trees of the necessary types and growth stages has been complied

¹⁶ Ridge and headwater exclusion zone met 3rd order stream at this point

with. There is thus no evidence that any attempt has been made to implement any part of the prescription for Yellow Bellied Glider,

Failure to consider weeds as a problem and identify mitigation measures

Nativesrule's assessment found Camphor Laurel to a significant and growing problem. Despite our entreaties the Harvesting Plan failed to consider this threat to the condition and species composition of the forest, and failed to consider how this impact could be mitigated. This is an abrogation of their responsibilities.

The IFOA (2.7.1) requires that in carrying out forestry operations "SFNSW must give effect to the principles of ecologically sustainable forest management as set out in Chapter 3 of the document entitled, "ESFM Group Technical Framework". 3.2.1.3 'Forest ecosystem health and vitality' states:

- *ensure the effects of activities/disturbances within forests, their scale and intensity, including their cumulative effects are controlled and are benign;*
- *restore and maintain the suite of attributes (ecological condition, species composition and structure of native forests) where forest health and vitality have been degraded.*

The IFOA (4.26) requires:

SFNSW must ensure that the scale and intensity at which it carries out, or authorises the carrying out of, forest products operations in any part of the Upper North East Region, does not hinder the sustained ecological viability of the relevant species of tree, shrub or other vegetation within the part.

The Australian Forestry Standards state:

4.5 Criterion 5—Forest management shall maintain forest ecosystem health and vitality

4.5.1 The forest manager shall identify, assess and prioritise any potential damage agents (such as weeds, insect and vertebrate pests and diseases and pathogens) that may impact on forest ecosystem health and vitality.

...

4.5.2 The forest manager shall implement practices to support the maintenance of forest ecosystem health and vitality and ensure that damage stays within tolerable levels. Management shall include procedures for forest health surveillance and control or eradication of damage agents.

...

4.5.4 The forest manager shall manage forests that have been degraded by damage agents to facilitate their rehabilitation.

Potential breach of conditions: Tracks were cut into forest prior to preparation of harvest plan – c. 135. Although a roading plan was provided the columns to indicate dates when works would occur was blank. Appendix 4.

Post-logging breaches

Post logging community teams surveyed compartments 135 and 136 identifying breaches of IFOA licence conditions. Dates: 5/9/2010, 13/11/2011,16/11/2010,16/2/2011, 22/2/2011, 23/2/2011.

Post logging operational breach types included:

- tree retention
- exclusion zones
- the harming of threatened species/endangered ecological systems

In relation to tree retention:

- Inadequate numbers of habitat and recruitment Trees retained per 2 ha
- Inadequate condition of habitat trees retained
- Inadequate nature of recruitment trees retained
- Non removal of logging debris from the perimeter of habitat trees
- Habitat trees felled
- Stags felled (in situations where they do not present a danger to logging operations)

The following table lists the condition/existence of some of the habitat and recruitment trees retained in a definable area.

It is impossible to assess whether any better quality trees existed for this purpose as all large trees have been felled. Large stumps indicate there would have been better mature trees for retention or recruitment as habitat trees.

Compartment 136: extreme end CPT 136/2 trail

Marked Habitat and Recruitment Trees: Crown Development (P:poor, M:moderate, Good). Butt damage (% circumference), Growth Stage (Y: young, M: mature, LM: Late Mature, S:senescent).

	<i>Species</i>	<i>Diameter</i>	<i>Crown (P/M/G)</i>	<i>Butt damage %</i>	<i>Growth (Y/M/LM,S)</i>
Habitat 1	White Mahogany?	750 mm	P	30%	S
Recruitment	No recruitment tree				

Comments: This tree exhibiting butt damage, on the margin of the 4 bar rainforest exclusion zone at the base of the logging slope, is very close to stuttering frog and yellow bellied glider habitat. Low debris surrounds 50% of circumference being branches and trunks and dead leaves of trees felled into/near the tree. The tree being at the very edge of the exclusion zone of the rainforest can easily burn in the post-log fire as with all H trees in this compartment, most being near rainforest margin. This poses high risk to rainforest exclusion zone. No corresponding recruitment tree marked. This is a gross oversight as multiple potential trees of sufficient size would have sufficed but lie around the immediate area, felled, picked or pushed over, Numerous rainforest species also killed. GPS:56J 0458262;UTM 6499743

	<i>Species</i>	<i>Diameter</i>	<i>Crown (P/M/G)</i>	<i>Butt damage %</i>	<i>Growth (Y/M/LM,S)</i>
Habitat 2	Not recorded	750 mm at breast height but totally hollow; fully burnt out to beyond chest height	Very poor crown	Impossible to measure almost as all burnt and only thin sections remaining to ground	S
Recruitment	No apparent recruitment tree				

Comments: Debris completely surrounds habitat tree at height of 2 metres. Stacked up against tree are: branches, trunks and dead leaves of trees felled into/near the tree. It is also at the very edge of the exclusion zone of the rainforest thereby inviting fire into exclusion zone. As with H tree 1, no corresponding marked recruitment tree. GPS: 56J 0458248; UTM 6499788

	<i>Species</i>	<i>Diameter</i>	<i>Crown (P/M/G)</i>	<i>Butt damage %</i>	<i>Growth (Y/M/LM,S)</i>
Habitat 3	Not recorded	Max 1 metre	P	Hollow burnt out base	S
Recruitment	Nil sighted at this point in the vicinity of 4 bar exclusion zone				

Comments: Habitat tree consisted of 3 forked trunk sections of a burnt out trunk covered in debris. Photo depicts hollow core, hollow from ground up. Very difficult to ascertain whether this tree was within exclusion zone owing to the zig-zagging nature of exclusion zone. No marked recruitment tree visible. The tree is completely surrounded by major trunks, branches full of dead leaves and many rainforest trees around it which indicate it is actually within a botanical rainforest area. Next to it an Allocasuarina with a GB sign perhaps for a feed tree for Glossy Black Cockatoo, but with almost no canopy, i.e. in poor condition, just as there was almost no canopy with the adjacent Habitat Tree. GPS: 56J 048261; UTM 6499780

	<i>Species</i>	<i>Diameter</i>	<i>Crown (P/M/G)</i>	<i>Butt damage %</i>	<i>Growth (Y/M/LM,S)</i>
Habitat 4	Not recorded	Not recorded	P	50% of butt is missing	S
Recruitment	Nil				

Comments: A high amount of debris, at least 50% of circumference is surrounded by branches and trunks and dead leaves of trees felled into/near the tree which itself is at the very edge of the exclusion zone of the rainforest. Impossible to record diameter as base is

entirely hollow, burnt out for at least 2 metres above ground. GPS: 56J 0458305; UTM 6499936

	<i>Species</i>	<i>Diameter</i>	<i>Crown (P/M/G)</i>	<i>Butt damage %</i>	<i>Growth (Y/M/LM,S)</i>
Habitat 5	Not recorded	Not recorded; difficult owing to butt damage	P	Butt damage continues up length of trunk 6-8 metres	S
Recruitment	Nil				

Comments: The tree is dying. Extensive termite tracks are visible all butt length with mound about 6 metres up. A high amount of debris, at least 50% of circumference is surrounded by branches and trunks and dead leaves of trees felled into/near the tree which itself is at the very edge of the exclusion zone of the rainforest. GPS: 56J 0458326; UTM 6499923 *Note:* For H trees 4 and 5, the diameter and species were not recorded because these are burnt out shells which did not have entire trunks and diameter is a meaningless term in this situation.

Inadequate condition of habitat trees retained

The notes describe the condition of habitat trees. In most cases across all compartments they are in late senescence; occasionally a young tree lacking an *apparent* hollow is marked. Those in late senescence are often burnt out at base without a full complement of trunk attached to the ground.



Fig 1: Typical condition of marked Habitat Trees. Note lack of basal trunk and termite damage. Cpt 135: GPS: 56J 0459746; UTM 64995533

Inadequate condition of recruitment trees retained

Where they are marked, recruitment trees are not sound, healthy, vigorous mature or late mature trees. Stumps that exceed them in size are common. The recruitment trees often have poor crowns and are immature specimens.

Non removal of logging debris from the perimeter of habitat trees – this was the norm, never the exception. Not one instance occurred where the base of a habitat tree was free from debris. In almost all cases habitat trees were *completely* surrounded by logging debris, comprising dead trunks, crowns, branches and leaves. Often debris was in piles metres high around habitat trees. There appears to be a deliberate intent to facilitate their burning in the post-logging burn.

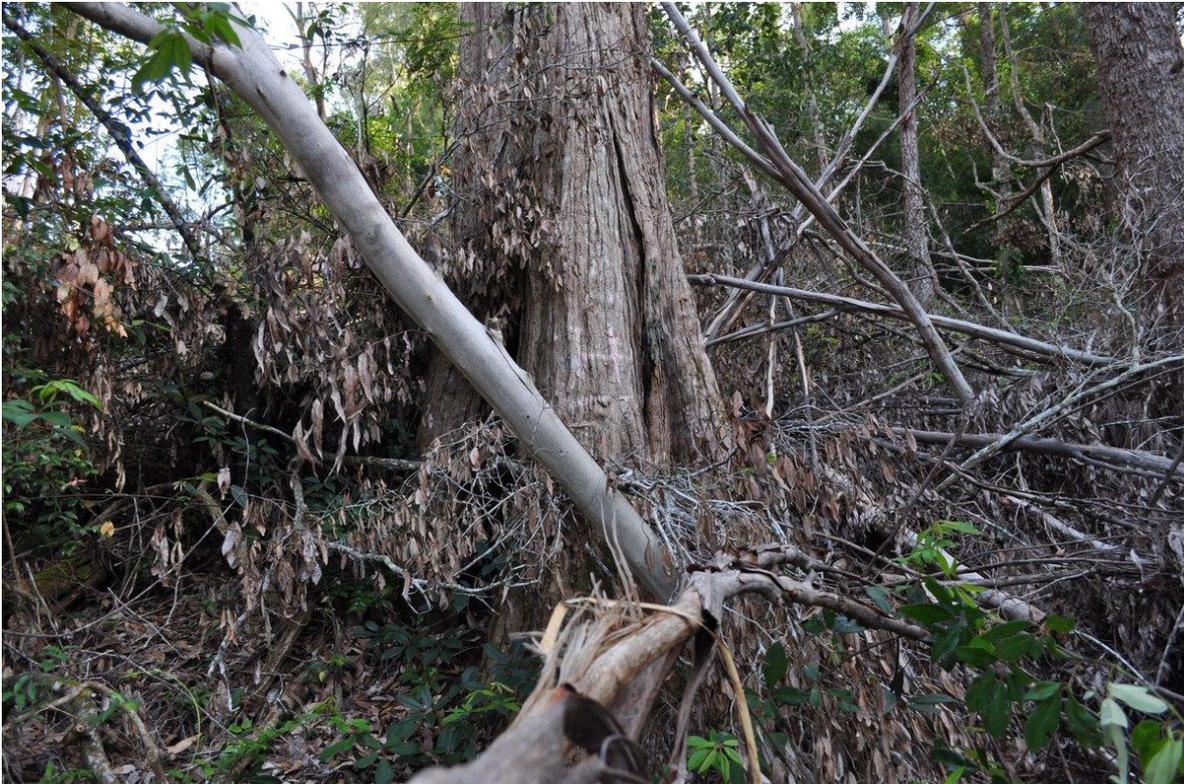


Fig 2: Habitat Tree 3, Cpt.136 GPS: 56J 048261; UTM 6499780.



Fig 3: The base of Habitat Tree 3 (C.pt 136): a burnt out hollow, now surrounded by and filled with debris, waiting to be annihilated in the post logging burn. GPS: 56J 048261; UTM 6499780

Habitat Trees Felled

Trees that could have provided habitat lie felled, abandoned, not marked, not retained, not used



Fig 4: 1 (a): Below rocky escarpment C.136: Cut, abandoned trunk of un-marked, potential habitat tree now useless for arboreal species. GPS: 56J 0458911; UTM 6500571



Fig 5: 1 (b): Details of felled tree above, below rocky escarpment, C.136 GPS: 56J 0458911; UTM 6500571

Habitat Trees/Stags Felled This felled stag (Fig 6 (a)), was in far better condition than most habitat trees left remaining. At least it has a semi solid base, instead of being just a burn out hollow with butt damage, as for example, Habitat Tree 4, Fig 6 (b)



Fig 6a: (Left) Felled stag Cpt.136 on ridge at end of Trail 2
GPS: 56J 0458315; UTM 6499987

Fig 6b: (Right) Condition of Habitat tree 4, near felled stag.
GPS 56J 0458305; UTM 6499936

In relation to exclusion zones:

Trees felled into marked drainage lines. This occurred in all compartments

Compartment 136: Recorded 5/9/2010: Along the eastern boundary of the section multiple trees pushed into 2 bar exclusion area of riparian zone. This was apparently deliberate and cannot be attributed to an unavoidable accident. GPS 56J 0459350; UTM 6500528



Fig 7: **Photo left:** 2 bar drainage line mark beyond which multiple felled trees protruded well into drainage line. **Photo right:** felled trunk continues beyond photo and (soft) exclusion zone to near drainage line centre GPS 56J 0459350; UTM 6500528

Compartment 136: Recorded 13/11/2010: Multiple trees pushed into 3 bar exclusion areas and all along the northern boundary of the section into 40 metre protection zone of ridge/headwater habitat area and 3rd order stream. This was apparently deliberate and cannot be attributed to an unavoidable accident. GPS 56J 0458962; UTM 6500783

Trees felled *into* rainforest exclusion zones

Compartment 136: Recorded 13/11/2010: Along northern boundary of what is simultaneously Stuttering Frog and rainforest exclusion zone, multiple trees pushed down or picked beyond exclusion marker. GPS 56J 0458147; UTM 6499822



Citizen at level point between exclusion zone markers indicating boundaries.

Photos below trees and debris within exclusion zone along many areas of boundary length.



Fig 8: Trees felled into rainforest and stuttering frog habitat drainage line exclusion zone



Trees and debris within an exclusion zone established to protect rainforest and rare and threatened Stuttering Frog and Yellow Bellied Glider habitat. Not only is the rainforest and this significant drainage line/ridge and headwater habitat now to be subjected to drying winds (desiccation), but it is also likely to **BURN** when the post log fire ignites the debris within the exclusion zone. It is directly threatened by dried out eucalypt trunks branches and leaves. These would not have existed pre-logging and pre-breach in this inflammable state.

With a hot fire the endangered ecological system and individual threatened species' habitat will be destroyed. **Without a fire** hundreds of Camphor Laurel seedlings now germinating along this boundary can invade the rainforest within the drainage line to eventually dominate and render it a virtual monoculture incapable of sustaining biological diversity.

Recent new studies from the CSIRO have confirmed previous suspicions in relation to *C.camphora*, i.e. that it not only damages aquatic and other life forms but also water quality. As FNSW were warned of this situation repeatedly prior to and during the preparation of the harvest plan and failed to respond adequately to this risk, they can be accused of gross environmental negligence. The drainage lines of the forested hinterland are the primary source of water for the catchment. Through their operations FNSW are endangering the entire Camden Haven River system.

Had adjacent canopy been retained and this eucalypt logging debris not been pushed into exclusion zone, the dangerous scenario presented in photo right would not have been possible.

Fig 9: Trees felled into rainforest and stuttering frog habitat drainage line exclusion zone



Fig 10: Trees felled into rainforest and stuttering frog habitat drainage line exclusion zone

Trees felled *within* rainforest exclusion zones

Compartment 136: Recorded 16/2/2011: In the Stuttering Frog and rainforest exclusion zone two trees are felled. These are independent of multiple mixed species felled and left protruding into rainforest (and drainage line) exclusion zone. **Stump 1:** GPS 56J 0458271; UTM 6499736

Stump 2: GPS 56J 0458271; UTM 6499739

The two stumps are visible in the fore and mid-ground of the photo (left below), in which citizen indicates exclusion zone boundary, this being west of the eastern marker more clearly visible in photo (centre below).



Fig 11: Citizen walks in exclusion zone within which trees have been felled. Cut stumps of trees illegally felled within exclusion are visible to the left of the figure in fore and mid-ground, (right) which is at GPS 56J 0458271; UTM 6499739

Trees felled *within* 30 metre drainage line exclusion zones Cpt. 136



Fig 12: Compartment 136: Recorded 13/11/2010:

Along the northern boundary of Cpt.136, below the rocky outcrop, where multiple trees were pushed into 30 metre drainage line exclusion area, not only were marker trees felled, but multiple trees pushed into 3 bar exclusion areas. GPS 56J 0458962; UTM 6500783. At least 5 logs were also cut within this exclusion zone. GPS 56J 0458947; UTM 6500761.



Exclusion zone marker trees felled and/or destroyed. GPS 56J 0458962; UTM 6500783

Fig 13: Exclusion zone marker tree pushed over GPS 56J 0458962; UTM 6500783 .

Exclusion zone marker trees for 2nd order drainage line felled along Tipperary Road, just before Green's Highway.



Fig 14: Compartment 135: Recorded 13/11/2010: Exclusion zone marker tree for both 2nd order stream and regenerating subtropical lowland rainforest ecotone. Tree has been pushed over (by the roots). Big machinery then marched up the hill smashing regenerating rainforest.

Harm to threatened species and endangered ecological stems

In relation to the harming of threatened species and/or ecosystems, there are innumerable examples throughout all compartments. The species comprising endangered ecological systems are regularly pushed over, appearing as if bulldozed, entire root balls exposed and left drying out in the sun. This has occurred with Lowland Subtropical and Warm Temperate Rainforests and has included the destruction of the following rainforest (and other, trees and shrubs):

Common	Botanical
Typically destroyed along and within exclusion zone boundaries and in logging areas	
White Beech	Gmelina leichhardtii
Coachwood	Ceratopetalum apetalum
Crabapple	Schizomeria ovata
Veiny Wilkiea	Wilkiea huegeliana
Scentless Rosewood	Synoum glandulosum
Brush Box	Lophostemon confertus
Macleay Laurel	Anopterus macleayanus
Bangalow Palm	Archontophoenix cunninghamiana
Blueberry Ash	Elaeocarpus reticulatus
Red Ash	Alphitonia excelsa

Black Wattle	<i>Callicoma serratifolia</i>
	<i>Neolitsea dealbata</i>
	<i>Neolitsea australiensis</i>
Wonga Wonga Vine	<i>Pandorea pandorana</i>
	<i>Cryptocarya meissneriana</i>
	<i>Cryptocarya microneura</i>
	<i>Cryptocarya rigida</i>
Native Ginger	<i>Apinea</i> sp
	<i>Syzygium</i>
In exclusion zone	
Horseshoe Fern	<i>Pyrrosia rupestris</i>
Water Gum	<i>Tristaniaopsis laurina</i>
On ridges	
NSW Xmas Bush	<i>Ceratopetalum gummiferum</i>
Crinkle Bush	<i>Lomatia silaifolia</i>
Pine leaved Geebung	<i>Persoonia pinifolia</i>
Elk Horn	<i>Platycerium</i> sp
Flannel Flower	<i>Actinotus helianthi</i>



Fig 15: Treatment typically afforded to currently unfashionable rainforest species. 30-40% of these forests is export pulp. BORAL business plan is to expand pulp harvest for various uses including composite wood products. Fine timbers for cabinet making and the various complex uses possible from mixed species forests are not required by multinational with extraction licence, hence the destruction. *Note:* Far right lower corner newly germinating *C.camphora* will invade forest if burn doesn't consume all.



Figs 17, 18: This exclusion zone boundary is meant to protect endangered rainforest. Note the buttressed rainforest species with epiphytes clinging to branches. In the middle of the piled debris of marginal species, *r/f* species are piled to be destroyed in the post log burn. GPS 56J 0458962; UTM 6500783 .

Breach of silvicultural prescription

That is, a *non adherence to prescriptions described in harvest plan for Kerewong Compartments 134,5 and 6 in 2010*. This pertains to requirement to retain at least 60% of harvestable basal area of wood in compartments, i.e. not exceed a cutting regime of more than 40% of basal area wood when undertaking single tree selection.

Before reporting on this breach a preamble is necessary. It appears that the harvest plan is in itself in breach of the spirit, i.e. the professed intent of the RFA and of the IFOA conditions, if not the law, in that there has been a *conscious decision* to exceed, in

approximately half the net harvestable area of the 3 compartments (171.2 ha), the recommended 40% limit of basal net wood removal intended by the silvicultural prescription Single Tree Selection and to remove instead in this logging operation, 78% of basal wood available.

The FNSW harvest plan purports to justify this by defining the net harvestable area to include areas of forest not part of this operation. It includes areas not scheduled for felling until 2016.

It is not difficult to argue that removal of 78% of basal wood presents extreme difficulties to species hitherto reliant on the existence of **trees** in the half of Kerewong State Forest compartments 134, 5 and 6 undergoing *the operation*. Also no allowance is made for the ecological impact of damage to associated shrub, understorey and groundcovers totally destroyed as a consequence of the sanctioned destructive movements of heavy industrial machinery taking 78% of basal wood, as they traverse every inch of the terrain not "protected" by an exclusion zone. This is indeed a single tree selection operation that can only be described as virtual clear felling.

It is also easy to argue that this level of cut is not sustainable in that it is destined to promote understorey thickening, proven causal factor of Bell Minor Associated Dieback, (BMAD), itself a direct threat to the existence of the forest, and a process threatening to biodiversity.¹⁷ This latter technical phrase actually means that BMAD threatens native species, plants, animals, micro-organisms - in short ecosystems - with extinction. (Bell minors have been heard in areas of thickened understorey in KSF). To the knowledge of this author neither studies nor monitoring of this process deemed threatening to biodiversity and directly linked to logging, has been or is being undertaken in these forests by FNSW. It is as if the problem/threat does not exist.

However the logic of defining the harvestable area as all that could be logged within 5 years begs the question: When in five years Forests NSW comes back to take the rest of Kerewong State Forest (2016), what will they try to use as the basal area offset then? Half of the forest area has already been cut with the utmost severity, in excess of 78% of net basal wood available. The IFOA derived Harvest Plan states that "Patches of young regeneration should be retained and protected as far as practicable". It can be seen that the area scheduled for logging in 2016 contains a lot of regenerating younger patches of regrowth from previous forays into the ecosystems.

In counting the non logged area, not scheduled for logging until 2016 as an offset for this operation, FNSW claimed they could legitimately take 78% of basal wood instead of the prescribed 40%. This *should* mean that in 2016 they will only be able to take 2% of the half that remains, if that, for much of it is actually 'regenerating young patches'.

Or will they again try to use an 'offset'? Will it be argued that the 50% of Kerewong Forest compartments 134, 5 and 6 already massacred can be counted toward a future net basal wood offset area?

¹⁷ **BMAD**: ('Forest eucalypt dieback associated with over-abundant psyllids and Bell Miners') listed by the NSW Scientific Committee, established by the Threatened Species Conservation Act, as a Key Threatening Process in Schedule 3 of the Act. It is well established that a primary cause is over-logging promoting understorey thickening along with Lantana invasion, Lantana being a Weed of National Significance spreading without abatement due to logging in NSW east coast forests.

Tree retention: felling exceeds 40% of harvestable wood in compartments.

Compartment 136: Section 1: At the base of the rocky outcrop exclusion zone visible on the harvest plan, in an area approximately .5 ha, all except 5 trees over 20cm within harvestable area (*non exclusion zones*) were removed. Surveyed 16/10/2010.

Description: MGA(corners or centre for circles): Diameters measured across top of stump or at breast height for live trees. For stags or old stumps identify under species. Exclude trees <20cm dbh. Crown Development (P:poor, M:moderate, G:good). Butt damage (% circumference). Growth Stage (Y:young, M: mature, LM: Late Mature, S:senescent). Suppressed (Y/N). Marked for Retention (Y/N, type)

Species	Easting MGA	Northing MGA	Removed (Y/N)	Diameter cm	Crown (P/M/G)	Butt damage %	Growth Stage (Y/M/LM,S)	Suppress Y/N	Marked Y/N
Eucalypt	56J04.58894	UTM65.00582	Y	50					
Eucalypt	56J04.58896	UTM65.00583	Y	41					
Eucalypt	56J04.58905	UTM65.00585	Y	73					
Eucalypt	56J04.58912	UTM65.00578	Y	29					
Eucalypt	56J04.58908	UTM65.00590	N	61	P	-	Y	N	Y[R]
Flooded Gum	56Jo4.58899	UTM65.00574	Y	77					
Black Butt	56J04.58901	UTM65.00572	N	61	P	20%	Y	N	N
White Mahogany	56J04.58911	UTM65.00564	Y	95					
Black Butt	56Jo4.58914	UTM65.00592	Y	45					
Eucalypt	56J04.58919	UTM65.00595	Y	42					
Black Butt	56J04.58920	UTM65.00593	Y	85					
Flooded Gum	56J04.58930	UTM65.00595	N	45	P	-	Y	N	N
Black Butt	56J04.58924	UTM65.00574	N	39	P	-	Y	N	N
Casuarina	56J04.58924	UTM65.00574	N	75					
Black Butt	56J0458932	UTM65.00566	Y	74					
Casuarina	56J04.58938	UTM65.00558	Y	29					
20 trees [50% Casuarina,50% Black Butt,av.diameter-30cm,next to big habitat tree									
Black Butt	56J04.58956	UTM65.00588	Y	80					
Black Butt	56J04.58959	UTM65.00580	Y	59					
Black Butt	56J04.58966	UTM65.00580	Y (smashed not cut)	35					
Black Butt	56J04.58972	UTM65.00574	Y	33					

Species	Easting MGA	Northing MGA	Removed (Y/N)	Diameter cm	Crown (P/M/G)	Butt damage %	Growth Stage (Y/M/LM,S)	Suppress Y/N	Marked Y/N
			(smashed)						
Tallowwood	56J04.58972	UTM65.00578	Y (smashed)	31					
Black Butt	56J04.58946	UTM65.00590	Y	70					
Black Butt	56J04.58947	UTM65.00594	Y	67					
Black Butt	56J04.58950	UTM65.00596	Y	71					
At northeast corner original stump there were multiple trees pushed over with an average diameter of 20 Blackbutt, Casuarina and Tallowwood amongst others									

Summary of tree retention in Compartment 136 section 1: In this area in excess of 80% of harvestable wood was felled. Innumerable other non target species with stumps in excess of 20 centimetres were 'picked', i.e. smashed or cut and left on ground.

Compartment 136: Section 2: Again at the base of the rocky outcrop exclusion zone visible on the harvest plan, between ridge and headwater habitat and 3rd order stream marked on harvest plan, adjoining previous surveyed area, this section being approx. 1.8 ha. All trees over 20cm within harvestable area (non exclusion zone) were removed. Surveyed 13/11/2010 and 4/12/2010.

Description: MGA(corners or centre for circles): Diameters measured across top of stump or at breast height for live trees. For stags or old stumps identify under species. Exclude trees <20cm dbh. Crown Development (P:poor, M:moderate, G:good). Butt damage (% circumference). Growth Stage (Y:young, M: mature, LM: Late Mature, S:senescent). Suppressed (Y/N). Marked for Retention (Y/N, type)

Species	Easting MGA	Northing MGA	Removed (Y/N)	Diameter cm	Crown (P/M/G)	Butt damage %	Growth Stage (Y/M/LM,S)	Marked Y/N
Grey Gum	56J04.5886	UTM65.00684	Y					
Grey Gum	56J04.58886	UTM65.00678	Y					
Grey Gum	56J04.58886	UTM65.00681	Y					
Brush Box	56J04.58876	UTM65.00686	Y					
Tallowwood	56J04.58885	UTM65.00681	Y					
Black Butt	56J04.58873	UTM65.00694	Y					
Black Butt	56J04.58873	UTM65.00694	Y					
Black Butt	56J04.58878	UTM65.00695	Y	50				
Black Butt	56J04.58885	UTM65.00703	Y	52				
Black Butt	56J04.58896	UTM65.00707	Y	55				
Black Butt	56J04.58895	UTM65.00697	Y	43				
Grey Gum	56J04.58896	UTM65.00698	Y	56				
Black Butt	56J04.58893	UTM65.00693	Y	60				
Black Butt	56J04.58904	UTM65.00700	Y	61				
Black Butt	56J04.58907	UTM65.00708	Y	35				
White Mahogany	56Jo4.58915	UTM65.00687	Y	75				
Casuarina	56J04.58917	UTM65.00682	Y/N	32				
Grey Gum	56J04.58909	UTM65.00698	Y	35				
Grey Gum	56J04.58915	UTM65.00705	Y	36				
Tallowwood	56J04.58908	UTM65.00708	Y	47				
Black Butt	4 metres from last reading N/S alignment							
Tallowwood	56J04.58829	6500618	Y	60				

Species	Easting MGA	Northing MGA	Removed (Y/N)	Diameter cm	Crown (P/M/G)	Butt damage %	Growth Stage (Y/M/LM,S)	Marked Y/N
Tallowwood	56J04.58819	6500589	Y	53				
Tallowwood	56J04.58828	6500599	Y	40				
Grey Gum	56J04.58837	6500617	Y	45				
Grey Gum	56J04.58854	6500604	Y	50				
Tallowwood	56J04.58864	6500586	Y	50				
Tallowwood	56J04.58870	6500595	Y	58				
Tallowwood	56J04.58868	6500597	Y	38				
Black Butt	56J04.58874	6500585	Y	58				
Black Butt	56J04.58875	6500606	Y	76				
Tallowwood	56J04.58880	6500614	Y	50				
Tallowwood	56J04.58884	6500620	Y	65				
Black Butt	56J04.58882	6500624	Y	60				
Black Butt	56J04.58897	6500633	Y	70				
Black Butt	56J04.58885	6500567	Y	50				
Black Butt	56J04.58884	6500565	Y	33				
Black Butt	56J04.58874	6500556	Y	40				
Tallowwood	56J04.58872	6500550	Y	35				
Tallowwood	56J04.58874	6500542	Y	60				
Blue Gum	56J04.58875	6500529	Y	45				
Tallowwood	56J04.58870	6500539	Y	60				
Tallowwood	56J04.58874	6500543	Y	50				
Tallowwood	56J04.58862	6500530	Y	65				
Black Butt	56J04.58867	6500553	Y	50				
Black Butt	56J04.58837	6500542	Y	60				
Black Butt	56J04.58836	6500526	Y	30				
Black Butt	56J04.58834	6500531	Y	50				
Tallowwood	56J04.58819	6500526	Y	70				
Black Butt	56J04.58808	6500535	Y	50				
Tallowwood	56J04.58799	6500538	Y	60				
Tallowwood	56J04.58805	6500520	Y	65				
Tallowwood	56J04.58806	6500525	Y	35				
Tallowwood	56J04.58793	6500541	Y	60				
Tallowwood	56J04.58793	6500540	Y	50				

Species	Easting MGA	Northing MGA	Removed (Y/N)	Diameter cm	Crown (P/M/G)	Butt damage %	Growth Stage (Y/M/LM,S)	Marked Y/N
For this section variant datum GPS								
Eucalypt	152 dg.34.023	31 dg.37.698	Y	50				
Eucalypt	152 dg.34.016	31 dg37.693.	Y	50				
Eucalypt	152 dg.34.015	31 dg.37.692	Y	41				
Eucalypt	152 dg.34.011	31 dg.37.691	Y	56				
Eucalypt	152 dg.34.018	31 dg.37.691	Y	62				

Summary of tree retention in Compartment 136 section 2: In this area 100% of harvestable wood was felled, (excluding marked trees). Innumerable other non target species with stumps in excess of 20 centimetres were 'picked', i.e. smashed or cut and left on ground.

Overall summary of adherence to silvicultural prescriptions for single tree selection of Harvesting of Kerewong Compartments 134, 135 and 136 in 2010:

Regardless of the arithmetical gymnastics and the rhetoric pertaining to the legal definition of 'relevant tract of land', by which the net harvestable area is presumably described by the harvest plan, measurement of the least heavily felled area within KSF in this operation has yielded a result of a cutting regime of basal net wood of 80% in the one instance, and in another, removal of 100%.

Not only does this breach require investigation. The entire FNSW interpretation of silvicultural requirements needs investigation, urgently.

What is a logging operation? What is a *harvestable area*? Is it part of *that logging operation at that point in time or not*?

A forestry operational area capable of providing an offset re basal net wood, can apparently now be defined as almost anywhere, if it is considered a '*relevant tract of land*'. A *relevant tract of land* can include adjacent and even non adjacent forest compartments, adjoining crown land and - who knows - by 2016, if not before, it might even have been conveniently expanded to include private land, for which IFOA style approvals to log have been given.

Will, by means of manipulation of this almost meaningless term in the legislation '*relevant tract of land*', FNSW find **unlimited** basal wood offsets by which *heavy* single tree selection can again mean *legitimate* removal of 78% or even more basal net wood?

If so one assumes that the other half of Kerewong State Forest will receive the same savage treatment recently endured by this half.

This will of course be repeated **state wide** under these **current legislatively endorsed practices** unless government and accrediting authorities do their job, apply and implement ESD principles so that they **do** protect biodiversity.

There can be no doubt that the intent of the IFOA in limiting allowable silvicultural practices was to avoid the extensive heavy logging now being practiced in these forests. Under Single Tree Selection retention of 60% basal area was meant to be the norm, not the exception. This is a clear case of how Forests NSW have debased and circumvented the intent of the IFOA, with the connivance of DECCW.

Summary and Recommendations

Over the past six months Nativesrule has sampled forestry operations in the Kerewong State Forest supposedly implemented according to the IFOA for the Lower North East under the Regional Forest Agreement (RFA). It has also documented aspects of logging activities in other forests, i.e. Bellangary, Lansdowne, and Johns River. In part of Lansdowne and in the case of Johns River, FNSW maintains that its clear felling is part of legitimate plantation activities. Nativesrule has grave concerns regarding the legitimacy of FNSW claims in relation to these activities. It also appears that in these other forests the harming of endangered ecological communities is taking place, both in compartments deemed to be native forest and in those deemed to be plantation.

Whatever these Mid North Coast public forests might be deemed to be for economic purposes and potential carbon offset trading, it is distressing to witness and record vast areas of native forests being cleared when they provide known habitat critical for the recovery of endangered species and ecosystems, not to mention how essential this habitat is to promote resilience of these ecosystems subject to rapid climate change.

It is a nonsense to spend millions of NSW taxpayer funds annually upon restoration of endangered and other native ecosystems while one state government department is destroying them, and probably at a rate faster than has hitherto occurred historically.

What is clearly obvious about FNSW logging currently taking place on the Mid North Coast is that it is contravening **all principles** of ecological sustainability.

And what of the resource? Observations of Lower North East logging operations sadly confirm the comments of D.Pugh re “failure of the NSW and Commonwealth Governments to consider highly critical timber yield reviews in 2004 and to require Forests NSW to report on actual versus predicted yields”, and the recklessness of “the Government to extend the WSA (*Wood Supply agreement*) for five years beyond the forest agreements and remove the clause that allowed commitments to be reduced in line with yield reviews”.

That there was a 260% increase in 2004 of committed volumes as small and low-quality sawlogs are added is nothing short of a decimation of the Lower North East native forests and is making the Lower North Coast community, including those working in the logging industry, fearful for the future of any native forest logging industry at all.¹⁸

The community are witnessing what is almost the **total felling of its future sawlog resource and conversion of its native ecosystems into quasi mono-culture plantations**. Coastal NSW communities are incensed that this is occurring right before their eyes, daily, as truck after truck exits the sub-catchments with undersize logs. They are incredulous that their constant complaints to Forests NSW are being ignored and that no regulation is being effected by government.

The actions required as soon as possible to save the native forests of the Mid North Coast and the biodiversity they contain are:

- Immediate DECCW site inspections of all compartments where community monitoring indicates breaches of licence
- Immediate review of the *Lower North East Forest Agreement* and its compliance with the Regional Forest Agreement requirements
- An independently commissioned scientific assessment of whether the damage has been so great that the wood supply licences need to be annulled immediately and restoration commence
- As per Australian Forest Standards and Threatened Species Licence requirements, rehabilitation of ecosystems found to be damaged
- the suspension by JAS-ANZ of accreditation under the Australian Forestry Standards of timber sourced public lands in the Lower North East NSW.

¹⁸ Sources for this information are confidential but can be provided on request

- public exhibition of this withdrawal of accreditation so that a customer purchasing AFS certified timber from Lower North East New South Wales it will be aware that it is likely to have been sourced from a forest logged on an unsustainable yield basis, and could be from an illegally-logged Endangered Ecological Community, illegally-logged rainforest, illegally-logged old growth forest, an inadequately reserved forest ecosystem, an illegally-logged feed tree necessary for the survival of a threatened fauna species, an illegally-logged hollow bearing trees (hundreds or thousands of years old) required to be retained as a nest, roost or den site for a threatened species, an illegally-logged tree from an exclusion zone around a stream or wetland implemented to protect water quality, or from a sick forest affected by Bell Miner Associated Dieback.
- a review by the NSW parliament of complaints received by both FNSW and DECCW in the last year from both the public and internal memos re logging practices in NSW

Nativesrule concurs with the North East Forest Alliance that it is beholden upon JAS-ANZ to no longer permit accreditation of Forests NSW practices. That is, as JAS-ANZ is the government-appointed accreditation body for Australia and New Zealand and responsible for appropriate application of standards in Australia, should they continue to permit accreditation of blatantly unsustainable and illegal operations they will discredit Australia's certification system and threaten to bring all accredited forestry products from Australia into disrepute.

Therefore Nativesrule calls upon JAS-ANZ to immediately suspend accreditation under the Australian Forestry Standards of timber sourced from Lower North East NSW.

Also, based on evidence in this report, millers claiming that timber sourced from public forests in LNE is coming from forests managed on an ecologically sustainable basis and not from illegal logging appear to be contravening the Competition and Consumer Act 2010 (previously the Trade Practices Act 1974).

Appendix 1 – Harvest Plan Kerewong State Forest Compartments 134, 5 & 6 - Appendices

Extract: Tree Marking Code

All exclusion zone and buffer zone boundaries must be marked in the field, except where specified forestry activities will not come within 50 metres of such boundaries. Retained trees referred to in this plan must be marked. The only exception to the marking of the retained trees can occur where the understorey consists of thick impenetrable lantana greater than one metre high or other impenetrable understorey. The SFO must document and justify such situations as it becomes apparent during compartment mark-up.

<i>Description</i>	<i>Symbol</i>
RETAINED TREES	
Retained trees may fill several roles (e.g. recruitment and feed tree) TSCL condition 5.6.g. (ii) (flatten/remove logging debris and minimise disturbance to ground and under storey within 5m radius) applies to trees retained with a letter code (except K).	
Retained trees not to be removed or damaged (e.g. grower)	One horizontal line or ring
Hollow-bearing tree	H
Recruitment tree	R
Eucalypt feed tree	E
Yellow-bellied Glider v-notch feed tree or record	YB
Yellow-bellied Glider retained feed tree	One horizontal line or ring
Squirrel Glider sap feed tree, record or nest	SG
Koala high use tree	K
Koala retained feed tree	One horizontal line or ring
Glossy black cockatoo feed tree, record or nest	GB
Owl nest and/or roost	OWL
Raptor nest	N
BOUNDARIES	
Solid Exclusion zones with no boundary exceptions. Licence conditions not breached if tree accidentally felled into	Four horizontal bars with dot above and below
Machinery Machinery entry 5m to fell timber log in NHA away from protn. Zone.	Three horizontal bars with dots above and below
Accidentals Can remove accidentally felled timber logs. Groundcover rules apply	Four horizontal bars

<i>Description</i>	<i>Symbol</i>
Limited Can remove accidentally felled timber logs. Groundcover rules apply Machinery entry 5m to fell timber log in NHA away from protn. Zone. 6 trees (containing timber log) in every 200m can be felled into.	Three horizontal bars
Riparian Protection zone to be marked in field	Two horizontal bars
Unmapped drainage line marking Modified harvesting zone, including 5m machinery exclusion zone, marked 10m from banks	θ
Edge of net harvest area (e.g. unmerchantable) Retained trees and critical boundaries to be marked within 30m beyond the boundary Tree heads may fall across the line, provided they comply with boundary and tree retention rules (e.g. 5m debris)	⊙
TREES TO BE REMOVED	
Individual tree	• or dots
Directional felling mark	← over •
Possible Pole	• with 'P'
Possible Girder	• with 'G'
SITES MARKED FOR INFORMATION	
Compartments boundary	O
Private property	PP
Dump site with optional dump number reference	D
Road/Track line	I
Approved crossing site with optional reference (crossing A)	↕ A
Cancellation mark	X
Edge of identified AGS 'groups'	*
Slope angle indication (commences here)	e.g. 25°
Dangerous Tree/Potential Dangerous Tree (with arrow if required)	Z
FLORA AND FAUNA FEATURES (Retain)	
Frog record	F
Hastings River Mouse record	HRM
Smoky Mouse record	SM
Quoll latrine	QL
Quoll den	QD
Quoll record	Q
Bat roost	BR
Bat record	B

<i>Description</i>	<i>Symbol</i>
Phascogale den	PD
Phyloria frog seeps and soaks	PHS
Cave, tunnel or mineshaft	CTM
Threatened plant	TP

Appendix 2: Removal by statute of the right of third parties to prosecute in relation to non-adherence by Forests NSW or others to the Lower North East Integrated Forestry Operations Approval incorporating amendments, Forestry And National Park Estate Act 1998. <http://www.legislation.nsw.gov.au/maintop/view/inforce/act+163+1998+cd+0+N>

40 Application of statutory provisions relating to proceedings by third parties

- (1) This section applies to the following statutory provisions:
 - (a) section 25 of the *Environmental Offences and Penalties Act 1989*, or, after the repeal of that Act, section 252 or 253 of the [Protection of the Environment Operations Act 1997](#),
 - (b) a provision of an Act that gives any person a right to institute proceedings in a court to remedy or restrain a breach (or a threatened or apprehended breach) of the Act or an instrument made under the Act, whether or not any right of the person has been or may be infringed by or as a consequence of that breach,
 - (c) section 13 (2A) of the *Environmental Offences and Penalties Act 1989* or, after the repeal of that Act, section 219 of the [Protection of the Environment Operations Act 1997](#).
- (2) Proceedings may not be brought under a statutory provision to which this section applies if the breach (or threatened or apprehended breach) to which the proceedings relate is as follows:
 - (a) a breach of this Act (including a breach of any forest agreement),
 - (b) a breach of an integrated forestry operations approval (including a breach of the terms of any licence provided by the approval),
 - (c) a breach of an Act or law that arises because any defence provided by any such licence is not available as a result of a breach of the licence,
 - (d) a breach of the Act that includes the statutory provision (including a breach of an instrument made under that Act) if the breach relates to forestry operations to which an integrated forestry operations approval applies.
- (3) This section does not apply to any proceedings brought by:
 - (a) a Minister, or
 - (b) the Environment Protection Authority or a member of the staff of the Authority, or
 - (c) in the case of the provision of an Act referred to in subsection (1) (b)—a government agency or any government official engaged in the execution or administration of the Act.

Appendix 3: Requirements for Koala mark up searches under the Threatened Species Licence.

5.2.2 Koala Mark-up Searches

- a) In compartments which contain **preferred forest types**, marking-up must be conducted at least 300 metres in advance of harvesting operations.
- b) During the marking up of the compartment, an adequately trained person must inspect trees at ten metres intervals. Primary browse trees must be inspected. In the event that there are no primary browse trees, secondary browse trees must be inspected. In the event that there are no primary browse trees or secondary browse trees, other trees and incidental browse trees must be inspected. Inspections must include thoroughly searching the ground for scats within at least one metre of the base of trees greater than 30 centimetres dbh

Preferred Forest Types (TSL definitions) are: Primary: Primary browse as dominant species 30, 45, 47, 60, 62, 64, 65, 67,74, 81, 85, 92. Primary browse as associated species 31, 32, 36, 37, 38, 39, 42, 46, 48, 49, 51, 53, 54, 61, 70, 71, 72, 76, 80, 82, 87, 93.

Appendix 4: Forests NSW Threatened Species Licence Pre-Logging And Pre-Roading Flora & Fauna Survey Report. Central Region Kendall Management Area Kerewong State Forest Compartments 134, 135, 136, Forests NSW. (Extract) Roading Plan

References

Audit of Compliance of Forestry Operations in The Upper North East NSW Forest Agreement Region, Dailan Pugh, North East Forest Alliance, 2011-02-25

Forests NSW Threatened Species Licence Pre-Logging and Pre-Roading Flora & Fauna Survey Report. Central Region Kendall Management Area Kerewong State Forest Compartments 134, 135, 136, Forests NSW

Harvest Plan, Kendall Management Area, Kerewong State Forest Compartments 134, 135, 136 Forests NSW, Central Region

Lower North East Integrated Forestry Operations Approval Package Incorporating Amendments, Forestry and National Park Estate Act 1998 Integrated Forestry Operations Approval for Lower North East Region

NSW Auditor-General (2009) Sustaining Native Forest Operations: Forests NSW. NSW Auditor-General