



Coastwatchers

Eurobodalla's voice for nature

Coastwatchers Submission to Review of EPBC Act

FINAL 17 April 2020

Dear Professor Samuel and Independent Review Panel

Coastwatchers Background

The Coastwatchers' Association Incorporated (Coastwatchers) is a community organisation with close to one hundred members that has served the Eurobodalla region from South Durras to Mystery Bay on the South Coast of NSW for over 30 years.

Coastwatchers acting in close co-operation with the wider community, the environment movement, the Eurobodalla Shire Council and the NSW State Government aims to help protect the environmental health and beauty of this very special NSW South Coast region. The Association aims to raise awareness in the community of environmental and climate change issues. Campaigns are summarised at the end of this submission

Preamble re EPBC Act

The EPBC is meant to be the Australian Government's central piece of environmental legislation, providing a legal framework to protect and manage nationally and internationally important flora, fauna, ecological communities and heritage places. It has failed our environment as the recent Senate Inquiry into Australia's faunal Extinction Crisis found that the EPBC Act "is incapable of addressing" our current extinction threats. It's a mess of often conflicting legislation and it's the environment that's suffering. And it hasn't been adequately resourced. Legislation is only as good as the resources provided to monitor and enforce it, otherwise it's just a piece of paper

Coastwatchers supports the review of the EPBC Act with the following summary points both general and specific to our local area devastated by bushfires and subject to logging of our native forests.

1. **Coastwatchers endorses the [Place You Love Alliance submission](#)** summarised below. Coastwatchers is a paid group member of the Nature Conservation Council NSW which is in turn a member of the Places You Love Alliance. (Detailed further below in Table 1)

1a) Create national environment laws that genuinely protect Australia's natural and cultural heritage. The Federal Government must retain responsibility for current Matters of National Environmental Significance and protect them effectively.

1b) Establish an independent National Sustainability Commission

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1c) Establish an independent National Environmental Protection Authority.

1d) Guarantee community rights and participation in environmental decision making,

2 Stop logging native forest and the industry complete the transition to plantation forestry.

TABLE 2: No longer allow the activities of the FCNSW and native forest logging industry contractors to remain exempt from the EPBC Act.

TABLE 3: Site specific conditions for [bushfire affected operations](#) that were brought in by the EPA (NSW) in March 2020 demonstrate the recently approved Coastal Integrated Forestry Operations Approvals were woefully inadequate

2a) Native Forest Logging lack of adequate monitoring

2b) Contradictory listing of species in differing categories of vulnerability by the State versus the Commonwealth

2c) Native Forest Logging Industry Non-Compliance

2d) Logging increases bushfire intensity which damages the environment

2e) The inability of third parties to take FCNSW to the Land and Environment Court

3. Local Case Study – Research into Local Koalas in South East NSW (Koala Recovery)

4. Local Case Study – Development and rezoning despite environmental national significance of Waldron’s Swamp wetlands under the EPBC Act

5. Climate Change needs to be factored into EPBC Act review by stopping logging native forests

DETAILS OF SUBMISSION

1. Coastwatchers endorses the [Place You Love Alliance submission](#) summarised below. Coastwatchers is a paid group member of the Nature Conservation Council NSW which is in turn a member of the Places You Love Alliance.

TABLE 1: Reforms Needed from Places You Love Alliance Submission

1. **Create national environment laws that genuinely protect Australia’s natural and cultural heritage.** The Federal Government must retain responsibility for current Matters of National Environmental Significance and protect them effectively. National oversight must be expanded to a broader set of matters to ensure more effective and efficient environmental protection across jurisdictional boundaries.
2. **Establish an independent National Sustainability Commission** that develops enforceable national, regional, threat abatement and species level conservation plans. The Commission would set nationally binding environmental standards including for air pollution; make a national climate and health adaptation plan; and work with state and territory agencies to undertake strategic regional planning and report on national environmental performance. The Commission would undertake horizon scanning, risk

assessments and contingency planning to mitigate future risks such as new invasive species.

3. **Establish an independent National Environmental Protection Authority** that operates at arm's-length from government to conduct transparent environmental assessments and inquiries as well as undertake monitoring, compliance and enforcement actions.
4. **Guarantee community rights and participation in environmental decision making**, including open standing provisions, open access to information about decision making and environmental trends, review of decisions based on their merits, third-party enforcement provisions and protections for costs in the public interest.

2 Stop logging native forest and the industry complete the transition to plantation forestry.

Logging native forests is exempt from the EPBC Act despite in NSW alone FCNSW having access to organise logging of 1 million ha of native forest of which 20,000 ha on average was logged and subject to a post harvest burn each year.

This area was subject to the 2019/2020 fires that burnt 80% of forests in this area creating a massive extinction event over phenomenal areas. The resumption of logging of regenerating forest in Mogo State Forest near Mogo and Brooman State Forest near Termeil to the north is the final destructive blow to the few surviving animals, birds and vegetation.

Rather than wasting any more state government money on loss making native forest logging that is decimating forest based threatened species, state governments should transition workers to alternative industries including the plantation sector and bushfire and weed and pest animal control.

TABLE 2: No longer allow the activities of the FCNSW and native forest logging industry contractors to remain exempt from the EPBC Act.

The November 2018 Coastal Integrated Forestry Approval – Protocols and Conditions (CIFOA) that applies to the South Coast of NSW replaced the previous *Terms of the Threatened Species Licence for The South Coast Sub-Region of the Southern Region*.

“This licence authorises the conduct of forestry operations on SFNSW estate within the South Coast Sub-region of the Southern Region ... that are likely to result in:

- 1. Harm to a threatened species (being an animal) or protected fauna;**
- 2. The picking of a threatened species (being a plant) or a protected plant; or**
- 3. Damage to the habitat of a threatened species.”**

The CIFOA that replaced this license effectively is a license to harm and details how the EPBC Act does not apply during logging native forest operations.

This legally sanctioned environmentally destructive logging of native forests is directly impacting on the decline of many forest dwelling threatened species in our immediate forests. The NSW OEH have identified logging native forests as a key threatening process to threatened species.

We urgently need federal environmental oversight and an end to exemption from the EPBC Act for the native forest logging industry.

TABLE 3: Site specific conditions for [bushfire affected operations](#) that were brought in by the EPA (NSW) in March 2020 demonstrate the recently approved Coastal Integrated Forestry Operations Approvals were woefully inadequate.

The bushfire site specific conditions summarised and critiqued below were brought in by the EPA (NSW) in March 2020 to strengthen protection of burnt regenerating forest only fifteen months after the CIFOA was implemented. This was after “five million hectares in NSW were burnt, including more than 890,000 hectares of native State Forests. This is approximately half of the coastal and tablelands native State Forests in NSW”.

These post bushfire site specific conditions increase many factors such as stream width by an extra ten metres, protecting all hollow bearing trees, increasing buffers to 35 metres around lowland rainforest (previously no buffer) other types of rainforest (previously 20m) and rocky outcrops (previously 20m) etc.

The November 2018 CIFOA halved first order stream buffers from 10m to 5m across the entire area. EPA then increased this in March 2020 to 20m post fires for logging in burnt areas. Reducing class 1 creek buffers from 10m to 5m means that trees that were previously protected in the buffer zone next to small creeks at the top of ridges will now be harvested as half of the buffer zone is now open to logging. Trees that are next to creeks and rivers are much bigger due to the water flow. Logging these big old trees will significantly reduce habitat for tree reliant species such as the koala as well as all hollow reliant marsupials and birds ie cockatoos that nest in big old trees with hollows.

The bushfire site specific conditions are summarised as follows on the EPA website with critique in italics. This critique has been based on the [site specific conditions for Moogo State Forest Compartment 174a](#):

The rules for timber harvesting in fire-affected areas include:

- A new requirement which requires the retention of unburned or lightly burned forest in these sites to ensure they can provide ongoing refuge and food for animals that persisted during the fires. *(logging has resumed in regenerating forest – burnt trees are still alive in the two compartments being logged in this area).*
- Increased protections around landscape features like rainforest, rocky outcrops and heathy vegetation as these areas often provide important shelter and food resources for animals, and the right environmental conditions for the regeneration of unique native plants. *(Item 27 – in burnt forest the exclusion zone is now 35m (an increase from 20m and from zero metres for lowland rainforest) for heath and scrub, rocky outcrops and cliffs, rainforest and TECs but how to tell where rainforest is in burnt forest?).*
- Increased protections for hollow-bearing trees and important feed trees to ensure more nesting and food resources are retained and protected. *(Item 17 states that now all hollow bearing trees must be permanently retained. In the CIFOA only a few HBTs are retained per hectare. All HBTs must be permanently retained across all logging operations across Australia not just in burnt regenerating forest as they are critical habitat for threatened species). Will all HBTs be retained permanently (ie forever) or is that just until the rules change next time round?*
- Intensive harvesting will not be permitted in burnt areas to lessen erosion risks and biodiversity impacts. *(the burnt steep headwaters of Cabbage Tree Creek have been*

logged in March 2020 in Mogo Compartment 174 despite heavy rainfalls from Cyclone Harvey).

- Increased requirements to prevent or minimise erosion and water pollution in local creeks and rivers given the fires have removed most of the ground cover and destabilised soils. These requirements include
 - the significant expansion of protections around streams *(Item 33 Table 2: The Class one creek buffers that were reduced in the CIFOA from 10m to 5m have been expanded to 20m, Class two creeks increased from 20 to 30m, Class three creeks from 30 to 40m and Class four from 50 to 60 meters. So the reduction in the smallest creeks at the top of ridges that form headwaters were restored and then 10 meters added to both sides of the creek for wider creeks. So only 10m extra was added to most classes of creek which is not really a significant expansion. Class one creeks should not have been reduced to 5m as big trees at tops of ridges are needed by threatened species and for erosion control.*
 - stricter limits to reduce the distance water can flow on road, tracks and log dumps *(all at tax-payer expense!)*
 - requirements to stabilise exposed soils during and after harvesting operations. *(including adding ground cover seeds that will get washed away and bark – items 42 and 43. Also Item 46 has no harvesting on slopes greater than 20 degrees. Logging in Compartment 517 in Buckenbowra Forest next to the Corn Trial in 2018 only had no harvesting of forest on slopes equal to or greater than 30 degrees). Not logging over 20 degrees needs to be the maximum slope across Australia not just in burnt regenerating forest.*

2a) Native Forest Logging - lack of adequate monitoring

Although FCNSW maintain they protect endangered species they do not undertake thorough ecological surveys of forests about to be logged or post logging audits. The new CIFOA relies on desktop surveys that electronically capture bionet records that lapse after ten years. As the previous FCNSW 15 to 18 hours of ecological surveying per compartment (150-500ha each) is no longer completed under the new CIFOA, over ten years the bio records of threatened species in state forests that trigger environmental protections under the EPBC Act will diminish to almost zero records.

EPA and the community undertaking citizens science are under resourced to monitor threatened species which highlights the need for an independent federal watchdog free from the constraints of specific industry exemptions.

Removal of hollow bearing trees and habitat destruction are both listed by the [NSW Office of Environment as Key Threatening Processes \(KTPs\)](#).

2b) Contradictory listing of species in differing categories of vulnerability by the State versus the Commonwealth



Spotted Tail Quoll captured on camera in Buckenbowra State Forest before logging

A revised EPBC Act also needs to reconcile the contradictory listing of species in differing categories of vulnerability by the State versus the Commonwealth. For instance whilst the IUCN lists the Swift Parrot as Critically Endangered, the Commonwealth listing is Endangered and the NSW listing is Vulnerable. This variability in classification has resulted in much destruction by logging of valuable flowering Spotted Gum, Ironbark and Bloodwood forests of the [Ulladulla Merimbula Important Bird Area](#). Once again the federal oversight of the logging industry enshrined in a revised EPBC ACT would have slowed down and even reversed the alarming progress of this species with only 1000 breeding pairs towards extinction.

2c) Native Forest Logging Industry Non-Compliance

Community and volunteer environmentalists undertake ad hoc post logging surveys to identify where breaches of the threatened species licence and the harvest plan have occurred.

Repeated reporting to the EPA and to FC of errors and inconsistencies in the harvest plans have not been dealt with in a timely, transparent or satisfactory fashion. Repeated reporting to the EPA of breaches committed by logging contractors have been largely dismissed as inconsequential. Download details at [COMPLIANCE FAILURES IN THE PUBLIC FORESTS OF NEW SOUTH WALES](#) and visit the [Mid-South Coast Forest Watch](#) website.



Logging debris (more than 1m high) piled up against retained trees in Mogo State Forest (illegal)

2d) Logging increases bushfire intensity which damages the environment

Furthermore, another reason for federal scrutiny of logging is that logging has increased bushfire risk and contributes to fire intensity. ANU landscape ecology expert Professor David Lindenmayer has said multiple academic and forest industry studies showed forest thinning in Australia "*makes forests more fire prone*".



Mogo State Forest January 2020 bushfire burnt after being logged in 2019

[Professor Lindenmayer also advocates a cessation of the current](#) "selective timber harvesting" from the two state forests ravaged by bushfire on the state's south coast. These burnt but regenerating forests, Mogo 174 and South Brooman 65 are being logged in March and April 2020 under the current legal framework.

The devastating impact on biodiversity of logging particularly post 2019/2020 fires is documented in the Environmental Justice Australia March 2020 [No Longer Tenable Bushfires and Regional Forest Agreements Report](#) by Margaret Blakers and Brendan Sykes.

2e) The inability of third parties to take FCNSW to the Land and Environment Court

Another wholly unsatisfactory dimension of the current legal framework in NSW is the inability of third parties to take FCNSW to the Land and Environment Court for illegal logging practices. The community report non-compliance to the EPA to take action to firstly investigate then prosecute FCNSW or its contractors for alleged breaches of the licence.

A frank and fearless federal environment watchdog with powers to initially stop work and then to prosecute where appropriate would ensure native forest logging is conducted legally.

3. Local Case Study – Research into Local Koalas in South East NSW (Koala Recovery)

Coastwatchers has engaged in scientific research on koala habitat in the Eurobodalla Local Government Area since 2011, modelling and mapping landscape-scale conditions across FCNSW, NPWS and private tenures. This research is showing that viable habitat for a low density koala population and connectivity for breeding persist, with occasional rare koala sightings also being reported, even after the recent devastating fires.

Coastwatchers advocates revival of the local wild koala population to the point that it no longer teeters on the edge of extinction. With very limited resources Coastwatchers is currently conducting a Commonwealth-funded ground-truthing project, a public awareness exercise and revision of a recovery strategy, as well as an initiative to encourage land managers, businesses and the community to adopt an entrepreneurial approach to the Eurobodalla's koala story and continuing habitat for commercial, cultural and biodiversity reasons. It is critical that government policy at all levels supports these local directions. Coastwatchers recommends

strong measures capable of mobilising State Government, Local Government, business and the wider community in a koala recovery effort, especially in the post-bushfire context where re-imagining of economies and social priorities are required.

4. Local Case Study – Development and rezoning despite environmental national significance of Waldron’s Swamp wetlands under the EPBC Act.

This area and another 38,000 hectares of forested rural land has had the E3 Environmental Management zone removed by Eurobodalla Shire Council to be replaced by Rural (RU1) Primary Production zoning with an ‘Open Uses Table’ which allows an extensive range of 84 possible land uses. This is despite concerns raised by the Office of Environment & Heritage, South East Local Land Services, Dept Primary Industries - Water, Rural Fire Service, Dept Primary Industries - Fisheries.

Waldron’s Swamp, rich in birds and unique habitat, is classified as a wetlands of national significance under the EPBC Act. The area is known to house and feed at least two threatened species: the Yellow Bellied Glider and the Swift Parrot on it’s annual migration.

The Office of Environment & Heritage testifies to this, stating: *“Some of the highest biodiversity values in Local Government Area for intact forested sections. Known records Broulee Yellow Belly Glider. YBG Strategy covers whole the area. A number of family YBG groups, local populations recorded. Large list of threatened fauna recorded. Also some threatened plants. Significant vegetation. Large area of overcleared lowland coastal forest including validated Endangered Ecological Communities eg. Bangalay Sand forest and wet swamp communities. Key habitat corridor linkage mapped as regionally significant. Has best crossing point of Princes Highway for gliders recognised by RMS. Includes Waldrons Swamp– wetland of national significance protection under EPBC Act. Not suitable for increase in the number of lots/dwellings.”*

Despite these important environmental values our local council, Eurobodalla Shire, sought and received NSW State government approval, to rezone land abutting this swamp, reducing lot sizes from 100 ha minimum to 10ha’s.

The resultant land clearing for dwellings, storage sheds, roads, fences, power and water lines and bushfire protection for all these facilities has reduced habitat critical for the survival of these already endangered gliders and parrots.

It has opened up the forest canopy increasing drying of the forest floor which will make the area more fire prone. The clearing has also increased run off into the swamp. The new Land and Environment Plan also makes it much easier to have separate dual occupancy dwellings further increasing clearing.

The new LEP completely removes existing environmental protection from E3 Environmental Management zones - approximately 38,000 hectares of forested rural land with high value wildlife habit. Much of this land was assessed and groundtruthed as High Conservation Value by NSW Office of Environment & Heritage.

The E3 zones have been removed, replaced by rural (RU1) Primary Production zoning with an ‘Open Uses Table’ which allows an extensive range of 84 possible land uses (a 58% increase from the last LEP)

6 government agencies expressed a variety of concerns with changes proposed including: Office of Environment & Heritage, Sth East Local Land Services, Dept Primary Industries - Water, Rural Fire Service, Dept Primary Industries - Fisheries.

The new LEP also allows for grazing in riparian zones (!) normally reserved as important buffers for creeks, rivers and swamps. Combined with changes to the Native Vegetation Act (NSW) these zones, critical to maintain healthy river banks and water quality have been decreased by 50% over the last few years.

How can this sort of environmental destruction be OK in the 21st century?

How can the council be allowed to rezone these important biodiverse areas?

Because there's no effective Commonwealth law or body that has the ability to protect these places. Because the EPBC isn't working as it should.

The impacts cited here are just one small example of what's happened in one Shire.

As increased population leads to increased demand for housing and development our "growth at all costs" mindset is clearly unsustainable. We're destroying the very environment that sustains us.

5. Climate Change needs to be factored into EPBC Act review by stopping logging native forests

The EPBC Act 2.0 seriously needs to address the role of climate change in impacts on our environment and biodiversity. Although this was obvious in the late 1990s mention of it was omitted from the EPBC Act 1.0. The South Coast of NSW is not immune to the growing damage from climate change and one example is once again related to the stresses on our beautiful forests where mature trees are dying through lack of adequate rainfall combined with higher than average temperatures. Yet the decades long history of intensive logging in the South Coast region has made our forests more fire prone. Logging has made the impacts of the fires worse by increasing the number of smaller, younger trees in denser drier forests. It has also hastened climate change by releasing tonnes of carbon stored in these trees into the atmosphere when they're logged.

Stopping logging native forests *especially* in bush fire affected areas would maintain the carbon in the trees, assist with the recovery of native wildlife and in the longer term help prevent the extreme wildfires experienced over this "Black Summer" of 19 /20. This type of post-fire logging moratorium should be enshrined in EPBC Act 2.0

Yours sincerely

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