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Submission into the Inquiry into the Environment Protection and Biodiversity Conservation Amendment (Regional Forest Agreements) Bill 2020. Senate Environment and Communications Legislation Committee: March 2021

The Victorian National Parks Association (VNPA) is an independent member-based organisation, working to improve protection of Victoria's biodiversity and natural areas, across land and sea. The VNPA has been actively working to protect Victoria's biodiversity for close to 70 years.

We welcome this opportunity to provide a Submission into the Inquiry into the Environment Protection and Biodiversity Conservation Amendment (Regional Forest Agreements) Bill 2020.

Our submission will include the impact of the Regional Forest Agreements (RFAs) on the state of Victoria.

Regional Forest Agreements and the impact on Victoria.

More than half of the state's native vegetation has been cleared since European settlement, and many native plant and animal species are at risk from a range of pressures, including the impacts of climate change.

Native forest logging adds to this loss of habitat and ecosystem function adding stress to already stressed ecosystems and threatened species populations.

A recent Victoria Government report "*Threatened Species and Communities Risk Assessment Victoria's Regional Forest Agreements October 2020*" articulates the impacts of native forest logging as follows.

The site-level impacts of timber harvesting based on the standard "clear-fell" or "seed-tree" system include:

- Direct mortality, especially of arboreal species;
- Removal/modification and fragmentation of the forest structure;
- Soil disturbance and compaction due to machinery use, potentially also leading to soil erosion and sedimentation of waterways; and
- Edge creation, leading to changes in micro-climate characteristics such as light intensity, temperature, humidity and wind strength in the adjoining forests.

The report also notes:

“The use of heavy machinery during and after the harvesting operation can have a localised and detrimental impact on understorey species that rely on a vegetative response to disturbance, including tree-ferns and some long-lived shrubs and trees. Edge effects can impact especially on adjoining rainforest stands and aquatic species may be affected by sedimentation and poor water quality.

At the landscape-level, timber harvesting when conducted over a typical rotation period of 80 years will inevitably reduce the proportion of the forest in older age classes, including mature and senescent growth stages, depending on bushfire history. This effect will vary from area to area, depending on the extent of older age classes and their protection in the reserve system. However, where this effect is substantial, it would make the forest at a landscape-scale less suitable for hollow-dependent species such as possums, gliders and large forest owls.”

In relation to the Code of Practice for Timber Production the report stated, “..the Code of Practice for Timber Production includes standards and prescriptions to address many of the impacts of timber harvesting. However, the measures are not necessarily sufficiently comprehensive or effective to manage all risks” (DELWP 2020)

With the framework for compliance and auditing continuing to fail even under the so called Modernisation process. Logging of native forest is adding to the growing loss of habitat in Victoria, endangering forest ecosystems and State and Commonwealth listed species.

In April 2020 the Victorian and Commonwealth governments re-signed the 5 Regional Forest Agreements across the state for a further 10 years. This was following the devastating Black summer Bushfires that burnt approximately 1.5 million hectares across Victoria with around 1.3 million hectares or 18 per cent of Victoria’s public native forest impacted.

In the recent review of the Victoria RFA’s carried out in 2018-2019, VNPA provided a detailed submission. In this submission, we outline ten reasons why the RFAs have failed, are now obsolete and should not be renewed. These are:

1. RFAs have failed to meet their objectives
2. The ecological targets of the RFAs are out of date
3. RFAs are a regulatory relic
4. The RFAs ignore climate change implications
5. RFAs do not effectively manage threatened species and ecosystems
6. The RFAs ignore fire impacts
7. RFAs ignore other forest values
8. RFA reviews ignore their own previous recommendations
9. RFAs give unjustified and unfair special treatment to native forest logging
10. The RFAs stifle industry innovation

The detail can be found in Victorian National Parks Association (VNPA) Submission on Victorian Regional Forest Agreements 29 January 2018 <https://vnpa.org.au/wp->

<content/uploads/2018/03/VNPA-Submission-on-Victorian-Regional-Forest-Agreements-29January2018.pdf>

The so called “modernised” RFAs signed in Victoria included new clauses such as a Major Events Review, loose protections for Old Growth forests and a commitment to work with Traditional Owners.

In practice these clauses and their effect/impact are slow on the ground, if they happen at all.

The management of the RFAs in Victoria has seen forest dependent species such as the Greater Glider, Mount Cole Grevillia and Leadbeaters Possum become listed and up-listed under state and federal legislation due to the ongoing threat of habitat loss caused by native forest logging operations.

The role of the RFAs to exempt logging operations in native forest and threatened species habitat from environmental assessment due to conservation values, **no other industry has this kind of exemption from its legal requirements.**

Black Summer Bushfires

Due to the impact of the Black Summer Bushfires the Major Events Review was triggered to determine what actions are required to manage native forests under the RFAs in Victoria. The review was not agreed to by the state and the Commonwealth until December 2020. Logging operations in the fire affected RFAs continued during these negotiations and will continue during the estimated 6 month process and result in non-binding recommendations. This has left many local people concerned about the impact to burnt and unburnt habitat while the process continues, read [here](#).

The VNPA has worked with local East Gippsland groups to produce a report entitled *After the Fires: Protecting Our Forest Refuges* which used data provided by the Department of Environment, Land, Water and Planning (DELWP) including habitat importance models, verified species detection and fire severity mapping.

The report found that of the 585,000 ha of state forests in the East Gippsland FMAs, only 112,000 ha is outside the fire extent of which 90,000 ha remains unprotected. These forest refuges for State and Commonwealth listed species are now slated for logging over the coming years slowing the recovery of threatened species and contributing to the extinction crisis our native plants and animals face in this country.

In May 2020, the Victorian state governments regulator of laws governing conservation and environment protection (Office of the Conservation Regulator) made recommendations that native forest logging stop in key unburnt habitat for threatened species to halt the threat of irreversible damage to biodiversity post bushfires, the OCR stated “The Conservation Regulator believes that the precautionary principle is currently triggered by risks of serious and irreversible damage to Victoria’s biodiversity posed by timber harvesting operations in light of the 2019/20 Victorian bushfires, and the significant scientific uncertainty about the status of Victoria’s biodiversity from these operations in this context” This warning from the chief regulator has not stopped logging in these recovering

bushfire effected forests and threatened species habitat.

The RFAs are slow to adapt to change, and is pushing ecosystems and species to the point of collapse and extinction due to their rigid nature and lack of enforcement of basic obligations.

This report and its Appendices are attached to this submission.

Federal Court ruling Friends of the Leadbeaters Possum Vs VicForest

On May 27th 2020, the Federal Court delivered its judgment on the Friends of Leadbeater's Possum (FLBP) Vs VicForest case.

The small community group Friends of Leadbeaters Possum (FLBP) had challenged that under *The Code of Timber Harvest (The Code)* the logging of 66 coupe areas where both State and Commonwealth listed species the Greater Glider and Leadbeaters Possum were present were not being done in compliance with *The Code* and thus did not meet the requirements to operate under the EPBC Act exemption from Federal environment laws.

The courts also found a number of breaches of *The Code* – including relating to protection of Leadbeater's Possum habitat across the Central Highlands as well as declarations of unlawful logging by state-owned logging company VicForest in the 66 coupe areas put forward in the court case. The inability of the logging industry to operate without impacting negatively on Threatened species listed under both state and commonwealth legislation shows the destructive nature of the RFAs and that they directly endanger our endangered and threatened species.

Samuel review- Independent review of the Environment Protection and Biodiversity Conservation Act 1999 (2020) & Hawke Review- First Independent review of the Environment Protection and Biodiversity Conservation Act 1999 (2009)

The final report of the Independent review of the Environment Protection and Biodiversity Conservation Act 1999 was submitted to the Federal Minister for the Environment, on the 30th October 2020.

In this review Professor Samuel specifically raised issues with the RFAs and lack of oversight performed by the Commonwealth, poor reporting and assessment methods and dependence on the state to perform compliance of operations.

The VNPA agrees with Prof. Samuel's finding that existing "Commonwealth oversight of environmental protections under RFAs is insufficient and immediate reform is needed. The National Environmental Standard for Matters of National Environmental Significance (MNES) should be immediately applied and RFAs should be subject to robust Commonwealth oversight."

The review also found that the considerations for MNES values are not considered under the RFAs stating that the RFAs "do not align with the assessment of significant impacts on MNES required by the EPBC Act"

The current amendment *Environment Protection and Biodiversity Conservation Amendment (Regional Forest Agreements) Bill 2020* does nothing to amend the issues raised by Prof. Samuel but will further undermine protections for threatened species that will lead to the destruction of more threatened species and their habitat.

The Samuel Review comes off the back of Hawke Review a decade before which raised serious concerns about independent performance auditing, reporting and sanctions for serious non-compliance. The then government's response to these concerns was to be deal with them during the renewal process of the RFAs in 2020.

During the renewal process in 2020 a few of these issues were raised, but not all these issue shave been dealt with including enforcement issues, auditing and sanctions for non-compliance.

Summary

From 2000 to 2020 the RFAs have failed to meet their objectives and have been shown to aid in the loss of threatened species habitat, forest ecosystems and impact negatively on the persistence of threatened species in the wild.

Repeated reviews and reports highlight that the numbers of forest-dependent species listed as threatened continue to rise and forest health is declining. Even the native forestry industry itself is in decline as their main resource runs out due to over cutting and impact of bushfires.

The RFAs are a failed regulatory relic that do more harm than good for Victoria, its forest ecosystems and threatened species and add to the growing climate emergency and reduce resilience of our water catchments.

Recommendations

The proposed changes within the *Environment Protection and Biodiversity Conservation Amendment (Regional Forest Agreements) Bill 2020* should be rejected.

Any attempt to weaken the already weak legislative framework will see the extinction of threatened species in Victoria and collapse of forest ecosystems.

If changes to the EPBC Act are to be made in relation to the Regional Forestry Agreements, they should be to strengthen protections of Matters of national environmental significance and make logging operations in native forests subject to the same to laws that other industries are.

For further information please contact:

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