

13 July 2018

To: Environment Protection Authority
Email: ifoa.remake@epa.nsw.gov.au

From: South East Region Conservation Alliance, the Great Southern Forest and the National Parks Association Far South Coast Branch.

SUBMISSION TO THE ENVIRONMENT PROTECTION AUTHORITY ON THE DRAFT COASTAL INTEGRATED FORESTRY OPERATIONS APPROVALS (IFOAs)

This submission presents reasons why the IFOA public feedback process denies a meaningful opportunity for effecting change and how the proposed IFOAs spell further destruction for Australia's natural environment in perpetuity.

We acknowledge the Traditional Owners of the land to which these issues relate and pay our respect to the Elders past and present.

1. INTRODUCTION.....	2
1.1 THE PRECAUTIONARY PRINCIPLE	2
1.2 POLLUTER PAYS PRINCIPLE	3
1.3 NO EQUITABLE JUSTICE IN THE GOVERNMENT'S DECISION RE THE IFOAS.....	4
1.4 CULTURALLY NEGLECTFUL.....	5
2. FEEDBACK FROM ONE INFORMATION SESSION	6
2.1 THE PROBLEM OF CLAIMING SUSTAINABILITY YET RUNNING OUT OF TREES.....	6
2.2 WHY TRUST ONGOING FAILURE?	7
2.3 EXISTING IRONY.....	8
3. ISSUES ARISING UNDER THE NEW COASTAL IFOAS:	9
3.1 INCONGRUOUS STATEMENTS IN THE IFOA INFORMATION SHEETS.....	9
3.2 MINIMISING WHAT?	10
3.3 NEW COASTAL IFOAS IN A NUTSHELL	11
4. SOLUTIONS	12
4.1 THE GREAT SOUTHERN FOREST PROPOSAL.....	13
5. RECOMMENDATIONS	14
APPENDICES	15
APPENDIX 1: APPLICATION OF THE PRECAUTIONARY PRINCIPLE.....	15
APPENDIX 2: COMMENT ON IFOA FLYERS	19
APPENDIX 3: FLYER ON TOMORROW'S FORESTS TODAY.....	20

‘A thing is right when it tends to preserve the integrity, stability, and beauty of the biotic community. It is wrong when it tends otherwise.’¹



The IFOAs: Image above is false: the image below is true.



1. INTRODUCTION

We present issues regarding how the new Coastal IFOAs are being enforced with no equitable justice afforded to the public's State native forests. This enforcement exposes the lengths to which government departments will go to substantiate and justify indefensible acts against the natural environment.

The IFOAs go beyond failure to comply with basic principles of consequential and interactional procedural justice. They cut to the very heart of this Country, to the destruction of the fabric of its natural environment and demonstrates the cavalier attitude the industry and the governments take towards archaic and destructive practices which are earmarked to continue into perpetuity and which other countries such as New Zealand and Sweden ceased generations ago.

The NSW Government's IFOAs will drastically weaken the logging rules to remove numerous protections for NSW's threatened species, koalas, old growth and rainforests, and waterways.

1.1 THE PRECAUTIONARY PRINCIPLE

Environmental law regularly operates in areas complicated by levels of scientific uncertainty. In the case of many activities that entail some change to the environment, it may be impossible to determine precisely what effects the activity will have on the quality of the environment or on human health. It is generally difficult to quantify or qualify the impact of decades of logging native forests. For example:

- how much damage can be attributed to loss of species?

- how much soil has run downstream?
- how great is the impact on water quality and downstream fish populations?
- how much carbon has not been sequestered from tree removal?
- how much oxygen has been lost from tree removal?
- how many fires can be attributed to the loss of canopy drying out the forest floor?
- how have Traditional Owners been affected by having their sacred land desecrated?
- how much beauty has been lost simply to export woodchips (in south east NSW); historically at a financial loss to tourism and taxpayers?

There is no doubt that disturbance to environmentally sensitive areas will significantly disturb native wildlife. There is no doubt that the industry buried wombats alive in Glenbog State Forest. There is no doubt that the industry commenced logging on sacred Aboriginal land on the Biamanga Range. There is no doubt that mistakes are made such as when Gnupa State Forest was clear felled. There is no doubt that rivers in south east NSW have silted up and struggle to run. There is no doubt that rocky outcrops have been logged. There is no doubt that timber waste has been pushed up against remaining trees and subjected to post logging burns. We have seen all of this. We have witnessed and photographed that native forest logging can cause this much damage and we have every reason to believe that these types of breaches will continue under the proposed Coastal IFOAs.

The precautionary principle requires that, if there is a strong suspicion that a certain activity may have environmentally harmful consequences, it is better to control that activity now rather than to wait for incontrovertible scientific evidence. This principle is expressed in the Rio Declaration, which stipulates that, where there are: “threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.”² The science exists, the studies have been peer reviewed and published in scientific journals; but the industry, and the Ministers who are in power, fail to give it credit and thus demonstrate disrespect to those whose knowledge is superior to their own.

Extract from guidelines which help to apply the Precautionary Principle to Biodiversity Conservation and Natural Resource Management (see Appendix 1).³

1.2 POLLUTER PAYS PRINCIPLE

Forest Corporation is guilty of having committed logging breaches for decades. Forest Corporation should no longer be exempt from the liabilities borne by perpetrators under the ‘polluter pays’ principle to which other industries are subject under Australian law. Bonds and insurances are a lawful provision. To assure the industry’s compliance with the precautionary principle, it should be enforced to meet its liabilities and externalities through bonds or insurance.

To ensure the validity of the industry’s claim for environmental protection, we recommend that the industry pay a bond of, say, \$10 million to the Government, or stop its operations. The costs not previously accounted for in the above list of witnessed breaches under the precautionary principle

must now be recognised by the State which is quite aware of these consequences but have shamefully failed to act.

1.3 NO EQUITABLE JUSTICE IN THE GOVERNMENT'S DECISION RE THE IFOAS

Justice is important, not only to those directly affected by a decision, but also to those indirectly affected or onlookers. Procedural justice and interactional justice are important in determining the acceptance of outcomes because they deliver things to which people feel they are entitled, such as respect, information and recognition of their right to be involved in a decision-making process.⁴ The Governments' decision-making processes are based on the premise that native forests deserve no justice and are therefore vulnerable to mismanagement.

By special invitation, the Environment Protection Authority has held information sessions regarding the IFOA 'logging rules' for native forests which follow on from the Federal Government already having approved the Regional Forest Agreements. But what real justice these sessions afford the public, and their opinions about natural justice for native forests, is not apparent.

Despite the fact that the outcome of the public feedback process had not yet been known^A, the EPA formed the IFOAs rules whereby logging in our State's native forests can be undertaken. It seems as if the Governments have put the 'horse before the cart' by assuming that public feedback for the RFAs favoured their renewal. The DPI considers that data from the RFA feedback process shows that at least 80% of the public opposed further logging of native forests and it is known within this Department that '...they are treating the southern forests like abattoirs'.

The Environment Defenders' Office published on 15 June 2018: "Curiously, the NSW Minister for Lands and Forestry recently reported to the Parliament that '...we have finalised the implementation review of the [NSW] Regional Forest Agreements and we are commencing their renewal process'.⁵ If this is true, the Government should release the independent reviewer's report immediately."⁶ This demonstrates an undemocratic assumption at least, and a blatant disregard for public opinion in whatever way it is evaluated and reported.

Conservation groups around the State have not attended the recent IFOA sessions because the outcome is a forgone conclusion with the new laws clearing the legal decks for the industry to 'go for broke' while there are still some trees remaining. For decades this south east region of NSW has endured the most intensive logging in the State to supply the Eden chipmill, yet the mill employs only 37 people.

The changes to the IFOAs are a result of the need to meet the Government's stated 'dual commitment' to no reduction in wood supply and no erosion of environmental values⁷, and to reduce costs. The Natural Resources Commission (NRC) report that accompanied the proposals stated:

...following analysis of the expected cumulative impact of the agreed and recommended settings, the Commission has determined that it is not possible to meet the Government's commitments around both environmental values and wood supply. In addition, a range of

^A At the time of writing, the DPI's Report on public opinion of the future of the Regional Forest Agreements was due.

external factors outside of the IFOA settings affect the ability to meet the commitments both now and into the future, such as emerging threats from climate change and changing fire regimes.⁸

The Government asked the NRC to ‘make it work’. The outcome was decided, was presented at information sessions and has been published on the Internet. So, the IFOAs are a *fait accompli* and the information sessions conveniently tick the EPA’s ‘consultation – yes’ box.

The NRC has a web page asking the public for opinions on the IFOAs. To answer these questions authoritatively would require months of reviewing the information on the accompanying documents. The basic draft alone contains over 55,000 words.⁹

Concepts of justice and the distribution of public resources have been an important aspect of social debate for centuries. Finding fair and just allocations of natural resources remains a major preoccupation for national governments and their constituent communities. Yet Australian governments, despite their long history of dealing with resource use conflicts, have largely failed to establish lasting legal or institutional frameworks in which resources are allocated in ways that are seen as equitable, fair and just.¹⁰

These ‘approvals’ go against our social and environmental conscience and recognise that the damage to our precious natural environment is, has been, yet should not continue to be, a disgrace to the nation of Australia. These forests belong to the people of NSW and it is no longer wise or intelligent to pursue extractive practices in light of the demise of our unique native species, the critical need to protect natural carbon stores, and recognition of the need for intergenerational equity.

1.4 CULTURALLY NEGLECTFUL

On a final note regarding lack of interactional justice and equity; this screen shot of a word search says a thousand more words spanning thousands of millennia. In 194 pages (over 55,000 words) of the draft IFOA consultation document—there is not one mention of the words ‘Indigenous’, ‘traditional owners’, ‘Aboriginal’, ‘first nations’, ‘culture’, or ‘heritage’.

The misnomer ‘Heritage’, as in ‘The Office of Environment and Heritage’, is mentioned 11 times. Ignoring the impact of State Forest logging upon the culture and heritage of the Traditional Owners is further evidence that these IFOAs were created without any respect or consideration shown to the Yuin Nations’ people, whose ancestors have lived in SE NSW for over 6,000 years.¹¹



Outcomes that are perceived to be unfair can result in protests, damaged relationships and divided communities particularly when decisions are made which benefit some sections of the community at the perceived expense of others.¹²

2. FEEDBACK FROM ONE INFORMATION SESSION

A colleague attended EPA’s entire session held at Narooma on 7th June 2018. He has witnessed logging of native forests on his home turf near the Tantawangalo State Forest. He stated that the presentation went for quite a few hours and in an emotionally charged environment. There was a lot of information to absorb at the consultation and the handouts were inadequate.

Personal opinion of colleagues is represented in italics.

2.1 THE PROBLEM OF CLAIMING SUSTAINABILITY YET RUNING OUT OF TREES

It would seem that Forestry Corp were complaining that they could not meet their timber supply contracts, so the Government asked the EPA and Forestry Corp to come to an amicable agreement on how to increase the supply of available trees. They couldn’t, so the Government called in the Natural Resource Commission (NRC) to find a solution. The options they offered the Government were: buy back the wood supply contracts, log National Parks, log monoculture plantations that are now part of National Parks, or re-classify old growth and rainforest areas in State Forests and let the loggers in. The latter option was adopted by Government. Reclassification of old growth forests so the loggers can cut down those trees.

I was surprised to hear Bryce Wilde, Executive Director of the NRC, admit that the State had run out of trees in State Forests to log! Apparently, the reason why the State Forests have run out of trees is because there are too many koalas, i.e. the creation of new protected areas in northern NSW for threatened ecological communities, and not because of unsustainable logging practices.

Thus, the flag-bearing tenet of the Forest industry, ‘sustainable forest harvesting’, has proven to be false by their own admission that they need more timber and, as these new IFOAs permit, intend to

log rainforest timber, and old growth forests. The IFOAs sanction logging to occur not 100 metres, not 50 metres nor even 10 metres, but 5 metres from the edge of streams and waterways.

In addition, Forestry Corp has been pushing for years to remove environmental laws that hinder their logging operations so they can take more trees and trees in areas of the forest that were protected from logging. Examples given were, reducing the size of logging exclusion zones in and around sensitive habitat features, like streams and rocky outcrops. Increasing the area of forest that can be logged in a single operation, increasing the intensity of logging operations and increasing the frequency of logging operations in any given forest.

Once the old growth forests are cleared, where will Forestry Corp get its future trees from? They claim in implementing the new system, that forests will be managed better. That this time, they will be sustainable and available for future generations. The proposed system will allow 10% of a forest to be logged (heavily) each year. So, in 10 years, the forest will all contain trees under 10 years old! There will be 5% of the forest area left for fauna to use and an additional 5% of the logged area left for fauna - so a total of 10% of a forest will remain, the heavily logged areas will contain a sporadic sprinkling of old trees with 140cm circumference or more and a handful of habitat trees - trees that will most likely be damaged during the logging operation.

This is entirely unacceptable and there could not be a better way to disrupt forest communities of species from top order mammalian and avian species right through to fungi and bacteria. Any retained tree, whether it is called a 'habitat' tree or a 'retained' tree, is not protected by surrounding camouflage and, by their visibility, attracts predators rather than protecting hollow dwelling or any other tree-dwelling species.

Michael Hood, Director of Forestry NSW EPA, and a Forestry Corp NSW representative, spoke of the urgent need to 'update' the State's logging laws. The current laws, as bad as they are, at least recognise the different forest ecosystems that occur throughout NSW and the level of the ability of these ecosystems to regenerate after logging. The proposed changes assume trees growing 1km above sea level in almost sub alpine conditions where the soils are basically gravel and contain little nutrients, where it regularly drops below 0° and it snows, will grow back as quickly as a forest in sunny Bermagui with its rich soils.

2.2 WHY TRUST ONGOING FAILURE?

"Forestry Corp's Hardwood native forest division, for the last few years made a profit" Forestry Corp NSW representative.

FCNSW annual reports show heavy operating losses for the last decade. Only the 2016-17 annual report shows a small operating profit of \$3.8m and only after a \$2m one off payment from NSW Roads & Maritime Services and a \$17m state grant.

Between 2009 and 2014 the Softwood Plantations Division of Forestry Corporation (formerly ForestsNSW) cross-subsidised native forestry logging to the order of \$79 million.¹³ Average losses in other recent years have been \$11 million per year.¹⁴

It is clear that these changes are not about protecting the environment, they are about giving Forestry Corp access to more trees. Trees that will mostly be chipped and sent to China. Unsurprisingly there is no mention of a tree shortage on the NSW Government's propaganda site - but lots about a win win for the environment!

It is quite clear that attempts at environmental protections of the past in State Forests have failed as they depended upon wildlife not crossing the boundaries of so-called 'protection zones'. The provisions of the Environmental Protection and Biodiversity Conservation Act (EPBC), which apply in National Parks, do not apply in State Forests. This leaves species within State Forests vulnerable to having their habitat destroyed, and as long as native forest logging is allowed to continue, no species is safe.

The history of over 4,000 recorded, yet mostly unchallenged, breaches in south east NSW gives no confidence in any government's capacity to manage native forest logging in a way which will meet the needs of timber supply and environmental protection. From 2004–2014, 2814 logging operations have been conducted, only 187 audits have been carried out, and over 4,000 non-compliance breaches were committed. The only breaches data which the Environment Protection Authority received for the Southern and Eden RFA regions over these years was submitted by volunteer local forest experts.

I have spent the last 18 months providing data, providing affidavits and having meetings with EPA investigators about breaches in the Tantawangalo forest where I live.

Given past promises and past history we have witnessed that native forest logging and environmental protection will never be able to co-exist.

2.3 EXISTING IRONY

The Australian and NSW Governments are playing at being concerned and seeming to be acting on their commitments to our heritage and environment in so many areas.

On one hand they offer funding for supposed protection of species and natural assets and then legislate to destroy other parts. They promise corporations and trading partners the world of opportunity in our 'lucky' country mainly at the expense of, and without reference to or consultation with, the public who owns them.

One hand takes while the other appears to give and never mind the international agreements signed onto such as the IUCN categories for protection of forests; never mind the Sustainable Development Goals committed to forest related goals (see Footnote^B); never mind the

^B The 17 Sustainable Development Goals (SDGs) form a roadmap for global development efforts to 2030 and beyond. <http://dfat.gov.au/aid/topics/development-issues/2030-agenda/Pages/sustainable-development-goals.aspx#fifteen>
15.1 By 2020, ensure the conservation, restoration and sustainable use of terrestrial and inland freshwater ecosystems and their services, **in particular forests, wetlands, mountains and drylands, in line with obligations under international agreements**
15.2 By 2020, promote the implementation of sustainable management of all types of forests, **halt deforestation, restore degraded forests and substantially increase afforestation and reforestation globally**
15.b Mobilize significant resources from all sources and at all levels to finance sustainable forest management and provide adequate incentives to developing countries to advance such management, including for conservation and **reforestation**

Convention on Biological Diversity and United Nations Environment Programme; never mind the Indigenous Land Use Agreements and their promise of people on country; never mind the Paris Agreement and its undertaking accepted by 'us' to reduce emissions and such. And never mind the contradiction of the signing on to the Queen's Commonwealth Canopy which involves the planting of 20 million trees while at the same time logging not just another 20 million native trees and crippling for decades, if not permanently, the ecological systems that underpin the essential natural services they provide to our communities, no matter where they reside.

3. ISSUES ARISING UNDER THE NEW COASTAL IFOAS:

3.1 INCONGRUOUS STATEMENTS IN THE IFOA INFORMATION SHEETS

The content of the new IFOA flyers is ambiguous and often not based on fact. The attached flyer regarding “Tomorrow’s Forests Today” (Appendix 1) is worth analysing in depth as an example. (Please see Appendix 2 for comment on the other flyers.)

C. Tomorrow’s Forests Today

“A state forest’s purpose is to provide timber, they are not multipurpose forests; they are timber production forests”. Bryce Wilde, Executive Director NSW Natural Resources Commission.

This is incorrect as the RFAs state: “The RFAs seek to balance competing economic, social and environmental demands on forests by setting obligations and commitments for forest management that deliver:

- certainty of resource access and supply to industry – building investment confidence
- ecologically sustainable forest management – ensuring forests are appropriately managed and regenerated
- an expanded and permanent forest conservation estate – to provide for the protection of Australia’s unique forest biodiversity.”¹⁵

The image on the front of the flyer does not represent the true purpose of State forests. It shows a woman dressed for forest track walking, followed by a forest worker, another woman holding a camera and lastly a mountain bike rider. This gives the impression that the forests are used for personal activities such as bushwalking, photography and bike riding, when in reality this is not the case. According to a statement contained on the back of this flyer, there is a statement claiming that State forests are “native timber production forests” and the new IFOA will allow up to 90% of the forest to be used exclusively for timber extraction. Distrust is warranted from this situation.

Questioning the logic of changing the current IFOAs.

The flyer states that integrating four existing IFOAs with over 2000 conditions into one comprehensive license, will “improve clarity, transparency and enforceability”. The flyer states this without giving even

6.6 By 2020, protect and restore water-related ecosystems, including mountains, forests, wetlands, rivers, aquifers and lakes

the simplest explanation on how this will be achieved and then makes the claim “it will provide a better outcome for the environment and timber production”. All of the conditions in the current IFOAs are there because the EPA needed to protect the environment. If existing conditions were not clear, they could be re-worded and, if they were not enforceable, how would removing them create a better outcome for the environment? The claim that the new conditions will be ‘transparent’ is incorrect.

The flyer vaguely talks about new GPS technology being used by workers and new technology to map more streams, yet this new technology would be used regardless of the introduction of new IFOAs and its introduction is not reliant on changing the IFOAs.

A statement in the flyer claims that the new IFOA “will maintain multi-aged forest across the landscape”. This is extremely misleading and should read “will maintain multi-aged forest across 10% of the landscape”.

The pamphlet states that “the forests are an important resource for materials in everyday life, like hardwood timber for high end construction, furniture, fences and floors”. The construction industry depends more on concrete, concrete slabs, concrete bricks, steel, bamboo flooring, ceramic and clay tiles, plantation pine and manufactured timber than upon timber. Not stated in the pamphlet is that 90% of timber logged in southeast NSW is exported as wood chips or that native forests are being logged for firewood in NSW and for the ACT.

3.2 MINIMISING WHAT?

The 58 instances of the term ‘minimise’ in the draft protocols could lull a reader into a false sense of security. Throwing incendiaries to burn off native forest undergrowth to allow access for logging machinery, killing wildlife, felling and removing trees from the site, then post logging burning, do not bring the term ‘minimal’ to mind as the photo below shows.



Figure 1. Gnupa State Forest – an industrial mistake.

Herewith are a few examples of the misuse of the term ‘minimal’:

- ...to minimise any adverse impacts...on the environment
- ...to minimise the impacts of proposed mixed intensity harvesting operations over time and across the landscape
- ...in a manner that minimises disturbance to the bed and banks of the drainage feature and maintains fish passage
- ...to minimise soil disturbance
- ...surveyor must minimise exposure of noise and light to any bats inhabiting the site

Also mentioned in this flyer:

A potential future hollow-bearing tree is described as “A living tree that is of mature or late mature growth stage which has potential for developing hollows, good crown development, minimal butt damage and is not suppressed”.

By this definition, all those trees which don’t meet this definition will most likely never have the opportunity to do so.

...a minimum of three independent and suitably qualified scientists that have demonstrated...

A scientist who is ‘independent’ from what or whom one may ask. One whose research findings have found that native forest logging is not detrimental to the environment would be hard to find. All scientists are suitably qualified by the nature of their profession, so what would constitute an ‘unsuitably qualified scientist’? The Governments would do well to review studies by eminent scientists such as: Keith, Mackey and Lindenmayer¹⁶, Mackay¹⁷; Perkins and McIntosh¹⁸; Lindenmayer, Blair and McBurney¹⁹; Sweeney²⁰; and, Makkonen, Huttunena, Primmera, Repog, and Hildéna²¹.

3.3 NEW COASTAL IFOAS IN A NUTSHELL

Under the new Coastal IFOAs, native forest logging:

- will be more intense
- will occur in previously protected rain forest and old growth forests
- will convert multi-species forests into monoculture plantation type forests
- will occur up to 5 meters from riparian areas
- will create a mono-species forest scape
- will make forests more fire prone from dryness caused by canopy removal
- will act against climate mitigation and carbon sequestration
- will damage more iconic species’ habitat
- will worsen Australia’s reputation as having world’s worst mammalian extinction rate
- will support ongoing community discontent
- will ignore intergenerational equity

For decades the southern region has endured of the most intensive logging in the state to supply the Eden chipmill. The new draft IFOAs implicitly acknowledge that the far south coast logging will remain the worst in the state. Other regions will catch up a little, but ours will still

be the winner in the race to the bottom. This 'new' integrated proposal spreads the destructive and illogical practices from the south to the north coast and makes them so much worse by taking out some of the already weak protections that existed previously.

Millions of pelts were exported from the south east region to the US and the UK (ceased in 1927 by order of the US Hoover Government), but the south east region's forests remain amenable to the koalas now and, even more so, given the influences of a changing climate; and the opportunity for future refugia. Pressures from more intense native forest logging spells nature fighting a losing battle.

The EPA is established to protect our environment, yet it clearly appears to be aligned with this Government in sacrificing our precious environmental values to fill the over-committed wood supply agreements negotiated by NSW Forestry Corporation, against the public good and the public interest.

The worst thing our Government has done with both the RFA and IFOA proposals is to totally throw out any semblance of Ecologically Sustainable Forest Management. The NSW Forestry Corporation and our Governments have never been properly brought to account for the destruction of our forests. By prioritising timber extraction over environmental protection, the new IFOA abandons the commitments NSW made under the National Forest Policy Statement in 1992, including the concept of Ecologically Sustainable Forest Management. This is a fundamental shift in forest management, occurring with insufficient consultation or application of the findings of studies by ANU research scientists.

4. SOLUTIONS

Governments should now be looking at fair and responsible ways to wind up the industry. They should stop deluding themselves and the public that our forests are a magic pudding that can keep on producing woodchips indefinitely and pretend that environmental values are being protected. By ceasing the logging of native forests, jobs for people within the industry can be transitioned into management of forests for restorative activities based on adaptive, mitigative strategies.

Prof David Lindenmayer, from the ANU's Fenner school is the most high-profile scientist arguing the case against native forest logging. He stated:

I'm saddened that people don't want to see what the science is saying. The reality is that those forests are under significant stress, in danger of ecosystem collapse. That's what the science is showing and I'm afraid if some people don't like the science, that's their problem.

It's nonsensical to have a forest policy with agreements that are based on hopelessly out-of-date information. It's like having a media policy without considering the internet.

We've had 20 years of solid research which shows the other values of native forests – for climate change mitigation, for water production, for tourism, for better managing fire. There's an enormous amount of new information that actually needs to be considered before you simply roll over an RFA. ²²

4.1 THE GREAT SOUTHERN FOREST PROPOSAL

Five years ago, a proposal was formed and promoted for the future of the south east's native forests. It includes knowledge and local understanding based on empirical and scientific evidence, from environmental and wildlife experts and community opinion. The principles presented in the Great Southern Forest's Brief have been endorsed by over 40 conservation organisations including the National Parks Association Far South Coast branch, the South East Region Conservation Alliance Inc., the Nature Conservation Council, the National Trust and the Wilderness Society. The Great Southern Forest proposal recognises that:

1. forests are vital for climate stabilisation of the planet;
2. existing mature plantations can meet Australia's timber needs;
3. while the Regional Forest Agreement process provides a timely window of attention on native forests, its assumptions and outcomes are clearly outdated in the light of scientific evidence and the recognised importance of forests on climate and water cycles;
4. the present system of management of native forests of SE NSW for timber extraction has overseen large environmental, economic, social and employment losses with inestimable damage to soil, water, biodiversity, wildlife, habitat and canopy thus drying out the forests.

The Great Southern Forest Proposal recommends that the Governments:

- Implement a timely re-orientation of management of public native forests in SE NSW from timber extraction to ecological integrity, climate stabilisation, water security and carbon sequestration;
- Cease logging and woodchipping in SE NSW state native forests;
- Enact the full transition to plantations for wood supply;
- Terminate the Eden and Southern Regional Forest Agreements, reinstate full Commonwealth environmental protection and pilot this new model of forest management in SE NSW;
- Ensure implementation of a Just Transitions program for SE NSW timber workers;
- Extend Indigenous partnership in management and employment; and
- Prioritise forest preservation and restoration in the 473,727ha of SE public native State forests.

The Great Southern Forest proposal has been presented to the DPI and the EPA and to many other Government Federal and State Ministers, local Government agencies, the general public and conservation organisations. This proposal represents the will of the people. Despite acclaim from all to whom the GSF proposal has been presented, we have little evidence supporting that this proposal has been given credit by those in power to make a difference. In a democracy the will of the people needs to be heeded or are we ruled by a dictatorship?

5. RECOMMENDATIONS

We acknowledge the seriousness of this call for public feedback on the IFOAs, yet in view of the current situation where decisions are being made which will affect our native forests in perpetuity; we make the following recommendation.

1. Polluter pays principle

1.1 That the NSW Ombudsman's Office act as a referee to facilitate a bond from the industry to insure against environmental degradation under the precautionary principle.

1.2 That Forest Corporation pay a deposit of \$10 million to insure against logging breaches and the 'minimal disturbance' often claimed as their intention in the draft IFOA document.

2. Forest management

2.1 That the principles of management for forest restoration, wildlife protection, climate mitigation and carbon sequestration as outlined in the Great Southern Forest proposal and as exemplified by other restorative global models be prioritised.

3. Exit strategy

3.1 That the State Government buy back the wood supply contracts (as originally suggested by the Natural Resource Commission) and that the industry's workers be transitioned into jobs in plantations and native forest restoration and protection.

Yours sincerely,



Dr Bronte Somerset

5-7 Cobargo Street Quaama NSW | bj Somerset@gmail.com | 0487635539

Committee member: South East Region Conservation Alliance | <http://www.serca.org.au>

Founder: Great Southern Forest | <http://www.greatsouthernforest.org.au>

Member: National Parks Association Far South Coast Branch

For, and on behalf of, the South East Region Conservation Alliance, the Great Southern Forest and the National Parks Association Far South Coast Branch.



Thanks to Peter Day, Sean Burke, Walter Jehne, Paul Payten, Kim Taysom, Dr Oisin Sweeney, and Harriett Swift, whose comments have contributed to this submission.

APPENDICES

APPENDIX 1: APPLICATION OF THE PRECAUTIONARY PRINCIPLE

A. ESTABLISH THE FRAMEWORK

Guideline 1: INCORPORATE

Incorporate the Precautionary Principle explicitly into appropriate legal, institutional and policy frameworks for biodiversity conservation and natural resource management.

Elaboration: Application of the principle requires a clear legal and policy basis and an effective system of governance. It also requires the establishment and maintenance of adequately resourced institutions to carry out research into risk and uncertainty in environmental decision-making and natural resource management.

Guideline 2: INTEGRATE

Integrate application of the Precautionary Principle with the application of other relevant principles and rights.

Elaboration Other principles and rights are also relevant to conservation and NRM, including inter-generational and intra-generational equity, the right to development, the right to a healthy environment, and human rights to food, water, health and shelter. These other rights and principles must be borne in mind when applying the Precautionary Principle. In some circumstances these other rights may strengthen the case for precautionary action. In other circumstances, the Precautionary Principle may need to be weighed against these other rights and principles, taking into due account the critical nature of the Principle.

Guideline 3: OPERATIONALISE

Develop clear and context-specific obligations and operational measures for particular sectors and contexts, and with respect to specific conservation or management problems.

Elaboration: The purpose of the Precautionary Principle is to enable action; it does not require that a particular decision should be made or outcome reached. To have conservation impact, it will typically require translation into concrete policy and management measures that are readily understood, that address the conservation problem and that identify actions to be taken in specific contexts. Without these, incorporation of the principle in law or policy may have little influence on practice. However, there is also a need for flexibility: the specific decisions and management or policy measures that it supports may vary over time and with changing circumstances.

Guideline 4: INCLUDE STAKEHOLDERS AND RIGHTHOLDERS

Include all relevant stakeholders and rightholders in a transparent process of assessment, decision-making and implementation

Elaboration: Precautionary decision-making involves making decisions where there is uncertainty about the underlying threat. This means that judgments, values and cultural perceptions of risk, threat and required action must play a role. Therefore, it is important to include stakeholders and rightholders and to be transparent throughout the process of assessment, decision-making and implementation. Key stakeholders include those who bear the costs of the potential threat, such as those who will be impacted by degradation or loss of biodiversity or natural resources, and those who bear costs of precautionary action (if any), such as

those whose legitimate use of natural resources will be restricted. Indigenous peoples and local communities often play a very important role in NRM or rely on biodiversity and natural resources and should be included. They should have the opportunity and resources to represent themselves and their interests effectively, and this should not be precluded by logistical, technical or language barriers. The imperative of including key stakeholders should, however, be balanced against potential conservation costs of delaying a decision.

Guideline 5: USE THE BEST INFORMATION AVAILABLE

Base precautionary decision-making on the best available information, including that relating to human drivers of threats, and traditional and indigenous knowledge

Elaboration: Decision-making situations where the Precautionary Principle is relevant can entail varying degrees of uncertainty, ranging from situations of complete ignorance to those where probabilities can be estimated. The Precautionary Principle nevertheless requires that in any situation, all available relevant information be taken into account, including that relating to human drivers of threats to biodiversity, as well as biological and ecological information. The best available scientific information should be used. In addition, traditional and indigenous knowledge and practices may also be relevant and should therefore be taken into account in decision-making. Efforts should be made to ensure evidence and information is independent, free of bias, and gathered in a transparent fashion. This can be facilitated by ensuring that it is gathered by independent and publicly accountable institutions without conflict of interest. In addition, taking into account multiple sources of information can help minimize bias.

B. DEFINE THE POTENTIAL THREATS, OPTIONS AND CONSEQUENCES

Guideline 6: CHARACTERISE UNCERTAIN THREATS

Characterize the threat(s), and assess the uncertainties surrounding the ecological, social and economic drivers of changes in conservation status.

Elaboration: The threats addressed should include not only direct ones but also indirect, secondary and long-term threats, and the incremental impacts of multiple or repeated actions or decisions. Their underlying causes and potential severity should be assessed, and efforts made to determine what is known and not known, what knowledge can be easily improved and what cannot. There should be explicit recognition of ignorance, areas of uncertainty, gaps in information, and limitations of the predictive power of available methods for detecting and assessing threats. Where threats may interact or be inter-related (e.g. action against one may exacerbate another) they should not be addressed in isolation. However, there is a need to balance the benefits of delaying a decision to gather more information against the potential threats raised by such a delay.

Guideline 7: ASSESS OPTIONS

Identify the available actions to address potential threats, and assess the likely consequences of these various courses of action and inaction

Elaboration: The principle should guide a constructive search for alternatives and practical solutions, and support positive measures to anticipate, prevent and mitigate threats. The potential benefits and threats raised by available courses of action and inaction should be assessed – these threats and benefits may be of various kinds, from various sources, and may be short or long term. There may be threats associated with all courses of action: often conservation and NRM decisions involve a choice between “risk and risk” rather than between “risk and caution”. In assessing the likely consequences of alternative courses of action and inaction the technical feasibility of different approaches should be taken into account.

Guideline 8: ALLOCATE RESPONSIBILITIES FOR PROVIDING EVIDENCE

Allocate roles and responsibilities for providing information and evidence of potential threat and/or safety according to who is proposing a potentially harmful activity, who benefits from it, and who has access to information and resources

Elaboration: In general, those who propose and/or derive benefits from an activity which raises threats of serious or irreversible harm should bear the responsibility and costs of providing evidence that those activities are, in fact, safe. The information itself should be the best available from a variety of sources (see Guideline 5). However, if this would involve requiring poorer, vulnerable or marginal groups to carry the responsibility and costs of showing that their activities (particularly traditional and/or livelihood activities) do not raise threats, either these responsibilities and costs should be placed on relatively more powerful groups, or financial/technical support should be provided. Moreover, in some circumstances, the different options available will each raise potentially significant conservation threats, in which case the guidance for assessing threats in Guideline 7 is relevant.

C. DEVISE THE APPROPRIATE PRECAUTIONARY MEASURES

Guideline 9: BE EXPLICIT

Specify the precautionary measures being taken and be explicit about the uncertainty to which the precautionary measures are responding.

Elaboration: When decisions are made in situations of uncertainty, it is important to be explicit about the uncertainty that is being responded to, and to be explicit about the precautionary measures that are being taken. This ensures transparency, and also provides a clear basis for monitoring and feedback to decision-making/management.

Guideline 10: BE PROPORTIONATE

In applying the Precautionary Principle adopt measures that are proportionate to the potential threats

Elaboration: A reasonable balance must be struck between the stringency of the precautionary measures, which may have associated costs (*inter alia* financial, livelihood and opportunity costs), and the seriousness and irreversibility of the potential threat. The degree of uncertainty must also be taken into account in this weighing process.

Guideline 11: BE EQUITABLE

Consider social and economic costs and benefits when applying the Precautionary Principle and where decisions would have negative impacts on the poor or vulnerable explore ways to avoid or mitigate these

Elaboration: Attention should be directed to who benefits and who loses from any decisions, and particular attention should be paid to the consequences of decisions for groups which are already poor or vulnerable. Where the benefits of an existing or proposed threatening activity accrue only to a few, or only to the already powerful and economically advantaged, or are only short-term, and potential costs are borne by the public and communities, by poorer or vulnerable groups, or over the long-term, this argues strongly in favour of increased precaution. If the application of precautionary measures would impact negatively on poor or vulnerable groups in a manner which threatens their economic, social or cultural livelihoods, ways to avoid or mitigate impacts on these groups must be explored. Threats to biodiversity and living natural resources may need to be weighed against potential threats to livelihoods and food security, or resources may need to be invested in compensation or in support for alternative livelihoods.

D. IMPLEMENT EFFECTIVELY

Guideline 12: BE ADAPTIVE

Unless strict prohibitions are required, use an adaptive management approach, including the following core elements:

- monitoring of impacts of management or decisions based on agreed indicators;
- promoting research, to reduce key uncertainties;
- ensuring periodic evaluation of the outcomes of implementation, drawing of lessons and review and adjustment, as necessary, of the measures or decisions adopted;
- establishing an efficient and effective compliance system.

Elaboration: An adaptive approach is particularly useful in the implementation of the Precautionary Principle as it does not necessarily require having a high level of certainty about the impact of management measures before taking action, but involves taking such measures in the face of uncertainty, as part of a rigorously planned and controlled trial, with careful monitoring and periodic review to provide feedback, allowing amendment of decisions in the light of such feedback and new information.

Applying the Precautionary Principle may sometimes require strict prohibition of activities. This is particularly pertinent in situations where urgent measures are required to avert imminent potential threats, where the potential damage is likely to be immediately irreversible (such as the spread of an invasive species), where particularly vulnerable species or ecosystems are concerned, and where other measures are likely to be ineffective. This situation is often the result of a failure to apply more moderate measures at an earlier stage.

As precautionary measures are taken in the face of uncertainty and inadequate evidence surrounding potential threats to the environment, their application should be accompanied by monitoring and regular review, both to examine whether knowledge and understanding of the threat has increased, and to examine the effectiveness of the precautionary measure in addressing the threat. Any new information gained through monitoring and further research or information-gathering can then be fed back to inform further management and decision-making. While in some cases this may lead to the precautionary measure no longer being needed, in others it may lead to the determination that the threat is more serious than expected and that more stringent measures are required.

If meaningful participation by stakeholders/rightholders is ensured throughout the process for implementing the Precautionary Principle, compliance is likely to be higher. The costs of compliance should be borne by the parties with the capacity to do it and at the least cost to society. Customary practices and social structures should be considered and, where appropriate, incorporated into the compliance scheme.

The management programme should be consistent with the available resource-base (monetary and non-monetary). Governments, private organizations, communities and individuals can contribute to this base. In determining this base, managers should consider the relative benefits to the relevant parties. Resources must be employed efficiently and tasks should be supportive of the management programme. In addition, providing a regime of liability for purely ecological harm, especially in the form of strict liability, so as to act as a deterrent, may be an important mechanism to support the implementation of the precautionary principle.

APPENDIX 2: COMMENT ON IFOA FLYERS

A. Multi scale approach factsheet

“The multi-scale approach in the proposed Coastal IFOA delivers a comprehensive threatened species protection model for the coastal timber production forests of NSW. It provides important habitat resources at the site, local and broad landscape scales. Stronger protections are applied as you work down the scales. This multi-scale approach also ensures the maintenance of multi-aged forest across the landscape and the retention of undisturbed habitat. This will provide areas of refuge, as well as connectivity and dispersal opportunities for native species.”²³

- Management Zone Scale: On average 50% of the management zone of state forests is protected.
- Local Landscape Area Scale: On average 50% of the management zone of state forests is protected.
- Site: An average of 41% of State Forests at a site scale will be protected, increasing to 45% with added tree retention clumps.
- Environmental protections: A maximum of 10% of a management area can be harvested per year.

I never was really good at maths, but this all equals 151% of what, where?

B. Wildlife factsheet

“The proposed Coastal IFOA will provide permanent protections for native plants, animals and their habitat, across the forest landscape, with targeted protections at harvesting sites.” **YET:**

- The proposed Coastal IFOA will set minimum requirements for the permanent protection of threatened species habitats in forests where harvesting activities are carried out.
- ...at least 5% of the landscape must be permanently protected in wildlife habitat clumps prior to harvesting.

“Under the proposed Coastal IFOA, all giant trees will be permanently protected from harvesting.” **YET:**

- A minimum of five hollow-bearing trees must be permanently retained per hectare, where they exist.

This factsheet is beyond farce. We are told that giant hollow bearing trees greater than 140 cm in diameter are “very rare features in the landscape” and yet we are told that the threshold for retention of blackbutt is to be increased to a 160cm diameter. No reason is given. Illogical. It would also be helpful to know why large trees are very rare features in the landscape.

D. Landscapes factsheet

This fact sheet gives no indication of the decision, that for most streams, the protection buffer will be reduced from 10m to 5m. The comment that “...areas of old growth will continue to be protected” is meaningless without examining such a statement in its proper context.

E. Technology and Boundary Rules factsheet

This fact sheet is meaningless.

F. Timber factsheet

This fact sheet is an example of deliberate distortion. It is claimed that the reason for the more intensive logging planned for the area between Taree and Grafton is “...to improve regenerative outcomes”. There is no mention

of the desire to achieve greater timber volumes. The arrogance of this approach assumes that the reader is of extremely limited intelligence.

APPENDIX 3: FLYER ON TOMORROW'S FORESTS TODAY

THE COASTAL IFOA

Our native timber production forests complement our world-class system of conservation reserves.

They provide important habitat for native fauna and flora and offer unique recreational opportunities, with over 3 million people visiting them each year. They're also an important resource for materials in everyday life, like hardwood timber for high-end construction, furniture, fences and floors.

The NSW Government is committed to developing an IFOA that balances environmental outcomes and timber production.



If you use our coastal forests, the timber they supply, or care about the habitat they support, it's time to have your say on tomorrow's forests... today.

Visit
engage.environment.nsw.gov.au/forests



Have your say

ON TOMORROW'S FORESTS TODAY



Do you use our coastal forests, the timber they supply, or care about the habitat they support?



A NEW APPROACH

The NSW Government is updating the rules for native timber harvesting in NSW's coastal forests. These rules, called the Integrated Forestry Operations Approvals, or IFOAs, have not been updated for almost 20 years. They have not kept up with regulatory best practice and they are no longer effective in managing environmental impacts, or responding to changes in operational practices and technology.

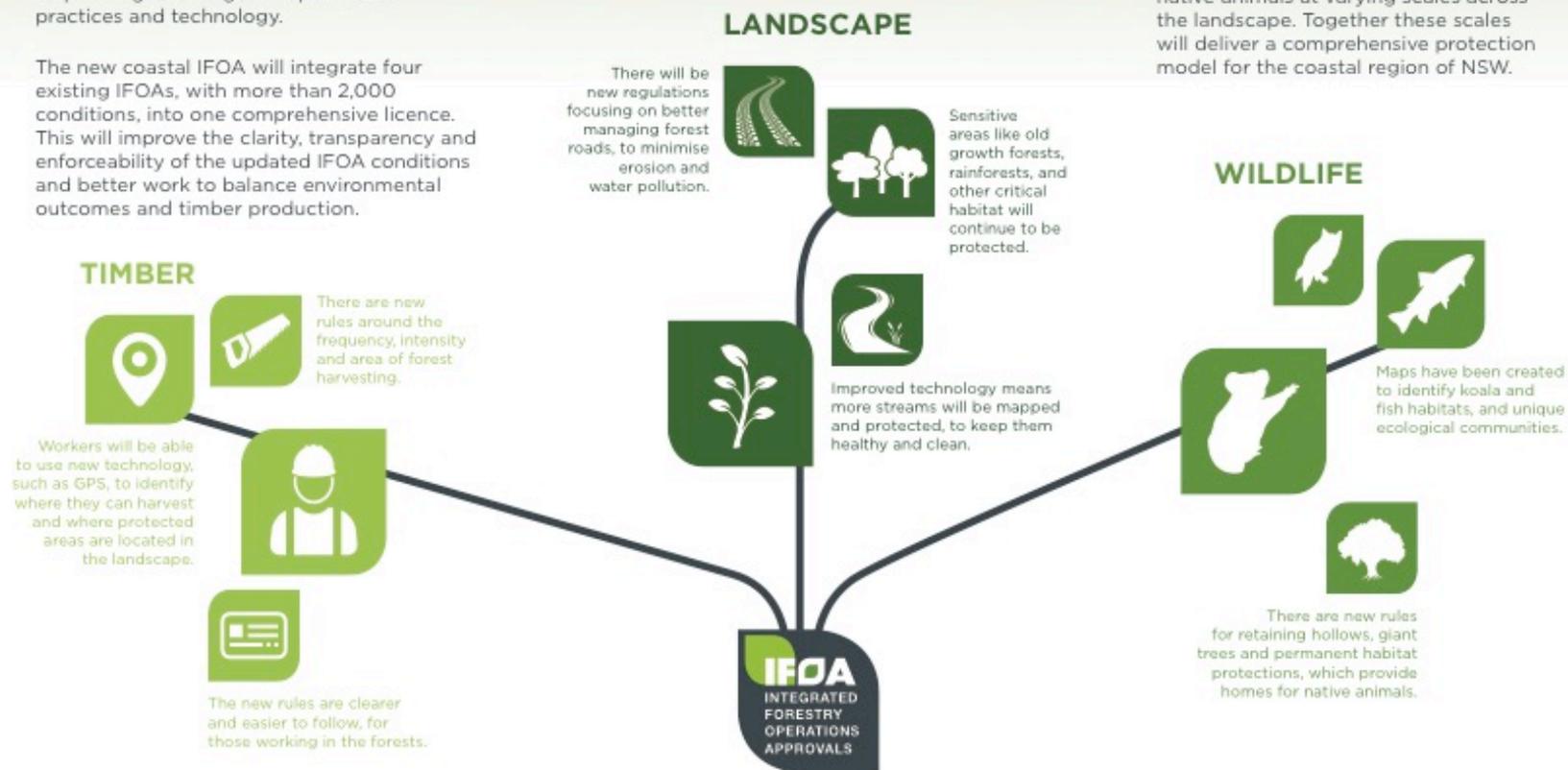
The new coastal IFOA will integrate four existing IFOAs, with more than 2,000 conditions, into one comprehensive licence. This will improve the clarity, transparency and enforceability of the updated IFOA conditions and better work to balance environmental outcomes and timber production.

The new coastal IFOA will be efficient, effective and enforceable. It will reflect modern best-practice regulation and reduce the costs of implementation and compliance, making it easier for industry to comply with forestry rules and for the EPA to regulate.

KEY IFOA INCLUSIONS

The new coastal IFOA will maintain multi-aged forest across the landscape and retain undisturbed habitat so that native species have areas of refuge, and can re-colonise areas after harvesting.

This 'multi-scale' approach will provide permanent habitat protections for native animals at varying scales across the landscape. Together these scales will deliver a comprehensive protection model for the coastal region of NSW.



REFERENCES

- ¹ Aldo Leopold, 'The Land Ethic' *A Sand County Almanac*, (Oxford 1989) 224-225.
- ² Principle as shown at: <https://www.britannica.com/topic/environmental-law/Principles-of-environmental-law>
- ³ *Guidelines for Applying the Precautionary Principle to Biodiversity Conservation and Natural Resource Management*. As approved by the 67th Meeting of the IUCN Council 14-16 May 2007. <http://www.pprinciple.net>
- ⁴ Catherine Gross. *Why Justice is Important*. <http://press-files.anu.edu.au/downloads/press/p115431/pdf/ch086.pdf>
- ⁵ Second reading speech, Forestry Legislation Amendment Bill 2018, 16 May 2018
- ⁶ https://www.edonsw.org.au/forest_law_frenzy
- ⁷ NSW Forestry Industry Roadmap: https://www.dpi.nsw.gov.au/__data/assets/pdf_file/0005/711851/nsw-forestry-industry-roadmap.pdf
- ⁸ Advice on Coastal IFAO remake – Outstanding settings: <http://www.nrc.nsw.gov.au/ifo>
- ⁹ Advice on Coastal IFAO remake – Outstanding settings: <http://www.nrc.nsw.gov.au/ifo>
- ¹⁰ Catherine Gross, Water under the Bridge: Fairness and Justice in Environmental.... Available from: https://www.researchgate.net/publication/316438023_Water_under_the_Bridge_Fairness_and_Justice_in_Environmental_Decision-Making [accessed Jun 17 2018].
- ¹¹ <https://www.eden.nsw.au/historical-eden/eden-s-history>
- ¹² Catherine Gross, Community perspectives of wind energy in Australia: The application of a justice and community fairness framework to increase social acceptance, *Energy Policy*, Volume 35, Issue 5, 2007, Pages 2727-2736, ISSN 0301-4215, <https://doi.org/10.1016/j.enpol.2006.12.013>.
- ¹³ Campbell, R. & McKeon, R. (2016). *Money Doesn't Grow on Trees*. <http://www.tai.org.au/content/money-doesnt-grow-trees>
- ¹⁴ Forestry Corporation of NSW. https://www.audit.nsw.gov.au/ArticleDocuments/292/26_Volume_Nine_2013_Forestry_Corporation_NSW_Trading_as_Forestry_Corporation.pdf.aspx?Embed=Y
- ¹⁵ <http://www.agriculture.gov.au/forestry/policies/rfa>
- ¹⁶ Heather Keith, Brendan G. Mackey, and David B. Lindenmayer. 2009. *Re-evaluation of forest biomass carbon stocks and lessons from the world's most carbon-dense forests*. The Fenner School of Environment and Society, Australian National University, Canberra, ACT 0200, Australia
- ¹⁷ Mackey, B. (2008). *Untouched forests are carbon warriors*. ABC News in Science. <http://www.abc.net.au/science/articles/2008/08/05/2324476.htm>
- ¹⁸ Perkins, F., Macintosh, A. (2013). Logging or carbon credits. *The Australian Institute*. Technical Brief No. 23, June 2013, ISSN 1836-9014. <http://www.tai.org.au/content/logging-or-carbon-credits>
- ¹⁹ Lindenmayer, D.B., Blair, D., McBurney, L., & Banks, S.C. (2015). The need for a comprehensive reassessment of the Regional Forest Agreements in Australia. *Pacific Conservation Biology*, 2015, 21, 266–270. 11.12.2015 <http://dx.doi.org/10.1071/PC15042>
- ²⁰ Sweeney, O.F. (2016). Regional Forest Agreements in NSW: have they achieved their aims? NPA NSW, Sydney.
- ²¹ Makkonen, M., Huttunen, S., Primmera, E., Repog, A., Hildéna, M. (2015) *Policy coherence in climate change mitigation: An ecosystem service approach to forests as carbon sinks and bioenergy sources*. Science Direct. doi:10.1016/j.forpol.2014.09.003
- ²² <https://www.theguardian.com/environment/2018/mar/20/regional-forest-agreement-renewals-spark-fresh-forest-wars>
- ²³ C14884_EPA_Infographic_MultiScaleApproach_V8B_NoCrops