



Wide Bay Burnett Environment Council
PO Box 97, Maryborough, Queensland, 4650
2 September 2022

Senate Standing Committees on Environment and Communications Inquiry:
Environment Protection and Biodiversity
Conservation Amendment (Save the Koala) Bill 2021

Dear Committee Secretariat,

On behalf of the Wide Bay Burnett Environment Council Inc (WBPEC), thank you for the opportunity to make a submission to the Inquiry into the Environment Protection and Biodiversity Conservation Amendment (Save the Koala) Bill 2021.

WBPEC is an apolitical not-for-profit member-based environmental advocacy organisation in the Wide Bay Burnett region of Queensland. Further information about WBPEC and its activities can be found at <https://wbpec.wordpress.com/>.

Our submission is as follows.

Summary

If passed into law, this Bill would remediate breaches, absences and failings under State Government regulation if any with regard to responsible stewardship of public lands on which native flora and fauna is available for exploitation.

Given

1. The strong overlap between known koala habitat and areas in which Regional Forestry Agreements apply, and
2. the failure of regulatory oversight of Regional Forestry Agreements according to the findings of the *Friends of Leadbeater's Possum Inc v VicForests* case in the Federal Court

this Bill should be accepted in its entirety and passed into law.

WBPEC also notes that while the Bill is ostensibly focused on koala conservation, its implementation will prove beneficial to conservation of several other species, such as Greater Gliders, and Leadbeater's Possum the conservation of which are Matters of National Environmental Significance.



Recommendations

1. That the Amendment (Save the Koala) be passed in its entirety.
2. That recommendations be made to the Government that programs to immunize koalas against Chlamydia be supported
3. That recommendations be made to the Government that programs supporting reafforestation of as much of Eastern Australia as possible be undertaken.
4. That fauna detection surveys be conducted by officials independent of logging contractors before logging permits are issued.

Submission in Detail

Logging of native forests on public land is permitted under agreements between State and Federal governments called Regional Forest Agreements (RFAs). RFAs have several aims relevant to the environment, including:

1. [Providing] for the ecologically sustainable management (ESFM) and use of forested areas in the regions;
2. [Having] regard to studies and projects carried out in relation to environmental values, including old growth, wilderness, endangered species, National Estate values and World Heritage values.

RFAs apply in native forests in all States other than South Australia and Queensland; South Australia does not have a native forestry industry, and Queensland has its own Comprehensive Regional Assessment scheme, which, while not involving agreement with the Commonwealth, is understood to be equivalent to an RFA for the purposes of the Act.

RFA's have not been without their critics.

In 2016 NSW's National Parks Association and Conservation Council jointly released a detailed report stating that "Regional Forest Agreements have failed to protect the environment"¹. This report concludes with particular reference to koalas as follows:

¹ https://npansw.org.au/wp-content/uploads/2016/10/npa_regional-forest-agreements-have-failed-to-protect-the-environment.pdf, accessed on 5 April 2021.



“Koalas

“Koalas were not listed under the federal Environment Protection and Biodiversity Conservation Act (EPBC Act) during the signing of the RFAs. In 2012, koala populations in NSW, Queensland and ACT were listed under the EPBC Act after having being assessed as having undergone a population decline of 33% between 1990 and 2010². Despite knowing that many koala populations have been declining for decades³, and awareness of policy issues preventing effective action⁴, recent research shows continued alarming declines in most koala populations in NSW⁵. Our favourite animal is at risk of extinction, and logging is a big part of the problem. In March 2016 the NSW government declared 12,000ha of ‘flora reserves’ between the Bega and Bermagui rivers to protect the remaining koalas on the far south coast of NSW. This is an admission that logging and koalas don’t go together. We need to protect all of our koalas by ending native forest logging across NSW.”

ANU’s Prof David Lindenmayer makes further authoritative criticism. In “Flawed forest policy: flawed Regional Forest Agreements”, *Australasian Journal of Environmental Management*, (2018), 25:3, 258-266, DOI: 10.1080/14486563.2018.1466372⁶, Professor Lindenmayer argues that the objectives of RFAs have not been met with five key areas being unsuccessful. RFAs have:

- (i) failed to protect biodiversity and maintain ecosystem processes;
- (ii) been characterised by poor governance and watered down forest protection;
- (iii) overseen a demonstrable lack of profitability of, and declining employment in, native forest logging industries;
- (iv) led to the over commitment of forest resources to wood production and

² Woinarski, J. C. Z., Burbidge, A. A. & Harrison, P. L. The action plan for Australian Mammals 2012. (CSIRO, 2014).

³ Phillips, S. S. Population Trends and the Koala Conservation Debate. *Conservation Biology* 14, 650-659, doi:10.1046/j.1523-1739.2000.99387.x (2000).

⁴ Clark, T. W., Mazur, N., Cork, S. J., Dovers, S. & Harding, R. Koala Conservation Policy Process: Appraisal and Recommendations. *Conservation Biology* 14, 681-690, doi:10.1046/j.1523-1739.2000.99390.x (2000).

⁵ McAlpine, C. et al. Conserving koalas: A review of the contrasting regional trends, outlooks and policy challenges. *Biological Conservation* 192, 226-236, doi:http://dx.doi.org/10.1016/j.biocon.2015.09.020 (2015).

⁶ <https://www.tandfonline.com/doi/full/10.1080/14486563.2018.1466372>, accessed on 18 March 2021.



- (v) failed to account for other forest values that are often much greater than wood production.

Koalas are forest-dwelling animals widely distributed in regions of native forest in Queensland, New South Wales, Victoria and South Australia. Their estimated distribution is shown in Figure 1⁷.

Native forest subject to Regional Forestry Agreements is shown in Figure 2⁸; crucially, there is a notable overlap between habitat in which koalas are known to be present (Figure 1), and regions of Victoria, New South Wales and Queensland in which either Regional Forestry Agreements or (in Queensland) Comprehensive Regional Assessment apply.

By definition, forestry operations typically occur in relatively remote locations where monitoring and oversight may be costly or logistically difficult. In essence, this requires that the community must trust that logging operations comply with their regulatory obligations.

At its website, the respondent in the Federal Court action, VicForests, is described as “a State-owned business with an independent Board of Directors, and accountable to the Victorian Government through the Minister for Agriculture and Regional Development and the Treasurer”⁹.

It is these Agreements (Assessment) that are relied upon to exempt forestry operations from provisions of the EPBC Act; a reliance on which, in the Federal Court *Friends of Leadbeater's Possum Inc v VicForests* case, is demonstrated to be fallacious.

That is, the State Government of Victoria has a direct pecuniary interest in there being as few interruptions to VicForest's operations as possible - and yet the same State Government is the regulator that has been found unable to ensure compliance with the Code in the logging operations by VicForest that were the subjects of the *Friends of Leadbeater's Possum Inc v VicForests* case.

In the case, in which it was found that although Regional Forestry Agreements ('RFA's) are ostensibly exempt from provisions of the EPBC Act because they are subject to oversight by State Government legislation, any forestry operations that are demonstrably not being conducted in accord with the precautionary principle are

⁷ Koala Habitat Distribution map, Commonwealth Department of Environment, <https://www.environment.gov.au/system/files/pages/187f297d-db69-4aab-b994-cec0bf27c716/files/phascolarctos-cinereus-distribution-map.pdf>, accessed 8 April 2021.

⁸ Map of Regional Forest Agreement and related regions in Australia, Commonwealth Department of Agriculture, <https://www.agriculture.gov.au/forestry/policies/rfa/regions/map>, accessed 8 April 2021.

⁹ <https://www.vicforests.com.au/about-vicforests/organisational-structure>; accessed on 17 March 2021.



consequently in breach of clause 2.2.2.2 of the *Code of Practice for Timber Production 2014* (the 'Code'), which provides the framework for regulation of commercial timber harvesting operations on both public and private land in Victoria¹⁰. As a result, any such forestry operations do not benefit from the exemption extended by s 38(1) of the EPBC Act and, not having been assessed or approved under part 3 of the EPBC Act, are unlawful.

It is understood that although the Federal Court case was launched through concern for the Leadbeater's Possum and Greater Glider, the factual findings on which the judgement was based is equally applicable to forest-dwelling flora and fauna throughout Australia; most notably, the factual findings apply to the koala.

Two significant conservation-relevant ways in which Koalas differ from other arboreal fauna species:

1. Koalas do not rely on the tree hollows that form in old-growth native forest trees. This means that so-called "regrowth" native forest can also provide beneficial koala habitat well in advance of other fauna species, so that the harvesting of regrowth forest may also threaten the lives of resident koalas.
2. Koalas are uniquely threatened by the spread in koala populations of Chlamydia, a sexually-transmitted disease. Not only does Chlamydia weaken and eventually kill koalas, it also renders them infertile. As explained in "Will there be any koalas left in Australia's east by 2050?", the 3 July 2022 episode of Radio National documentary 'Background Briefing'¹¹, Chlamydia is now widespread among koalas. An infected animal may recover if treated with anti-biotics, but because the only certain way of keeping a koala free of Chlamydia is immunisation with a vaccine, the vaccination program must also continue until the disease is eliminated from the koala population. That program, however, is outside the scope of the present Amendment.

WBBEC also notes that on 5 July 2022, the Greater Glider was listed as an Endangered Species.

¹⁰ https://www.forestsandreserves.vic.gov.au/_data/assets/pdf_file/0016/29311/Code-of-Practice-for-Timber-Production-2014.pdf, accessed on 18 March 2021.

¹¹ <https://www.abc.net.au/radionational/programs/backgroundbriefing/will-any-koalas-be-left-in-australias-east-by-2050/13953818>, accessed 30 September 2022



Figure 1: Koala Habitat Distribution map

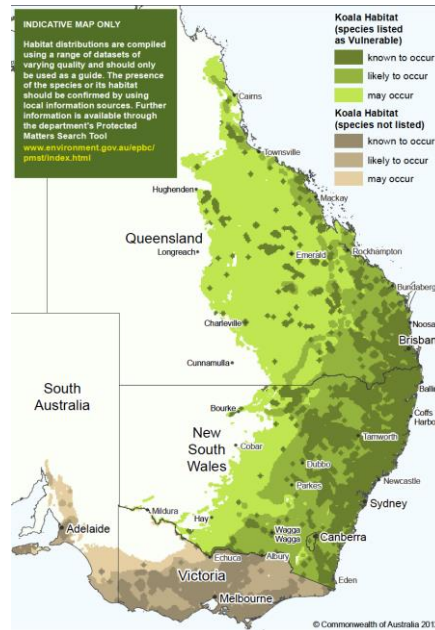
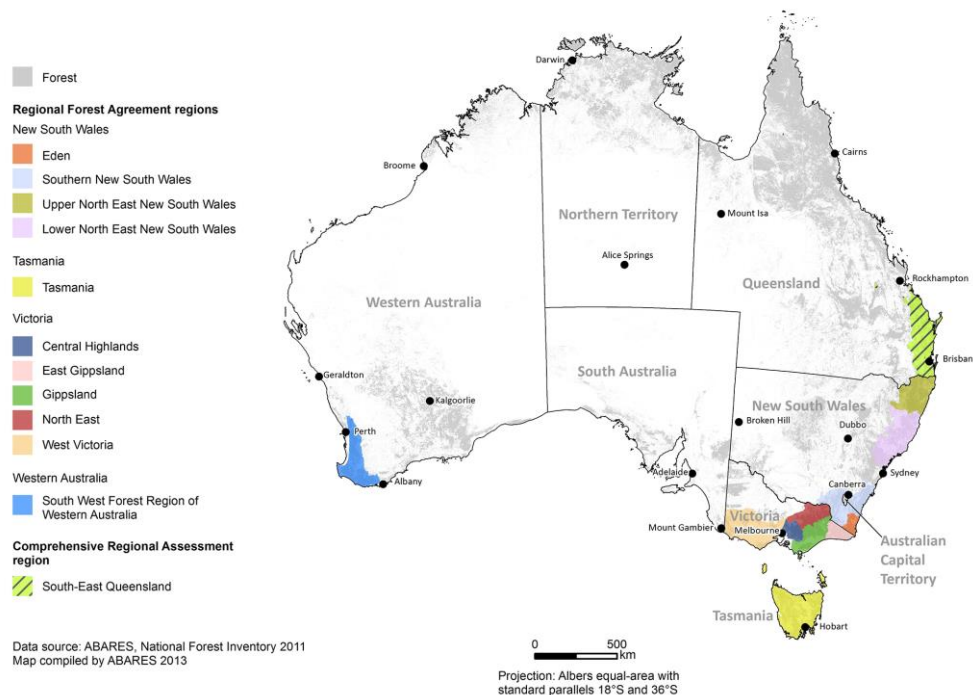


Figure 2: Map of Regional Forest Agreement and related regions in Australia.



Greater gliders were once abundant along Australia's east coast, but populations have crashed by as much as 80% in the last 20 years due to habitat destruction



including land-clearing and logging, as well as bushfires fuelled by a rapidly changing climate. Greater gliders are nocturnal and can glide up to 100 metres through the forest canopy. They nest in the hollows of old trees and, like koalas, they mostly eat eucalypt leaves.

A report by WWF-Australia found the destruction of greater glider habitat actually increased by more than 50% in Queensland¹², and also increased in NSW after the species was first listed as vulnerable in 2016; that is, it's gone from not needing any listing to listed as Endangered in merely 6 years under ongoing habitat destruction through logging.

WBEC understands that because this amendment constrains forest destruction due to logging it will help conserve all arboreal species, not just koalas.

The Federal Court judgement is both welcome and unsurprising given the second of the five unsuccessful objectives identified by Professor Lindenmayer (*RFA's have been characterised by poor governance and watered down forest protection*). As it happens, the Federal Court judgement was overturned in the High Court on appeal, not on the facts of the case but on jurisdictional grounds.

WBEC is of the view that the above considerations show that, given the demonstrated untrustworthiness of the forestry industry, that Regional Forestry Agreements *cannot* provide the necessary oversight of forestry operations that might justify any exemption of RFA's from the provisions of the EPBC Act.

As such, the Bill should be accepted in its entirety, and passed into law. WBEC also asks that the Committee recommend fauna detection surveys be conducted by officials independent of logging contractors before logging permits are issued, and for koalas, that programs of vaccination against Chlamydia be progressed until the disease is eliminated.

Yours sincerely

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¹² <https://www.wwf.org.au/news/news/2020/destruction-of-greater-glider-habitat-jumped-by-52-after-vulnerable-listing#gs.dh2wny>, accessed on 30 September 2022