



## **Submission**

**In response to:**

## **Environment Protection and Biodiversity Conservation Amendment (Standards and Assurance) Bill 2021**

**Prepared by**

Bush Heritage Australia  
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**Submitted to**

**Committee Secretary**

**Senate Standing Committees on Environment and Communications**

### **Bush Heritage Australia**

Bush Heritage Australia is a national not-for-profit organisation, protecting over 11.3 million hectares of ecologically important land for the benefit of nature and all Australians. Operating nationally, Bush Heritage has an interest in and influence on the protection of our native species and natural landscapes. We work primarily in 19 priority landscapes that cover a vast and diverse subset of Australia's human and environmental communities.

Within these areas we are focussed on restoring natural ecosystem health and the viability of native species both on our reserves and across the broader landscape. Aside from carefully managing our own land, Bush Heritage takes a collaborative approach to land management and biodiversity protection, engaging and working with others, across sectors, to protect natural assets at a landscape scale. Bush Heritage is involved in significant species recovery programs across Australia, working with Traditional Owners, other not-for-profit organisations, farmers, governments and universities. Bush Heritage is supported by more than 30,000 active donors and over 800 volunteers.

Bush Heritage interacts with the EPBC Act in its conservation work across Australia. The Act is clearly not achieving environmental and biodiversity protection in Australia, as evidenced by Australia's record of having the world's worst extinction rate, a continuing declining trend of species loss, and continuing habitat loss and degradation (Samuel Report 2020). The core objective of the Act – to provide for the protection of the environment, especially Matters of National Environmental Significance– is positive. The guidance, frameworks and mechanisms within the Act are a good foundation for nature protection but require clarification, improved implementation, broader coverage, funding and active enforcement if the trajectory for our species and habitats is to change.

### **Regional Forest Agreements (RFAs)**

Regional Forest Agreements (RFAs) were developed to support appropriate native forest management in Australia and balance the needs of nature, the services it provides and productive industry by building sustainable use of natural resources and actively managing logging areas outside of Protected Areas. Legislation governing RFAs has been restricted, removed and watered down to the point that management, guidance and control of logging areas is non-existent.

Under the RFAs, the Commonwealth Government has formally obviated itself of responsibility for the assessment and approval of forest logging operations, and their impact on MNES, via the 'RFA exemption' clauses incorporated into the EPBC Act and the Regional Forest Agreement Act 2002 (RFA Act).

The Federal Government has substantial legal obligations to protect Federally-listed threatened species, wherever they are. We also find that RFA's have been a significant instrument in preventing the EPBC Act from exerting protection over nature and the services or outputs that belong to all Australians.

We agree with the findings of ACF, HSI, BirdLife, WWF and The Wilderness Society in their submission

that, since RFAs commenced 20 years ago:

- 12 forest vertebrate fauna species have been up-listed to the 'Endangered' or 'Critically Endangered' categories;

- More than a quarter Federally-listed forest dependent species that were listed when the RFAs were signed have moved closer to extinction;
- 15 forest vertebrate fauna species have been listed as threatened for the first time.

In addition:

- Five-yearly reviews have been consistently late by three years on average. The first RFA to be signed in 1997 was not reviewed until 2010, 13 years after it was signed;
- The recent Federal Court ruling that found that state-owned logging agency VicForests breached the code of practice under the Central Highlands RFA and therefore was not exempt under the EPBC Act 1999, has profound implications for the RFAs. It throws into doubt the legality of the exemption for all RFAs;
- The poor performance of logging companies in these areas, has not stopped government funding subsidising unsustainable operations of logging companies, at the cost to nature and all tax paying Australians; and
- Neither are the needs of the industry being met as evidenced by sawmill closures, job losses, and a reduction in wood volume availability partly due to severe fires, likely made worse through poor management and the impacts of logging.

In summary we support the findings of other submissions

and assess the RFA's to be an unfit piece of legislation for the current times.

Specifically:

- RFAs have failed to meet their core objectives:
  - forests are not being ecologically or sustainably managed with some at high risk of ecological decline;
  - the forestry industry continues to be plagued by instability and uncertainty; and
  - the legislative and financial support of the industry is not just costing Australians natural capital but financial capital for an insufficient return.
- The EPBC exemption that RFAs grant the native forest logging should not be tolerated in light of the findings of Prof Graeme Samuel:

“The environment and our iconic places are in decline and under increasing threat. The EPBC Act does not enable the Commonwealth to effectively protect and conserve nationally important environment and heritage matters. It is not fit for current or future environmental challenges.”

Contributing to the complexity and inefficiency of the Nation's legislative tool to protect the environment is the partial and total exemptions for individual industries – such as represented by the RFA.

“Commonwealth oversight of environmental protections under RFAs is insufficient and immediate reform is needed. The National Environmental Standard for MNES should be immediately applied and RFAs should be subject to robust Commonwealth oversight.”

- Wildlife is being pushed to extinction, with tens of thousands of hectares of critical native habitat for forest dependent threatened species, including the Swift Parrot and Leadbeater's possum (see case studies below), being logged under the RFAs.
- Jobs and skills in the logging industry continue to decline as does the supply of native forest wood and fibre volumes.
- The reliance on the States for surveillance, compliance, enforcement and reporting is clearly inadequate and has led to poor to non-existent outcome reporting for many years.

- Despite reports of breaches of compliance, marked impact on Australian species and natural capital and management inadequacies limiting the economic output of the industry – no review has been triggered and regular mandated reviews are overdue with no penalties.
- Finally – a review of logging and thinning of forests shows that this can lead to increased fire risk for all surrounding communities and landscapes (Expert Panel, Bush Fires: <https://www.bushfirefacts.org/>)

The Bill currently before the Committee perpetuates this situation and therefore is inconsistent with the recommendations of the Samuel Review. Further, the Bill proposes even more complete exemption from the EPBC rather than the Commonwealth being assured that an equivalent standard of environmental protection to the EPBC Act is in place as is currently stated.

The era of exemptions should be replaced with a consistent approach: national environment laws must apply equally, transparently and robustly to everyone and every sector of our economy.

It is clear that this further reduction in oversight will logically lead to more species extinctions, habitat destruction and loss of natural capital that is rightly the property and concern of all Australians.

**On this basis, we strongly recommend the Bill not be supported by the Committee and that the Commonwealth reformed RFA's as part of the interconnected suite of reforms as recommended by the Samuel Review.**

In order to be in a positive situation to implement the recommendations of the Samuel Review, we ask the Commonwealth to:

1. Immediately review the current performance all RFAs and reform the industry with a view to the economic, ecological and social costs and opportunities. In particular we request the avoidance of harm to dependent species and broader fire risk caused by logging native forests.
2. Adopt and implement the National Environment Standards recommended by the Samuel Review, and commit to developing the full suite of standards recommended by the Review within 12 months.
3. Implement the Recommendations of the Samuel Review in full, including a strong voice from Traditional Owners across all associated landscapes and heed the warning that piecemeal approaches to EPBC review will lead to further decline.
4. Ensure that any future forest management arrangements value and account for the full range of forest uses including; conservation, tourism, recreation, water, carbon and any limited native forest logging ongoing, including any that may form part of an industry transition.