



Independent review of the *Environment
Protection and Biodiversity Conservation Act
(1999)*

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Secretariat
Independent review of the EPBC Act 1999
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Forward

The National Association of Forest Industries (NAFI) appreciates the opportunity to make a submission and participate in the Independent Review of the *Environment Protection and Biodiversity Conservation Act (1999)* (hereafter referred to as the Act or the EPBC Act).

This submission outlines the relationship between the Act and the sustainable management of Australia's production forests, in particular Regional Forest Agreement (RFA) forests. RFAs were put in place to address the ad-hoc, inconsistent and uncertain approach to allocation of public native forest resource for multiple purpose use, and replaced a system that was destabilising the forest industry and delivering poor environmental outcomes.

NAFI has been a strong supporter of the Labour Government built RFA process, and its regional and all-inclusive approach to environmental, social and commercial forest asset interests. The priority recommendation for this submission process is to maintain Part 3 of the EPBC Act to ensure RFA forestry operations, undertaken in accordance with RFAs, do not apply under the EPBC Act.

Whilst protecting the certainty of resource allocation that RFAs provide is integral to this submission, comment and recommendations related to operation of the EPBC Act, separate to RFA issues, are also provided.

Recommendations

A summary of the recommendations of this NAFI submission are as follows:

Operation of the Act

1. Continue to recognise the legitimacy of the Regional Forest Agreements and maintain the exemption of forestry operations in RFA regions from the EPBC Act.
2. Introduce a more criteria-specific operational structure to the EPBC Act to enable fair and equitable treatment of all proponents and avoid undue public scrutiny and political sensitivity in the approval process.

Objects of the Act

1. Note that Australia's sustainable forest industries directly meet the object of the Act (specifically object (b) set out in Section 3) through their compliance with a comprehensive forestry-specific legislative environment.
2. Active management of conservation reserves, with tighter regulatory control through the EPBC Act, is necessary to avoid passive management which risks forest health and biological diversity.

Matters of NES

1. Fire and fuel load management be incorporated into matters of national environmental significance (NES).
2. Do not include climate change in matters of NES given the uncertainty related to the operational features of future policy.

1. Current policy setting of Australia's forest industry

The Regional Forest Agreement (RFA) process has ensured that Australia's key multiple use, wood production forests are sustainably managed and meet the highest international standards of sustainable forest management. Prior to the emergence of RFAs, which were triggered through the National Forest Policy Statement 1992, the forest industry and related timber community prosperity, as well as forest-related biodiversity protection outcomes, were threatened through the fragmented, non-all-encompassing regional focus.

The foundation of the RFAs is a series of Comprehensive Regional Assessments (CRAs) of the social, economic, environmental and cultural, and natural heritage values of each region's native forests and are the result of several years of scientific study, consultation and negotiation. Also as a process of ensuring rigour, RFAs are underpinned by a world-class Comprehensive Adequate and Representative reserve system protecting the environmental and heritage values of forests through national parks and other reserves.

The RFAs ensure that production forests are managed for the same environmental values provided for by the EPBC Act, with the addition of recognising these RFA forests as multiple-use areas. The Comprehensive Regional Assessments undertaken as part of the RFA process guarantee that RFAs provide an equivalent or higher standard of protection of environmental values of forests to that provided by the EPBC Act¹. Therefore forestry operations undertaken in RFA areas already meet the requirements of the EPBC Act.

Forest operations in Australia, regardless of their association to RFA regions, are strictly regulated under State Government based mechanisms, and many forest entities are now participating in voluntary certification, including forest management and chain of custody. Voluntary certification, such as the Australian Forest Standard (AFS), provides the transparency and rigour to achieve environmental sustainability outcomes. All of Australia's public multiple-use wood production forests, and an increasing area of private native forest that is managed for wood production, are currently certified as sustainably managed through the AFS.

Wielangta case

Following legal action brought about by Senator Bob Brown, in 2006 Justice Marshall of the Federal Court, rejected the claim against the legitimacy of the Tasmanian RFA. He did, however, find that forestry operations in the Wielangta State Forest could have significant impacts on three listed threatened species.

Forestry Tasmania appealed against the ruling. In November 2007 this appeal was upheld by the Full Bench of the Federal Court and the original decision was overturned. The court ruled the Tasmanian RFA did in fact provide adequate protection of forest biodiversity and ecological values as it was applied in its original form.

The Federal Court's finding in the Wielangta case clarifies the meaning of the word 'protect' in relation to the RFAs and the EPBC Act. The finding also confirms that the RFAs provide adequate protection for forest species and habitats in accordance with the sentiments of the EPBC Act, even where the Act does not directly

RFAs provide certainty and security for forest industries and communities which depend on forest resources. Whilst employment data is not available for RFA regions specifically, 120,000 people were employed in Australia's forestry and forest products industry in 2006¹. As forest industries are the major employment provider in many regional centres, many of which are situated in RFA regions, the security provided through RFAs is imperative to maintaining rural socioeconomics, through a balance of production and conservation forest estate. As a result of the RFAs, Australia is a world leader in sustainably managed production native forests.

Australia's production forests in RFA regions meet the objectives of the EPBC Act, as set out in Object (b), Section 3:

To promote ecologically sustainable development through the conservation and ecologically sustainable use of natural resources.

Sustainable production forestry throughout Australia directly meets Object (b) of the Act through compliance under State-based operationally specific legal framework underpinned by ecological sustainability compliance measures, as well as voluntary wide-scale participation in internationally accredited certification schemes.

Despite the sustainable development milestones of Australia's forest industry, operation of the EPBC Act has, in some instances due to political sensitivities, still resulted in unequitable treatment of forest industry investment compared to similar capital development ventures of other industries. Whilst significant forest industry infrastructure development proponents receive critical and intensive scrutiny, this deflects the focus away from real threats to biodiversity, such as the devastating impact of extreme fire on National and World Heritage conservation areas.

NAFI will take the opportunity in this submission to demonstrate the Australian forest industry's ecological sustainability, and the important role the industry has in reaching the environmental objectives of the EPBC Act. Concerns are also raised herein as to the extent to which the objectives of the Act have been achieved in World and National Heritage properties, and are inextricably linked to the urgent requirement for incorporating fire and fuel load management into matters of national environmental significance (NES).

2. Operation of the Act

Recommendations

- 2.1 Continue to recognise the legitimacy of the Regional Forest Agreements and maintain the exemption of forestry operations in RFA regions from the EPBC Act.**
- 2.2 Introduce a more criteria-specific operational structure to the EPBC Act to enable fair and equitable treatment of all proponents and avoid undue public scrutiny and political sensitivity in the approval process.**

2.1 RFAs protect environmental values

Regional Forest Agreement Act 2002, Section 6

States:

6 Certain Commonwealth Acts not to apply in relation to RFA wood or RFA forestry operations

(4) Part 3 of the *Environment Protection and Biodiversity Conservation Act 1999* does not apply to an RFA forestry operation that is undertaken in accordance with an RFA.

As outlined above, the comprehensive assessments undertaken as part of the RFA process mean that RFAs provide an equivalent level of protection to that provided by the EPBC Act. Therefore forestry operations undertaken in RFA areas meet the requirements of the Act.

The RFAs are part of the continual improvement of Australia's sustainability credentials for forest management. The RFAs have ensured that suitable areas have been allocated into the comprehensive, adequate and representative (CAR) reserve system, as well as determining stringent environmental controls for the remaining production forest estate.

RFAs provide certainty and security for forest industries and communities which depend on forest resources. They use a science-based methodology to determine forest allocation for different uses and forest management strategies, and are the result of substantial scientific study, consultation and negotiation covering a diverse range of interests.²

The RFAs apply a flexible forest management framework to ensure that a 'one size fits all' approach is not applied across Australia's diverse forest ecosystems. The RFAs provide for state based governance and regionally specific management of forests as this is more conducive to sustainable forest management than centralised, broadly prescriptive, commonwealth based forest management policy.

Background to RFAs

The RFA process was initiated through the *National Forest Policy Statement 1992*. RFAs are 20 year agreements between the Commonwealth and the relevant State Governments that determine the conservation and sustainable management of native forests.

Each RFA takes into account the regionally specific environmental and ecological conditions, including species composition, forest lifecycles and ecological processes, and prescribes management of forest harvesting activities accordingly. The RFAs ensure:

- the ecological processes within forests are maintained;
- the biodiversity, species composition and interactions are protected and maintained; and
- additional environmental, social and economic benefits of forests are protected and maintained with minimal impact upon each other.

To ensure adequate protection of forest biodiversity, the RFAs established a CAR reserve system. Overall, the aim was to place in nature conservation reserves 15% of the pre-1750 distribution of each forest type, 60% of the existing distribution of each forest type if vulnerable, 60% of existing old-growth forest, 90% or more of high-quality wilderness forests, and all remaining occurrences of rare and endangered forest ecosystems. In most regions these targets were exceeded. For example in Tasmania, 79% of old growth forests are protected in the reserve system, while in Western Australia 100% of old growth forests are protected.

Table 1: Area of old growth forest in area surveyed for RFAs (hectares)

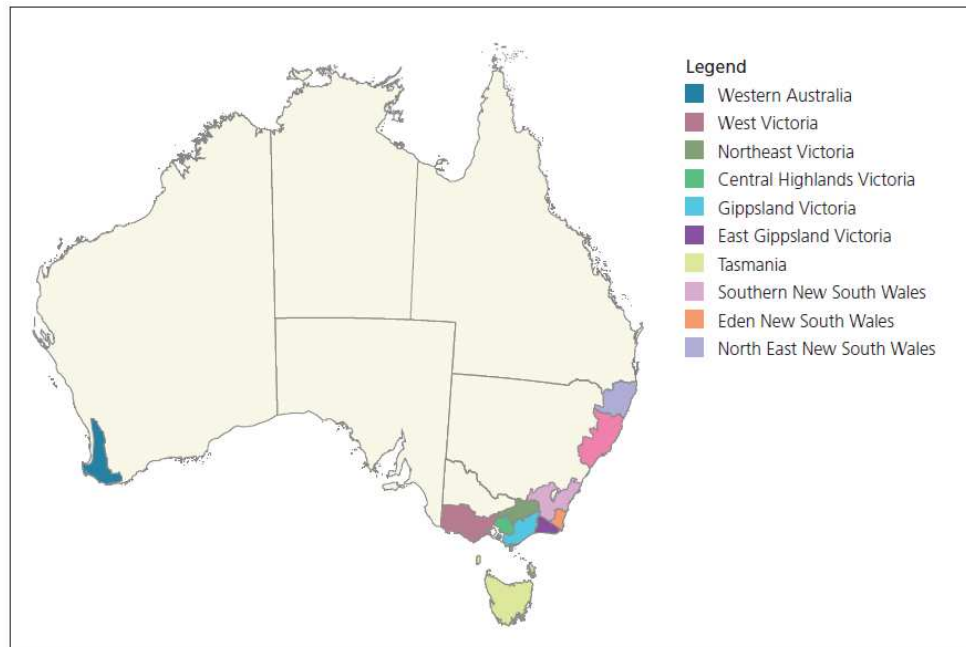
Area of old growth forest in areas surveyed for RFAs (hectares)				
	Area of forest surveyed	Old growth forest	Old growth forest in reserves	Old growth reserved
Queensland ¹	3 230 000	270 000	196 000	73%
Western Australia ¹	2 121 000	331 000	331 000	100%
Victoria	5 744 000	781 000	591 000	76%
New South Wales ¹	8 989 000	2 536 000	1 742 000	69%
Tasmania ²	3 169 000	1 229 000	973 000	79%
Total	23 253 000	5 147 000	3 833 000	74%

¹ Does not include new reserves established since 2003 in Qld, WA or NSW.
² Includes new reserves established under the Tasmanian Community Forest Agreement on public land but does not include the expected 45 000 hectares on private land.

Source: Department of Agriculture, Fisheries and Forestry (2007)

A total of 10 RFAs have been completed in Australia, covering the major forestry regions in New South Wales, Victoria, Tasmania and Western Australia (see Figure 1). Queensland did not sign an RFA; rather it completed a comprehensive regional assessment for southeast Queensland.

Figure 1: Australia's RFA areas¹



Australia's RFAs have determined and prescribed:

- a comprehensive, adequate and representative (CAR) forest reserve system;
- sustainable harvest cycles and volumes for specific regions and their forest types; and
- sustainable forest management processes for protecting and maintaining forest ecology, biodiversity and social and economic benefits.

Rigour through the CRA process

The RFAs are underpinned by extensive information and data collected for the specific purpose of determining environmental sustainability thresholds for the forests to which they apply.

These comprehensive regional assessments (CRAs) were conducted over several years and are the most detailed and comprehensive assessments of forests ever conducted in Australia. They sought to investigate and set agendas for management of forest values. Environmental, social and economic factors were all taken into account as part of the CRA process.

Forest management under the RFAs reflects the biodiversity and ecological conservation sentiments expressed through the CRAs and EPBC Act. The CRAs support and underpin the framework for the RFAs and extends beyond the requirements of the EPBC Act, meaning the application of the EPBC Act in these regions is an unnecessary duplication.

Extract from EPBC Act

Division 4 Forestry operations in certain regions

Subdivision A Regions covered by regional forest agreements

38 Part 3 not to apply to certain RFA forestry operations

- (1) Part 3 does not apply to an RFA forestry operation that is undertaken in accordance with an RFA.

39 Object of this Subdivision

The purpose of this Subdivision is to ensure that an approval under Part 9 is not required for forestry operations in a region for which a process (involving the conduct of a comprehensive regional assessment, assessment under the *Environment Protection (Impact of Proposals) Act 1974* and protection of the environment through agreements between the Commonwealth and the relevant State and conditions on licences for the export of wood chips) of developing and negotiating a regional forest agreement is being, or has been, carried on.

Consequences of RFA coverage under the Act

If the EPBC Act were to apply in addition to the RFAs, the uncertainty of resource allocation and the plethora of logistical problems that comes with this will re-emerge, reverting back to a dysfunctional and ad hoc system, reflecting pre-RFA operating environment. The EPBC Act, if duplicated over RFA regions, could lead to imposed added and unnecessary regulation burden without any additional environmental benefit, and in doing so, negating RFAs regional approach to conservation.

Prior to RFAs, conservation assessment and resource allocation was conducted on a site specific (coupe by coupe) basis. The uncertainty this created was reflected by low confidence and negligible investment in processing and value adding technologies. The integrity and effectiveness of the RFAs must be protected as it is a successful, regional-based model of sustainable forest management.

If the supply of sustainably produced Australian native timber decreases as a result of unnecessary regulation, Australia will become more reliant on imported forest products from less regulated and suspect sources. Therefore, duplicating the application of the EPBC Act in RFA areas, could lead to the perverse outcome of encouraging illegal wood imports, indirectly or otherwise, further constraining the supply of sustainably produced Australian wood products in favour of wood from countries with weak governance structures for forest management.

2.2 Equitable treatment of projects

NAFI seeks a more criteria-specific operational structure for the EPBC Act, to enable fair and equitable treatment of all projects as part of the pre and post-approval process.

Significant forest industry capital development ventures requiring approval under the Act can receive an unnecessarily arduous level of scrutiny, depending on the political sensitivity of the issue. Other industry infrastructure proponents approved under the Act, with comparable attributes to that of infrastructure proposals supporting sustainable forest industries in Australia, are able to advance through the compliance process, including the Ministerial evaluation, with minimal time and costs.

Determination of Controlled Actions

NAFI is concerned that the operation of the Act is being compromised by narrow interest groups. Action is required to significantly increase rigour, as part of operation of the Act, necessary in the determination process for a 'controlled action', so that this process is limited to the boundaries of the Act.

The determination of 'controlled actions' can be triggered by narrow interest groups, creating political sensitivities. Rather than actual impacts assessed within the EPBC framework, 'controlled actions' can be applied to proponents, that are outside the scope of the Act. On several occasions the forest industry, including wood processors have been singled out from other industries for regulation as a 'controlled action' under the EPBC Act.

As the public cannot directly refer actions to the Minister, nor should the Minister be influenced by the public as to the significance of the action, actions referred to the Minister should be evaluated purely under the criteria detailed within the Act.

EIMP and the Scope of the Act

Operation of the Act has in the recent past been compromised through demands imposed on approved proponents, as part of the Environmental Impact Management Plan (EIMP) process. The EIMP process is designed to ensure that the conditions of the EPBC approval are satisfied, yet an approved project can be required to address concerns that are not specific to the EPBC Act - again largely related to the political sensitivity of the relevant issue.

NAFI recommends that the EIMP process be strictly limited to criteria detailed within boundaries the EPBC Act. An approved project should not be required to meet demands relating to issues outside the scope of the Act, as part of the documented EIMP process. The EIMP process should not be used by Governments and/or other organisations as a mechanism to apply additional assessable impacts to be addressed through the action.

3. Achieving objects of the Act

Recommendations

- 3.1 Note that Australia’s sustainable forest industries directly meet the object of the Act (specifically object (b) set out in Section 3) through their compliance with a comprehensive forestry-specific legislative environment.**
- 3.2 Active management of conservation reserves, with tighter regulatory control through the EPBC Act, is necessary to avoid passive management which risks forest health and biological diversity.**

3.1 Sustainable forest management

Australia’s sustainable forest management practices are consistent with the objectives of the EPBC Act – specifically they meet Object (b), set out in Section 3 of the Act which states: *to promote ecologically sustainable development through the conservation and ecologically sustainable use of natural resources.*

Sustainable production forestry throughout Australia, including RFA regions, directly meets this object by:

- Both plantation and native forest industries operating throughout Australia are governed by comprehensive, mostly State-based, legal frameworks which provide ecological sustainability compliance measures for forestry operations. Legislation relative to the industry covers forest planning; forest access and roading; forest harvesting; the conservation of non-wood values; pest, weed and fire management; and the harvesting of non-wood products.
- Much of Australia’s plantation and native forests are voluntarily certified under internationally accredited certification schemes. Certification for forest management and chain-of-custody has been achieved by the majority of NAFI membership, as the industry recognises the importance of demonstrating ecologically sustainable management of the forest resource through certification.

NAFI recommends that as part of this review process, the beneficial role of ‘active’ sustainable forest management through internationally accredited certification schemes be recognised as achieving the objectives of the EPBC Act.

Comprehensive forestry-related legislative environment

Australia’s forest industries demonstrate ecological sustainability through their compliance with policy frameworks underpinned by environment and sustainability measures.

Commercial forestry entities throughout Australia are governed by onerous State-level operationally specific policy instruments. Forestry and forest product industries are highly regulated relative to other primary production or manufacturing industries.

While codes of practice vary in legal status between state and territory jurisdictions, they are extremely important in ensuring the integrity of sustainable forest management at the operational level. These codes of practice cover a range of

issues, such as forest planning; forest access and roading; forest harvesting; the conservation of non-wood values; pest, weed and fire management; and the harvesting of non-wood products. Codes and other legislative measures as a collective, make for an arduous and often overlapping process, which impacts efficiency and profitability, and ultimately restricts forest industry investment and jobs.

Whilst NAFI supports a comprehensive legal framework to underpin sustainable forestry practice in Australia, the current legal framework in which forestry entities must operate under is considerable, overlapping and often inconsistent.

Amending the EPBC Act to increase coverage over the forest industry further compounds the regulatory burdens impacting forestry entities, which already operate world's best practice, sustainable forest management. Fastidious legal frameworks for the operation of forestry and related industries are already administered and new State Government legislation impacting forest industries continue to emerge (see Table 1 below).

Table 1: Examples of new legislation affecting forestry, 2002 to 2006, by jurisdiction

Jurisdiction	New legislation	Purpose
NSW	National Parks and Wildlife Regulations 2002	Conserves nature, including threatened species; conserves objects, places and features of cultural value; and fosters public appreciation, understanding and enjoyment of nature and cultural heritage and their conservation.
	<i>National Park Estate (Reservations) Acts 2002, 2003, 2005, 2006</i>	An Act to transfer state forest land to the national park estate, and for other purposes.
	<i>Brigalow and Nandewar Community Conservation Area Act 2005</i>	An Act to establish and provide for the management of the Brigalow and Nandewar Community Conservation Area.
	<i>Native Vegetation Management Act 2003</i>	Addresses the management and protection of native vegetation.
Qld	<i>Vegetation Management and Other Legislation Amendment Act 2004</i>	Protects all threatened and 'of concern' remnant native vegetation from clearing and phases out the broadscale clearing of less-threatened remnant vegetation.
SA	<i>Fire and Emergency Services Act 2005</i> (replaces the <i>Country Fires Act 1989</i>)	Provides for a country fire service to provide for the control and suppression of fires.
	<i>Natural Resource Management Act 2004</i>	Promotes the sustainable and integrated management of the state's natural resources and makes provision for their protection.
Tas.	<i>Nature Conservation Act 2002</i>	Provides for the declaration of certain types of reserves and sets out the values and purposes of each reserve class.
	<i>National Parks and Reserves Management Act 2002</i>	Reserves are managed under the Act according to management objectives for each reserve class.
Vic.	<i>Sustainable Forests (Timber) Act 2004</i>	Provides a framework for sustainable forest management and sustainable timber harvesting in multiple-use public forest.
	<i>Victorian Plantations Corporation Act 2003</i>	Establishes the Victorian Plantations Corporation to manage state plantations and to require that timber harvesting complies with a code of practice.
WA	<i>Carbon Rights Act 2003</i>	Provides for the creation of certain interests in land in relation to the effects of carbon sequestration from, and carbon release to, the atmosphere, and for related matters.
	<i>Tree Plantation Agreements Act 2003</i>	Enables the ownership of planted trees as an interest in land, separate from ownership of the land itself.

Source: Australia's State of the Forest Report 2008 (Pg. 186)

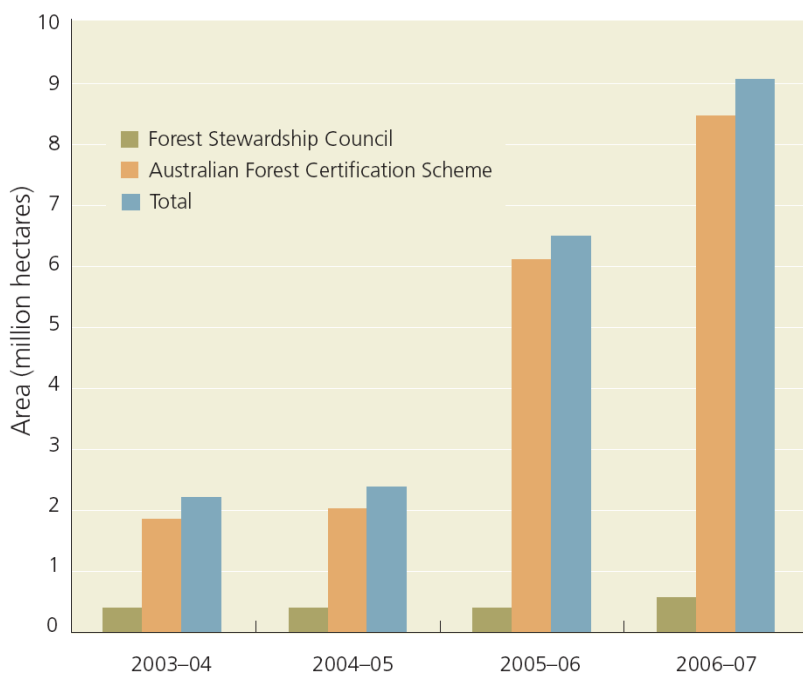
Forest certification

The growing up-take of certification further exemplifies Australia's forest industry commitment to ecological sustainability (see Table 2). NAFI members, encompassing 80% of the corporate forestry and wood processing industry in Australia, participate or are preparing to participate under standards and criteria set by internationally accredited forest certification schemes.

Forest certification is a voluntary mechanism enabling Australia's forestry sector to demonstrate world-class environmental sustainability which transforms into the market place, to broaden consumer purchasing options, by providing labelled, certified sustainably produced wood products.

Essentially, certification ensures the protection of the environmental and ecological values for forests and is complementary to Australia's extensive regulatory framework for forest management, including the RFAs. Over 9 million hectares of plantation and production native forest in Australia is now certified, as detailed in Table 2.

Table 2: Forest certified in Australia, 2003-04 to 2006-07



Source: Australia's State of the Forest Report 2008 (Pg. 192)

3.2 Conservation confines of 'passive' management approach

NAFI questions the effectiveness of the current 'passive' management approach of reserves, including World and National Heritage properties, under the guise of protecting biodiversity and natural systems. There is a growing body of scientific evidence to support the view that without 'active' management of Australia's forested reserve areas, particularly in relation to disturbance, like fire, forest health and species diversity will decline. Jurskis (2005)² states 'passive management of nature reserves in Australia has failed to maintain healthy ecosystems'.

The declining health of undisturbed forests, especially eucalypt forest in conservation reserve suggest a number of natural processes have been disrupted by the exclusion of human involvement, including indigenous fire regimes. The absence of disturbance and the important ecosystem functions it plays, is a reflection of Australian policy, which prescribes a 'passive' (do nothing) approach to the conservation of forests.

Declining forest health resulting from a lack of disturbance can manifest itself in many forms, including mysterious diseases like 'dieback'. The cleansing and regeneration-effect of indigenous fire regimes on pre-European forests has meant that over massive expanses of forest in reserve, eucalypt forests in particular are now in a significant state of declined health, while many competitors are proliferating².

Unfortunately the forest conservation debate has been misled by the notions that harvesting wood from forests reduces biodiversity, and that protecting areas, like old-growth forests is the 'only way' to conserve biodiversity. However, neither notion is correct. The community should be more concerned with how the national reserve estate can be better managed to emulate indigenous forest management regimes, to sustain the full range of ecosystem functions and biodiversity.

By encouraging disturbance, such as a patchwork of prescribed burning and/or 'active' native forest management over the forest estate as a whole, a higher level of structural forest diversity will be attained. With it, opportunities for the full suite of locally endemic species are created.

NAFI's position is that sustainable forest management holds the key to Australia's national forest-related biodiversity and conservation outcomes. As Australia's forest industries, both native and plantation, and its integrated wood product value chain, is moving closer towards all-of-industry ecological sustainability Government policy mechanisms should further support this industry initiative.

Whilst Object (b) of the Act recognises sustainable forest management through *ecologically sustainable use of natural resources, achieving the Commonwealth's role in environment protection and conservation*, achieving objects of the Act will be compromised if this legislative mechanism continues to drive 'passive' reserve management.

4. Appropriateness of matters of NES

Recommendations

4.1 Fire and fuel load management be incorporated into matters of national environmental significance (NES)

4.2 Do not include climate change in matters of NES given the uncertainty related to the operational features of future policy.

4.1 Fire for matters of NES

Inaction leading to the destruction of forests of National Environmental Significance (NES), such as failure to conduct forest fuel load management should be an offence under the EPBC Act, specific to the protection of World or National Heritage values and properties. In order to address southern Australia's present fire-management crisis, the Act must incorporate 'fire and fuel load' management into matters of NES.

The current 'passive' approach to managing Australia's conservation reserves is potentially creating a significant risk to environment, life and property through devastating bushfires. There is a clear distinction between the affect to the environment of 'controlled' disturbance using fire and the destructive forces of uncontrolled wildfire.

Australia's current bushfire epidemic makes a massive contribution to Australia's carbon emissions. Around 130 million tonnes of carbon was emitted during Australia's 2002/03 bushfire season in Victoria, NSW and the ACT alone³. This is equivalent to one quarter of Australia's total annual greenhouse emissions.

A deficiency in the operation of the Act to address the issue of fire threat is the lack of prescriptive requirement. Currently, the Act does not assess the impacts of 'not' applying active fire and fuel load management for environmental protection. When combined with the complex set of regulations, planning and approvals that must be completed to permit hazard reduction burning in any forested area, it is quite clear that the regulatory environment applying to these areas strongly favours mismanagement of fire threat.

Failure to conduct timely prescribed burning by reserve management agencies often leads to a build up of fuel loads causing increased risks for these ecosystems in terms of the potential for far more intense wildfires when they do arise. Forest scientists, with long-term experiences in studying the impacts of fire on the structure of forest ecosystems, believe that the 'passive' management of forests will most likely have a major negative impact on biodiversity.

Under the Act it is an offence to take an action that has, will have, or is likely to have a significant impact on values of a declared World or National Heritage property. However, it is not an offence to fail to conduct timely 'active' forest management practices, such as prescribed burning, which leads to dangerous build-up of fuel loads and inevitable destructive and intense wildfire.

NAFI strongly recommends that prescription of fire and fuel load management be included as a matter of national environmental significance (NES).

2.2 Climate Change

Climate change should not be, as a resolution of this review process be considered for inclusion as an object of the EPBC Act. Whilst NAFI recognises that climate change has the potential to impact the conservation of biodiversity, governance relating to emissions reductions and carbon sinks may not be relevant in the context of the Act. Inclusion of climate change in the Act will surely depend upon future climate change-specific policy frameworks, such as the introduction of an Emissions Trading Scheme (ETS).

Despite concerns raised by narrow interest groups regarding forestry-related emissions, Australia's forest industry is the only carbon positive industry. Considerable scientific evidence shows that sustainable production forestry, both native and plantation, is important in climate change mitigation, whilst also revealing the contribution of carbon storage in wood products and bioenergy from wood waste. For instance, the Fourth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC) states:

In the long term, a sustainable forest management strategy aimed at maintaining or increasing forest carbon stocks, while producing an annual sustained yield of timber, fibre or energy from the forest, will generate the largest sustained mitigation benefit.³

The Forest Dialogue also states:

The most effective forest-based approaches will retain and enhance carbon stocks through such measures as sustainable forest management.⁴

The increasing certainty of the vital role the forest industry has in significantly contributing towards meeting Australia's carbon pollution reduction targets, does not reflect the uncertainties relating to the complexities of developing climate change legislation and carbon market mechanisms, such as an ETS.

Due to a lack of supporting climate change policy and the current level of uncertainty related to operational features of future policies, inclusion of climate change as an object of the EPBC Act should not be instigated as a resolution of this independent review process.

Conclusion

1. The RFAs provide effective protection of forest species and forest habitats in accordance with the sentiments of the EPBC Act. Consequently, there is no need for the EPBC Act to also be applied to forests covered under RFAs, as doing so would result in unnecessary policy and regulatory duplication.

While the EPBC Act does not directly apply to forest management in areas covered by an RFA, the requirements and objectives of the EPBC Act are comprehensively being met through:

- Australia's comprehensive policy and regulatory system for sustainable forest management, including the RFAs;
- The Comprehensive Regional Assessments, including their development, application and review;
- The Comprehensive, Adequate and Representative forest reserve system;
- Codes of practice for specific forestry activities; and
- Independent forest certification, through the Australian Forestry Standard.

NAFI strongly recommends that the integrity and effectiveness of this framework is maintained by not unduly subjecting forest areas covered under RFAs to the EPBC Act. The future competitiveness and viability of Australia's native forest industry is highly dependent on this being the case.

2. NAFI strongly recommends that the designation and assessment of 'controlled actions' under the EPBC Act are dealt with in a manner that rigorously follows the scope of the Act. An assessor should audit any action based on the merits and circumstances of legislative relevance and not be influenced by opinions of narrow interest groups.
3. NAFI strongly recommends that any Environmental Impact Management Plan process be firmly restricted to operate within the boundaries of the EPBC Act. There should be no requirement upon any action to explore issues outside the scope of the Act.
4. NAFI strongly recommends that fire and fuel load management be incorporated into matters of National Environmental Significance, due to the profound destruction of biodiversity due to uncontrolled wildfire events. NAFI also recommends that this review process is not the process in which the issue of climate change be incorporated into the Act, as specific climate change policy, including the emissions trading scheme has not been developed yet.

NAFI appreciates the opportunity to provide comment and looks forward to further involvement with the Independent review of the *Environment Protection and Biodiversity Conservation Act 1999*. As such, NAFI would appreciate the opportunity to provide comment at any upcoming hearings as part of this review.

References

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4. The Forest Dialogue (2008). *Beyond REDD: The Role of Forests in Climate Change*. Yale University, USA.