

## **Submission on the 2<sup>nd</sup> and 3<sup>rd</sup> Five Yearly Reviews of the NSW Regional Forest Agreements.**

Firstly, may I say how appalled I am that these reviews are 9 and 4 years late and the NSW Government hasn't even considered them important enough to get them done in the timeframes required by the RFAs.

Secondly, these so-called reviews are not actual reviews but more like propaganda documents prepared to pay lip service only to the processes of the RFAs without any analysis or data on their actual operation on the ground. This is clearly demonstrated in the following instances:

Five-yearly reviews – lots of mentions of timeframes but not one mention of the requirements that they be completed within those timeframes or them being 9 and 4 years late. I note Recommendation 3 from the 1<sup>st</sup> five-yearly review *“Parties to expeditiously initiate a further review process to meet the agreed RFAs second review time requirements – Underway.”* Underway and it's 9 years late!!! Why not be real and say FAILED where many other items should also be flagged as failed?

Section 2: Despite the fact that the third five-yearly review is to be used to determine the process for extending the agreement for a further period, the decision was made to extend the RFAs before the report was even prepared let alone exhibited and responses analysed. Again, the failure to conduct the reviews within the timeframes is mentioned but no reason given for these failures.

Aboriginal Heritage: Lots of motherhood statements, particularly around National Parks, but nothing about the protection of Aboriginal sites on the ground. The Denis Byrne predicative model for Aboriginal sites that is used by NSW Forestry is out of date and doesn't take in the last 20-30 years of archaeological research. None of this is mentioned or assessed in the review.

Threatened species and environmental controls are described in the report by what the systems direct but not what is actually happening on the ground. Recommendation 10 from the 1<sup>st</sup> five-yearly review says *“The NSW Government should continue to give priority to audit and compliance activity by each agency involved in the RFAs and that auditing be closely scrutinised as part of the NSW Review.”* The NSW Government response to this recommendation directs us to [www.epa.nsw.gov.au/forestagreements/monitoring.htm](http://www.epa.nsw.gov.au/forestagreements/monitoring.htm), a page that doesn't exist. There is not one mention in the report that over the 10 years of the review, only 187 audits of the 5,000 – 6,000 native forest operations were conducted by NSW EPA. There is not one mention of the 4,089 breaches of Environment Protection and Threatened Species Licence conditions over that period. There is not one mention of the three cases in the Land and Environment Court where NSW Forestry was fined for serious breaches of their legislative requirements. Why not if we're supposed to be having an honest review? The Scoping Agreement for this review clearly states *“The Review will: be conducted in a manner that is open and transparent.”* Absolute bullshit.

The occurrences of breaches of licence conditions by NSW Forests haven't even reduced over the 10 year timeframe of the review and this failure to remedy identified non-compliance must be seriously addressed as part of the review, not just the fact that some audits have been done. Penalty Infringement Notices, Warning Letters, Advisory Letters, Official Cautions and Corrective Action / Remediation Notices clearly don't work as they have had no slow-down effect on the breaches. I have been to a few logged compartments and there are many, many breaches of licence conditions in every one of them so over 4,000 breaches from 187 audits is merely the tip of the iceberg. Many of the audits have been initiated by EPA after notification from environmentalist and the EPA have often said that they don't have the staff to follow up on most of the reports. So much for giving priority to audit and compliance activity and claiming it *“...has been fully implemented.”* I'm calling BS again.

The RFAs assume that the provisions of the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 are complied with. However, with probable thousands of breaches of Environment Protection and Threatened Species legislation by NSW Forestry every year and ongoing, how can such an assumption be supported? NSW is the only state in Australia where citizens are unable to take legal action against NSW Forestry for their illegal actions – NSW Environment Protection Authority are the only ones with that power and they are significantly underfunded and understaffed to do that job properly, hence the ongoing continuation of breaches.

Given the level of incompetence of this report shown in these few items, you can see why I have no confidence whatsoever in the rest of the contents where propaganda has replaced honesty in the interest of expediency and deception.

I have attached a paper prepared by a friend on the justice and equity issues of this whole RFA renewal process, “Questioning Application of Procedural Justice Principles within the NSW Government’s Regional Forest Agreement Public Submission Process”. This paper shows the inequity of the entire process from a procedural justice perspective and I would like this taken into account as part of my submission.

I’ve also attached a copy of the discussion paper “Money Doesn’t Grow on Trees” published by the Australia Institute in 2016. The RFAs require that all available information be taken into account in any decision to review them and this information on the costs of logging our native forests should be included in this report and be part of the renewal considerations. There are much better ways to manage our forests than these underhanded Regional Forest Agreements where deception of the public is an integral part of the game.

Seán Burke.

# QUESTIONING APPLICATION OF PROCEDURAL JUSTICE PRINCIPLES WITHIN THE NSW GOVERNMENT'S REGIONAL FOREST AGREEMENT PUBLIC SUBMISSION PROCESS

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Thanks to Sean Burke, David Gallan, Richard Parker, Paul Payten and Kim Taysom for their support and encouragement in preparation of this exposé.

10<sup>th</sup> February 2018

## OUTLINE

This paper discusses the nature of the State Government's procedure on seeking feedback on the Regional Forest Agreements (RFAs). It reviews the feedback process and considers whether five principles of procedural justice: voice, transparency, fairness, accessibility and impartiality are evident. It demonstrates that people who want to 'have a say' would be challenged trying to evaluate the huge amount of accompanying documentation. Feedback from friends and colleagues indicates confusion and lack of comprehension; thus disempowerment. Assumptions have been drawn regarding the public's awareness, access to technology, ability to read and comprehend the technical material and understand expressions used in the logging sector. This highlights the discriminatory nature of the process. A lack of transparency in consultation and a questionable assessment process are identified. It is clear that the whole process which drives the nature of the enquiry is not based on procedural justice which puts at risk public will and the future of publicly owned State forests.

## BACKGROUND

Via the NSW Environment Protection Authority (EPA) and the Department of Primary Industry (DPI), the State Government has called for public submissions on the Regional Forest Agreement's past and future management processes for the Eden, Southern and Northern regions.

I explored the RFA feedback processes and found it is complicated, knowledge expectations are high, the possibility that the public may not want native forest logging to continue is ignored, the content is biased towards the logging sector, and background documentation is generally inaccessible to the public. My assessment is qualified by my colleagues' unsolicited statements:

- I think of my own situation and feel totally disempowered and unable to take a part in their supposedly accessible feedback process.
- The review process is a farce and the RFA review paper is both opaque and tendentious.
- Taking part in an RFA process, especially one so loaded against an environmentally responsible outcome is a mug's game.
- Let's boycott the whole process – it is corrupt, and a farce!
- Contrary to the claim by the DPI, the Review is quite inadequate as a base for determining future policy for the RFA forest regions.
- The governments are trying to ride roughshod over public opinion.

## ETHICS IN HUMAN RESEARCH

In a process for engaging public participation, The National Statement on Ethical Conduct in Human Research<sup>1</sup> states:

At a profound level, justice involves a regard for the human sameness that each person shares with every other. Human beings have a deep need to be treated in accordance with such justice, which includes...procedural justice. ...it also matters that benefits of research are achieved through just means...

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<sup>1</sup> [https://www.deakin.edu.au/\\_\\_data/assets/pdf\\_file/0004/559669/e72\\_national\\_statement\\_may\\_2015\\_150514\\_a.pdf](https://www.deakin.edu.au/__data/assets/pdf_file/0004/559669/e72_national_statement_may_2015_150514_a.pdf)

## PROCEDURAL JUSTICE

Principles which apply to procedural justice relative to the Government's RFA review and call for submissions:

1. **Voice:** ways for a diversity of stakeholders to be included in decision-making processes and to be heard
2. **Transparency:** adequate and accurate information in a way that is readable for the stakeholder participants
3. **Fairness:** enough time for stakeholders to read the information, have discussions about the information and have questions answered
4. **Accessibility:** avenues for issues to be raised and responses from the decision-making authority to be received
5. **Impartiality:** a decision-maker who is neutral and does not have a bias towards the outcome.<sup>2 3</sup>

This paper shows non-compliance with these principles throughout the NSW State Government's two-fold RFA survey, regarding promotion, method of data collection, evaluative and conclusive processes.<sup>4</sup>

## OUTLINE OF PROCESS

Public participation involves a two-part process:

- **STAGE ONE** "Have your say on the second and third five-yearly implementation report of the three NSW RFAs by 23 February 2018 (Environment Protection Authority [EPA])
- **STAGE TWO** Have your say on the extension of RFAs by 12 March 2018." (Department of Primary Industries [DPI])

Appendix A: List of background reading materials for Stages One (EPA) and Two (DPI) and word count.

## STAGE ONE: THE RFA REPORTS FROM THE EPA<sup>5</sup>

The EPA's **STAGE ONE** asks for public feedback on the past performance of the RFAs based on their long overdue Report of Progress with Implementation of the New South Wales Regional Forest Agreements: Second and third five-yearly reviews July 2004 – June 2014. The form asks for comment on an event which transpired over more than a past decade. One would assume it began in 2004 (which it did not) and ended in 2014 (but it did not).

*Breach: Fairness procedural principle as the general public is asked to reflect on forest logging activities up to 14 years ago.*

**Q 1: Was the Report peer-reviewed by, say, local experts, ANU scientists, The Australia Institute or CSIRO before publication?**

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<sup>2</sup> Adapted from Dr Catherine Gross, Visiting Fellow, Fenner School of Environment and Society, ANU College of Medicine, Biology and Environment, Australian National University

<sup>3</sup> Adapted from Community Oriented Policing Services, US Department of Justice, <https://cops.usdoj.gov/Default.asp?Item=2866>

<sup>4</sup> <https://www.nsw.gov.au/improving-nsw/have-your-say/regional-forest-agreements-rfa/>

<sup>5</sup> <http://www.epa.nsw.gov.au/your-environment/native-forestry/about-public-native-forestry/regional-forest-agreements-assessments/review-regional-forest-agreements>

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## CRITICAL DATA MISSING FROM REPORTS

Examples of serious omissions in EPA's 2nd and 3rd Five-yearly Review relate to:

- A) Threatened Species **missing** for Eden RFA area from lists in Table 67: Threatened species list – fauna (p. 295), include:
- Glossy black cockatoo
  - Barking owl
  - Olive whistler
  - Yellow-bellied Glider
  - Squirrel glider
  - Pink robin
  - White-footed Dunnart

### Q 2: Why were these threatened species omitted from the Report?

- B) During the 10 years of the EPA's review (2004-2014) period, over 4,000 non-compliances with Environment Protection and Threatened Species Legislation were identified through EPA audits and investigations. However, the EPA conducted only 187 audits for approximately 5,000 to 6,000 logging operations. None of this is mentioned in the Review upon which the public has been asked to comment.

Appendix B: Annual RFA Implementation Reports - Non-Compliance – 2004-2014

### Q 3: Why were these non-compliance incidents omitted from the Report?

- C) The economics includes plantation figures which hide the losses made by native forest logging for woodchips.

### Q 4: Why didn't Forest Corporation separate profit and losses from plantations and native forest logging?

*Breach: Transparency procedural justice principle as the Report omits critical information*

## STAGE TWO: THE DPI'S RFA PROCESS<sup>6</sup>

- The State and Federal Governments have decided to renew the RFAs which will mean more environmental destruction within the public's State Forests.
- The assumption is that the RFAs will be extended in perpetuity.
- That public feedback opposing the RFA process won't be considered.
- The question **Please select your interest/s with extending the RFA** 'lures' participants into choosing honourable elements within a dishonourable practice.

*Breach: Fairness procedural justice principle given governments have already made decisions.*

### Q 5: What precedent could be cited for a process where a government sets a decision in concrete and then asks for feedback on it?

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<sup>6</sup> <https://www.dpi.nsw.gov.au/forestry/regional-framework>

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## FALSE REPRESENTATION

In the EPA's published materials, "What you see is not necessarily what you get". The beautiful image on EPA's website (Photo 1) belies the truth about the damage wrought to native forests from logging (Photo 2).

### What EPA promotes

This promotion of beauty on the Report to the public is evidence of the EPA hiding the real truth about logging of native forests.



**Photo 1: Picture taken from *A Report of Progress with Implementation of the New South Wales Regional Forest Agreements: Second and third five-yearly reviews July 2004 – June 2014.***

### What EPA supports



**Photo 2: Part of an image of logged Glenbog State Forest, 2016: photo the late Carolyn Green. Full image at [http://www.greatsouthernforest.org.au/media/GSF\\_Brief.pdf](http://www.greatsouthernforest.org.au/media/GSF_Brief.pdf)**

The current RFA proposal shows that the Governments assume communities in the southeast region of NSW favour Photo 2 over Photo 1.

***Breach: Transparency justice principle.***

**Q 6: Why doesn't the Government publish post-logging pictures?**

**Q 7: Upon what Government model was Stage 1 and Stage 2 feedback processes designed?**



## BREACHES OF PROCEDURAL JUSTICE

### VOICE

This relates to the receptivity of the government to public opinion and conditions where a decision is assumed to have been agreed with, ways for a diversity of stakeholders to be included in the decision-making process and to have their voice heard.

- The Government has delivered its message to renew the RFAs, and the ability to express an alternative public opinion has not been accommodated. The DPI website provides no field for the public to state that native forest logging and the RFA process should end. This omission blindsides conservationists and denies intergenerational fairness. By the DPI not giving the public an option to end the RFA process, the Government is silencing Australian citizens, by assuming support for a process which about 80% of this region's public has opposed for decades.

For example, see: <http://www.greatsouthernforest.org.au> for a list of 39 organisations which support ending native forest logging under the principles of the Great Southern Forest for southeast NSW which focuses on jobs in native forest restoration and plantations.

- The Governments' 'have your say' term is ambiguous as the Governments have decided on a course of action and only permits the public to give input on the performance of this course of action. Its attempt at corralling the public into giving answers to which FCorp wants to hear is obvious. It silences the public's will by not allowing them to disagree with that pre-determined course of action.
- The DPI questionnaire gives the appearance of open-mindedness at the same time encouraging answers in favour of continuation of the RFA regimes, such as: "Please select your interest/s with extending the RFA".

### Q 8: To what extent will public voice on the extension of the RFAs be regarded?

### TRANSPARENCY

Receiving adequate and accurate information in a way that is accessible and readable for the stakeholder participants, as related to background materials being honest, succinct, and relevant.

- Evidence of organisations who received feedback announcements and evidence of organisations with whom the EPA and the DPI has already consulted would give transparency and indicate the governments perceived nature of 'stakeholders'.
- The information in DPI's Road Map, upon which this whole process is based, is highly flawed and states 'guesstimates'. It attempts to make a silk purse out of a sow's ear. Post logging forest inspections show 'sustainable ecological management' is highly counterintuitive to the need to protect the forests; only 70% of logged forests regenerate. The Road Map prioritises those who undertake extractive practices more than the forests.
- Obviously the 1992 National Forest Policy Statement (over a quarter of a century old) is an anachronism in light of the impact of a radically changing climate, the critical need to store carbon, the growth of the profitable plantation industry in NSW, and the destruction of wildlife, canopy, water, soil, beauty and healthy forest ecosystems from decades of a practice which a government staff member told me ... treats the southeast forests like an abattoir (pers. comm. Jan 2018).
- None of the documents reveal either in word, image or scientific findings, the real damage that decades of native forest logging has wrought on our public forests.



- The suite of management-based questions under: “How important are the following elements to you?” seem to be beyond the capacity of the general public to answer. Were they designed to highlight the public’s justifiable and anticipated lack of knowledge of the sector’s workings?

**Q 9: Why doesn’t the Government expose the ugly truth about native forest logging?**

**Q 10: Will the NSW State Government provide a list of all the RFA stakeholder groups it has communicated with?**

**FAIRNESS**

This principle relates to stakeholders having enough time to read the information, have discussions about the information, and have questions answered, and to the way consultation is implemented.

- The call for submissions was made just prior to the 2017-2018 holiday season when traditionally people are focussing on family and children on school holidays. A more suitable timeframe would have been to call for submissions after schools reopened.
- The way the entire feedback process is structured falls short of the ethical clearance processes for research in the national higher education system. The questionnaires lead the reader into a sense of acceptance; for example, by asking which element of the natural world is of most importance. It simulates: We will destroy threatened species’ habitat; so how would you like us to do it?
- Consultation has been inadequate. ABC Radio National allocated 3-4 minutes at the 8.55am timeslot for notification of the RFA Report and Review call for submissions. I have not seen advertisements in newspapers regarding the RFA submission process, or on local television. I received notification of it through the Nature Conservation Council and the National Parks Association.
- The public consultation sessions were promoted on the DPI’s website on 24<sup>th</sup> January 2018. Those for the southeast region of NSW are on the 13<sup>th</sup>, 14<sup>th</sup> and 15<sup>th</sup> February. That represents three weeks’ notice. From 15<sup>th</sup> to 23<sup>rd</sup> February is 8 days. This is an absurdly short amount of time for the public to analyse the documents and make recommendations on them for governmental consideration. The ability to review a 20-year process within these timelines is impossible. The deadline of 23 February 2018 lessens the likelihood for people to give informed feedback.
- The company responsible for facilitating the consultation sessions is Eltons Consulting – they indicated they were not responsible for promoting them and that the DPI was. The DPI’s promotion strategy was to send out Media Releases which are only published depending upon the will of the media outlet’s Editor. Such media releases are published gratis – but I have not seen one in any my local paper. One conservationist group contacted my local paper and asked for a notice to be published, but the next edition of the paper will only be published a few days before the consultation dates. I promoted the sessions in our community paper.

**Q 11: Why hasn’t the Government paid for promotion of the region’s consultation sessions in the region’s newspapers, on radio or on television?**

- Neither the EPA nor the DPI have previously sent representatives to the far south coast of NSW to discuss the future of our native forests with our leading conservation organisations: The South East Regional Conservation Alliance Inc., National Parks Association Far South Coast branch and, the National Trust Far South Coast branch, nor with people who promote the alternative management principles of The Great Southern Forest. Conservationists have initiated meetings with state and federal politicians, the EPA and the CEO of OEHL at travel and accommodation costs paid from their own funds.

**Q 12: Why didn't the State Government consult with the lead conservation organisations of the Far South Coast of NSW in a timely manner before agreeing with the Commonwealth Government to extend the RFAs?**

**Q 13: How was the decision made to renew the RFAs when only the first of the three the legally required 5 yearly reports had been completed at that time?**

## ACCESSIBILITY

This relates to background documents being comprehensible within limited timeframe and to technological issues.

- To gain the knowledge required to be able to make educated submissions on the two stages, one would have had to read and comprehended 429,733 words; 11,000 words more than *Gone with the Wind*!
- The documents are mostly in language which is familiar to government and logging sector staff, but implicit comprehension expectations for the general public from whom it purportedly seeks feedback, are unrealistic. Thus, the language and complicated nature of the submission process is socially and intellectually discriminatory.
- The **Progress Report** was delivered 5 – 10 years late, written by seven government departments, is 384 pages long and its 152,000 words is only 10,000 words less than the Australian Constitution. This renders it inaccessible for the general public. Hard copies of the report ran out very quickly.
- A **Scoping Agreement** was signed between the State and Federal governments. Sixteen attachments are referred to but only two are included. The document is written in legalese and beyond the comprehension of the general public.
- The whole submission process causes headaches for those who are in a position of having to clarify it knowing that the complicated nature of the process will affect their capacity to influence as many people as possible to make submissions as they are too bamboozled to take part in either submission process.
- Technological dysfunctions of the EPA and DPI websites have varied since the pages were launched. One still persists regarding lack of access to the online form which is promoted on the EPA website:

### You are not authorized to view this page

The Web server you are attempting to reach has a list of IP addresses that are not allowed to access the Web site, and the IP address of your browsing computer is on this list.

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**Q 14: Why didn't the State Government ascertain the will of the people and submit that to the Commonwealth Government prior to the signing of the Scoping Agreement?**

**Q 15: Why doesn't the Government recognise that people are keener to enjoy the natural beauty of the forests, and to protect them, than to evaluate bureaucratic documentation which supports their destruction?**

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<sup>7</sup> <http://www.epa.nsw.gov.au/your-environment/native-forestry/about-public-native-forestry/regional-forest-agreements-assessments/review-regional-forest-agreements>

## IMPARTIALITY

A decision-maker who is neutral and does not have a bias towards the outcome.

- "Consultation will enable a **full** appraisal of the current RFAs covering the Eden, North East and Southern regions of NSW. **It will also drive** optimal implementation of **new agreements**, including what we can learn from our experience over the past 20 years." <sup>8</sup>

Unless one has a crystal ball, until a **full** appraisal is undertaken, then a pre-judgement cannot logically recommend a new agreement to go ahead at all because the appraisal might show that the last 20 years were a disaster and have been an abject failure. In other words, this is a cart before the horse situation.

- Ewan Waller has been appointed as the independent Assessor. He was chosen from a short list of potential reviewers by the Commonwealth Government. His being the only person available seems to be the reason for his selection.

The nature of his 'independence' is because he does not come from NSW. He has very strong opinions on forest management. He gave sworn testimony to the Victorian Royal Commission on the 2009 fires that at least 5% of national parks in Victoria must be burnt each and every year. Environmentally, this is now a very discredited position and incredibly destructive to both proper fire management and to the health of National Parks. Assessment is therefore, unlikely to be impartial.

- Peer review of data assessment is fair and essential; excluding scientists and conservationists from being privy to the feedback and assessment process is unacceptable.
- Assessment of feedback on an outcome which has already been determined is a waste of people's time and energy. As a government employee told me "the ship has already sailed". So, why the Assessor is assessing public feedback on the Regional Forest Agreements amounts to a dishonest bureaucratic exercise. Via this process, people who want the RFAs to end, have no voice.

### Q 16: Why didn't the Commonwealth Government appoint a truly independent Assessor?

## CONSEQUENCES OF THE LAUNCH

Due to my evaluation of the EPA's and the DPI's feedback process, and as colleagues have perceived the feedback processes to be intentionally confusing, in good faith I simplified and published instructions on the SERCA website. Two responses to these instructions are:

Thanks for this Bronte. I wouldn't have had a clue on how to respond without your help. Cheers, Lois.

AND

Hi Bronte, This is fantastic work and great to have it so short! Joslyn.

I have heard that one form of feedback would suit both submission processes and am now confused as to whether this is acceptable or whether it is still a requirement for two separate forms of feedback; one for the EPA and one for the DPI.

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<sup>8</sup> <https://www.nsw.gov.au/improving-nsw/have-your-say/regional-forest-agreements-rfa/>

I was also advised that, if people send a ‘copycat’ submission, it will have less weight than original submissions as it would be perceived to be part of a campaign! (How else do volunteer unfunded retirees get information out to people?) This puts members of the general public who support native forest protection at a huge disadvantage.

- Firstly, because they may find the content of, say, the 152,000-word Review document, inaccessible in terms of their understanding of activities in the forests which happened between 2004 and 2014.
- Secondly, because there is no option on the DPI’s website to check “no, I do not want the RFAs renewed”.
- The 429,733 words that the EPA and the DPI have published is an unacceptable amount of pre-submission reading material.

The Federal and State Governments have approached this opinion-seeking exercise with huge disregard to the public’s right to entitlement of opinion as the governments have already decided for us what they want to have happen in our public native forests.

## PROBLEMS WITH A SINGLE OR DOUBLE SUBMISSION

The question of whether a single submission process was permissible possibly was a flow on from the complicated nature of the double submission process. For the consequences of this change in procedure, see Appendix B.

## FOUNDATION

The State Governments give no underlying philosophical exposition which drives the practice of altering the natural forestscape by logging native forests, destroying habitat, reducing carbon sequestration, drying out forest floors, etc. The philosophical tenets of the Traditional Owners and world renowned environmental ‘deep thinkers’ such as David Suzuki and Richard Attenborough, and understandings of scientists such as those from ANU’s Fenner School of the Environment and The Australia Institute, etc. have not been considered in this call for feedback on this mindlessly destructive practice.

Given that the Government wishes to proceed with implementing the RFAs, it is clear that the principles espoused by local and regional conservationists and wildlife experts have been ignored in this flawed plan to continue plundering native forests with consequent long term environmental damage. It is extraordinarily negligent of the Federal and State Governments that their intentions run counter to modern science.

## RECOMMENDATION

I propose that this process is unethical, obfuscating, and not legally tenable within the axioms and spirit of procedural justice and of giving everyone a ‘fair go’. I suggest that, unless the State Government sees the light about the atrocity of native forest logging, that the RFA submission process be halted until the State Government can devise an accessible and ethically responsible way to gather data on the will of public, and apply it, regarding the dark future of native forest logging.

It is neither right nor honourable. The whole two-fold process needs to be stopped. Native forest logging needs to cease. This would end social discontent and mental angst for the people of the southern region of NSW who value and respect our native forests in a way which the Federal and the State Governments fail to recognise.

## QUESTIONS

Questions resulting from this examination of the principles of procedural justice of the RFA Review.

- Q 1: Was the Report peer-reviewed by, say, local experts, ANU scientists, The Australia Institute or CSIRO before publication? .....3
- Q 2: Why were these threatened species omitted from the Report? .....4
- Q 3: Why were these non-compliance incidents omitted from the Report? .....4
- Q 4: Why didn't Forest Corporation separate profit and losses from plantations and native forest logging? .....4
- Q 5: What precedent could be cited for a process where a government sets a decision in concrete and then asks for feedback on it? .....4
- Q 6: Why doesn't the Government publish post-logging pictures? .....5
- Q 7: Upon what Government model was Stage 1 and Stage 2 feedback processes designed? .....5
- Q 8: To what extent will public voice on the extension of the RFAs be regarded? .....6
- Q 9: Why doesn't the Government expose the ugly truth about native forest logging? .....7
- Q 10: Will the NSW State Government provide a list of all the RFA stakeholder groups it has communicated with? ..7
- Q 11: Why hasn't the Government paid for promotion of the region's consultation sessions in the region's newspapers, on radio or on television? .....7
- Q 12: Why didn't the State Government consult with the lead conservation organisations of the Far South Coast of NSW in a timely manner before agreeing with the Commonwealth Government to extend the RFAs? .....8
- Q 13: How was the decision made to renew the RFAs when only the first of the three the legally required 5 yearly reports had been completed at that time? .....8
- Q 14: Why didn't the State Government ascertain the will of the people and submit that to the Commonwealth Government prior to the signing of the Scoping Agreement? .....8
- Q 15: Why doesn't the Government recognise that people are keener to enjoy the natural beauty of the forests, and to protect them, than to evaluate bureaucratic documentation which supports their destruction? .....8
- Q 16: Why didn't the Commonwealth Government appoint a truly independent Assessor? .....9

APPENDIX A: BACKGROUND INFORMATION AND WORD COUNT

| <b>Documents relating to STAGE ONE</b>  | <b>Word count</b> |
|---|-------------------|
| 1. Explanatory Instructions   | 900               |
| 2. The three <b>Regional Forest Agreements</b>  | 111000            |
| 3. A <b>Scoping Agreement</b> , signed between the State and Federal governments.   | 3600              |
| 4. <b>A Report of Progress with Implementation of the New South Wales Regional Forest Agreements: Second and third five-yearly reviews</b> July 2004 – June 2014.   | 152000            |
| 5. <b>Q&amp;As on the Review of New South Wales Regional Forest Agreements Combined second and third five-yearly review – 2004 to 2014</b>  | 1384              |
| 6. A <b>cover sheet</b> for submissions sent by email or post. One of the boxes required to be ticked states that “my submission does not contain sensitive information”. Exactly what type of ‘sensitive information’ will not be published should be explained. | 439               |
| 7. <b>Personal Information Protection Statement.</b>  | 235               |
| 8. <b>A Draft Report on Progress with Implementation of the New South Wales RFAs</b>  | 106967            |
| 9. <b>Final Report on Progress with Implementation of NSW Regional Forest Agreements: Report of Independent Assessor</b>  | 22265             |
| 10. <b>Joint Australian and New South Wales Government Response to the Final Report on Progress with Implementation of the NSW Regional Forest Agreements: Report of the Independent Assessor</b>   | 12344             |
| <b>Documents relating to STAGE TWO</b>  |                   |
| 11. <b>Extending Regional Forest Agreements – Overview</b>  | 299               |
| 12. <b>The “1992 National Forest Policy Statement”</b>  | 17000             |
| 13. <b>Privacy Statement</b>  | 1300              |
| <b>TOTAL</b> word count for background reading for Stages One and Two of the review process   | 429733            |

For Stage Two, links to the Eden RFA (27,000 words) Southern RFA (39,000 words), and the North East RFA (45,000 words) are provided.

APPENDIX B: NON-COMPLIANCE INCIDENCE FROM 2004-2014

Compiled by Sean Burke from the EPA's Annual Reports 2004 - 2014.<sup>9</sup>

|    | A             | B                                  | C                          | D                                      | E                                      | F                          | G                                   | H                          | I                       | J                        | K                                       | L                   |
|----|---------------|------------------------------------|----------------------------|--|--|----------------------------|-------------------------------------|----------------------------|-------------------------|--------------------------|---|---------------------|
| 2  | YEAR          | NUMBER OF NATIVE FOREST OPERATIONS | NUMBER OF AUDITS CONDUCTED | NON-COMPLIANCE WITH EPL CONDITIONS (a) | NON-COMPLIANCE WITH TSL CONDITIONS (b) | AUDIT ACTION PLAN REQUESTS | PENALTY INFRINGEMENT NOTICES ISSUED | WARNING LETTERS ISSUED (c) | ADVISORY LETTERS ISSUED | OFFICIAL CAUTIONS ISSUED | CORRECTIVE ACTION / REMEDIATION NOTICES | L&E COURT ACTION    |
| 3  | 2004-05       | 162                                | 12                         | 145                                    | 29                                     | -                          | 3                                   | 5                          | -                       | -                        | 20                                      | \$30,000 plus costs |
| 4  | 2005-06       | 575                                | 8                          | 340                                    | 52                                     | -                          | 2                                   | 7                          | -                       | -                        | 58                                      |                     |
| 5  | 2006-07       | 967                                | 12                         | 225                                    | 95                                     | -                          | 3                                   | 9                          | -                       | -                        | 58                                      |                     |
| 6  | 2007-08       | 592                                | 12                         | 311                                    | 339                                    | -                          | 4                                   | 12                         | -                       | -                        | 31                                      |                     |
| 7  | 2008-09       | Not stated                         | 11                         | 163                                    | 269                                    | -                          | 1                                   | 10                         | -                       | -                        | 2                                       |                     |
| 8  | 2009-10       | 518                                | 25                         | 145                                    | 192                                    | -                          | 5                                   | 10                         | 3                       | -                        | 6                                       |                     |
| 9  | 2010-11       | Not stated                         | 28                         | 245                                    | 385                                    | -                          | 12                                  | 8                          | 4                       | -                        | 6                                       | Fined \$5,600       |
| 10 | 2011-12       | Not stated                         | 39                         | 414                                    | 188                                    | -                          | 10                                  | 17                         | 5                       | -                        | Not stated                              |                     |
| 11 | 2012-13       | Not stated                         | 19 (d)                     | 127                                    | 202                                    | -                          | 11                                  | 4                          | 9                       | 3                        | Not stated                              | Mogo State Forest   |
| 12 | 2013-14       | Not stated                         | 21 (e)                     | 26                                     | 197                                    | 73                         | 2                                   | 6                          | 10                      | 6                        | 6                                       |                     |
| 13 | <b>TOTALS</b> | <b>2814</b>                        | <b>187</b>                 | <b>2141</b>                            | <b>1948</b>                            | <b>73</b>                  | <b>53</b>                           | <b>88</b>                  | <b>31</b>               | <b>9</b>                 | <b>187</b>                              |                     |
| 14 |               |                                    |                            |  |  |                            |                                     |                            |                         |                          |   |                     |

<sup>9</sup> <https://www.epa.nsw.gov.au/your-environment/native-forestry/integrated-forestry-operations-approvals/annual-reports>



|   |  |  |  |  |  |  |  |  |
|---|--|--|--|--|--|--|--|--|
| (a) Non-compliance with EPL conditions include:   |  |  |  |  |  |  |  |  |
| <input checked="" type="checkbox"/> failure to protect areas of stream exclusion  |  |  |  |  |  |  |  |  |
| <input checked="" type="checkbox"/> incorrect or inadequate drainage structures on roads and snig tracks  |  |  |  |  |  |  |  |  |
| <input checked="" type="checkbox"/> incorrect or inadequate drainage structures at drainage feature crossings   |  |  |  |  |  |  |  |  |
| <input checked="" type="checkbox"/> administrative errors, including failure to complete planning requirements.   |  |  |  |  |  |  |  |  |
| <input checked="" type="checkbox"/> incomplete or insufficient recording of Environment Protection Licence breaches   |  |  |  |  |  |  |  |  |
| <input checked="" type="checkbox"/> waste left at logging sites   |  |  |  |  |  |  |  |  |
| <input type="checkbox"/> failure to exclude harvesting from wetlands  |  |  |  |  |  |  |  |  |
| <input type="checkbox"/> administrative errors, including failure to complete planning requirements and/or the inclusion of incorrect information in planning documents |  |  |  |  |  |  |  |  |
| <input type="checkbox"/> failure to mark roads on maps  |  |  |  |  |  |  |  |  |
| <input type="checkbox"/> insufficient soil stabilisation measures   |  |  |  |  |  |  |  |  |
| <input type="checkbox"/> incorrect or insufficient drainage structures  |  |  |  |  |  |  |  |  |
| <input type="checkbox"/> water flow issues with road drainage   |  |  |  |  |  |  |  |  |
| <input type="checkbox"/> trees felled within protection zone  |  |  |  |  |  |  |  |  |
| <input type="checkbox"/> incorrect marking up drainage lines and filter strips  |  |  |  |  |  |  |  |  |
| <input type="checkbox"/> culvert pipe blockage  |  |  |  |  |  |  |  |  |
| <input type="checkbox"/> repeated instances of administration errors, for example incorrect or incomplete planning documents  |  |  |  |  |  |  |  |  |
| <input type="checkbox"/> incorrect or insufficient drainage structures including drainage feature crossings and road drainage structures                                |  |  |  |  |  |  |  |  |
| <input type="checkbox"/> insufficient soil stabilisation measures   |  |  |  |  |  |  |  |  |
| <input type="checkbox"/> machinery entering filter strips   |  |  |  |  |  |  |  |  |
| <input type="checkbox"/> insufficient maintenance of existing log dams or gully stuffers  |  |  |  |  |  |  |  |  |

|  |  |  |  |  |  |
|--|--|--|--|--|--|
| (b) Non-compliance with TSL conditions include:  |  |  |  |  |  |
| <input checked="" type="checkbox"/> failure to protect exclusion zones   |  |  |  |  |  |
| <input checked="" type="checkbox"/> lack of or inadequate marking of exclusion zones and habitat features                            |  |  |  |  |  |
| <input checked="" type="checkbox"/> incomplete or insufficient pre-logging and pre-roading surveys for threatened species            |  |  |  |  |  |
| <input checked="" type="checkbox"/> failure to protect retained habitat and recruitment trees  |  |  |  |  |  |
| <input checked="" type="checkbox"/> inadequate selection of habitat and recruitment trees.   |  |  |  |  |  |
| <input checked="" type="checkbox"/> failure to protect riparian habitat  |  |  |  |  |  |
| <input checked="" type="checkbox"/> failure to exclude forestry operations from old growth forest                                    |  |  |  |  |  |
| <input checked="" type="checkbox"/> incomplete or insufficient recording of Threatened Species Licence breaches                      |  |  |  |  |  |
| <input type="checkbox"/> failure to protect wetlands   |  |  |  |  |  |
| <input type="checkbox"/> failure to exclude forestry operations from rainforest areas  |  |  |  |  |  |
| <input type="checkbox"/> damage to recruitment and habitat trees   |  |  |  |  |  |
| <input type="checkbox"/> failure to prepare sufficient pre-logging and pre-roading reports   |  |  |  |  |  |
| <input type="checkbox"/> no/insufficient submission of TSL non-compliances   |  |  |  |  |  |
| <input type="checkbox"/> harvesting machinery entering area of rainforest  |  |  |  |  |  |
| <input type="checkbox"/> insufficient retention of Riparian Habitat Protection Zones   |  |  |  |  |  |
| <input type="checkbox"/> insufficient implementation of exclusion zones for streams and ridge and headwater habitat                  |  |  |  |  |  |
| <input type="checkbox"/> harvesting machinery entering stream exclusion zone   |  |  |  |  |  |
| <input type="checkbox"/> insufficient wetland protection   |  |  |  |  |  |
| (c) Warning letters may include reference to numerous non-compliance of licence conditions or clauses in legislation from one audit. |  |  |  |  |  |
| (d) 19 planned audits and 50 investigations  |  |  |  |  |  |
| (e) 21 planned audits and 29 investigations  |  |  |  |  |  |

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## APPENDIX C: SINGLE OR DOUBLE SUBMISSION?

I sent the EPA an email with an attachment. I was told that the attachment would be sent to the Assessor. The attachment was not a Submission, had no cover sheet and was not sent to the email address advertised for submissions. The EPA told me that it was OK now for only ONE submission to be made, instead of two.

Problems associated with this new direction relate to:

- a) only one person (me) knowing that this choice was legitimate. This change of policy was not explained on either the EPA or DPI websites so the public is UNFAIRLY unaware of this option. The complicated nature of having to write two submissions about different topics is most likely to be a deterrent to most people, so they have the RIGHT to know that a single submission will NOW be accepted.
- b) whether submissions responding to the EPA Review received beyond the EPA closing date (23rd Feb) by the closing date for the DPI (12th March) will be accepted as valid.
- c) the fact that we have already promoted in our local publication the two-process submission requirement—the next edition which could promote the new option will not be published until after the submissions' closing dates.
- d) my now promoting on our website that the public need write only one single submission, they may not consider my communication as being credible without being able to read it on the EPA and DPI websites?
- e) how the statewide public will find out about this new single submission process.
- f) who will inform all the other conservation organisations who are no doubt helping to guide their members through this process.

Whether it is intended to be or not, this whole process has appeared to many of my colleagues as a deliberate attempt to bamboozle stakeholders and the general public.



The **Australia Institute**  
Research that matters.

# Money doesn't grow on trees

## The financial and economic losses of native forestry in NSW

---

*Native forest logging by the Forestry Corporation of NSW generated losses of \$79m over the last seven years - discontinuing the practice could deliver significant benefits to the state of NSW.*

Discussion paper

Roderick Campbell and Richard McKeon

March 2016

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# Acknowledgement

Support for this report was provided by the Nature Conservation Council of NSW (NCC) and the National Parks Association of NSW.

The Nature Conservation Council is the peak body for environment groups in the state, representing over 150 community conservation organisations with a combined membership of over 60,000 people.

National Parks Association of NSW (NPA) is a not-for-profit organisation that seeks to protect, connect and restore the integrity and diversity of natural systems in NSW and beyond, through national parks, marine sanctuaries and other means.

# Summary

The Forestry Corporation of NSW ('Forestry Corporation' or 'the Corporation') is a state-owned corporation that manages more than two million hectares of commercial native and plantation forests in NSW for the primary purpose of timber production.

Forestry Corporation has two operating segments; the Softwood Plantations Division, and the Hardwood Division (which is primarily engaged in native forest logging). For the six years between FY09 and FY14, the Softwood Plantations Division cross-subsidised loss making native forestry logging to the order of \$79m. Through significant headcount reductions in FY14, the division broke even in FY15, but this was before making any contribution to the Corporations \$8m interest charge. Furthermore, a declining outlook for demand of native forestry products will make this result hard to repeat.

In response to declining volumes, the native forestry industry has increasingly lobbied for forest waste products to be sold to biomass electricity generation plants as a feedstock. In the current economic and regulatory environment, however, the economics of biomass power generation are not likely to provide any meaningful new demand for the Hardwood Division of the Forestry Corporation.

Given that native forest logging currently struggles to generate a profit, that demand is declining, and that supplying biomass power plants will not provide the uplift required, potentially the highest economic use of native forestry would be to leave the trees standing. Although the Emissions Reduction Fund does not currently recognise the protection of native forest from logging as a method for which revenue can be claimed, if the industry were to push for inclusion, Forestry Corporation could finally begin generating decent earnings by simply ceasing native forest logging.

If native forest logging were to be discontinued in NSW, existing grants and avoided losses could provide funding for ongoing management by the NSW National Parks and Wildlife Service. Furthermore, the impact on jobs is likely to be minimal, as approximately only 600 people are directly employed in the native forestry industry in NSW, less than 0.1% of the total workforce.



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# List of acronyms

|      |  |
|------|--|
| CAGR | Compound Annual Growth Rate                          |
| AEMO | Australian Energy Market Operator                    |
| AFPA | Australian Forest Products Association               |
| CAGR | Compound Annual Growth Rate                          |
| CSO  | Community Service Obligations                        |
| EBIT | Earnings Before Interest and Tax                     |
| ERF  | Emissions Reduction Fund                             |
| LCOE | Levelised Cost of Electricity                        |
| LGCs | Large-scale Renewable Energy Generation Certificates |
| NEM  | National Energy Market                               |
| RET  | Renewable Energy Target                              |
| ROCE | Return on Capital Employed                           |

# Overview of the Forestry Corporation of NSW

The Forestry Corporation of NSW ('Forestry Corporation' or 'the Corporation') is a state-owned corporation (SOC) that manages more than 2 million hectares of commercial native and plantation forests in NSW. The principal objectives of the Corporation are to grow, manage, harvest, and supply timber from crown and other land under management in an efficient and sustainable manner, which maximises value to the state of NSW, considers the interests of the local community, and promotes regional development<sup>1</sup>.

Forestry Corporation has two operating segments: the Softwood Plantations Division, and the Hardwood Forests Division. The Softwood Plantations Division grows and harvests plantation-grown pine (predominantly radiata pine) for a variety of softwood applications, such as house framing, furniture, panelling, and engineered wood products. The Corporation is the largest producer of radiata pine in Australia, supplying the equivalent of 25% of the timber required for domestic housing construction<sup>2</sup>.

The Hardwood Forests Division harvests a variety of native species (predominantly *Eucalyptus*, *Corymbia* and *Callitris*) for the production of timber products, such as flooring, structural beams, telegraph poles, and woodchips. While some hardwood plantations exist on the NSW North Coast, the vast majority (~95%) of roundwood removals in the Hardwood Forests Division currently come from NSW's native forests (Exhibit 1).

**Exhibit 1** Forestry Corporation harvested sawlog timber by type, 2012-13  
Sawlog '000 m<sup>3</sup>



Source: Forestry Corporation of NSW, "Annual Report 2012-13"

Note: separate data on plantation and native hardwood is not split out in more recent annual reports.

<sup>1</sup> Forestry Act 2012 (NSW) - Section 10

<sup>2</sup> Forestry Corporation of NSW, "Forests – all about wood"

NSW has a large native forest endowment, with approximately 22 million hectares of forest covering 28% of the state<sup>3</sup>. Of this area, Forestry Corporation manages 1.8 million hectares under the state forest estate, the NSW National Parks and Wildlife Service manages a further 5.6 million hectares as national parks or protected areas, and the remainder is either private or unmanaged Crown land<sup>3</sup>.

The state forests estate managed by Forestry Corporation has reduced in size over the last two decades, down from a peak of 3.7 million hectares in 1994 to its current area of 1.8 million hectares, primarily due to transfers to the National Parks and Wildlife Service<sup>4,5</sup>. Currently, about 2% of the native forest from the state forests estate is harvested annually by Forestry Corporation<sup>6</sup>. Forestry Corporation manages a further 265,000 hectares of plantation forest (230,000 softwood, and 35,000 hardwood), bringing the total area under to management to just over 2 million hectares<sup>5</sup>.

---

<sup>3</sup> Australian Government Department of Agriculture, "Australia's State of the Forests Report 2013"

<sup>4</sup> The Australia Institute, "The Australian native forest sector: causes of the decline and prospects for the future"

<sup>5</sup> Forestry Corporation of NSW, "Annual Report 2012-13"

<sup>6</sup> Forestry Corporation of NSW, "Our Forests"

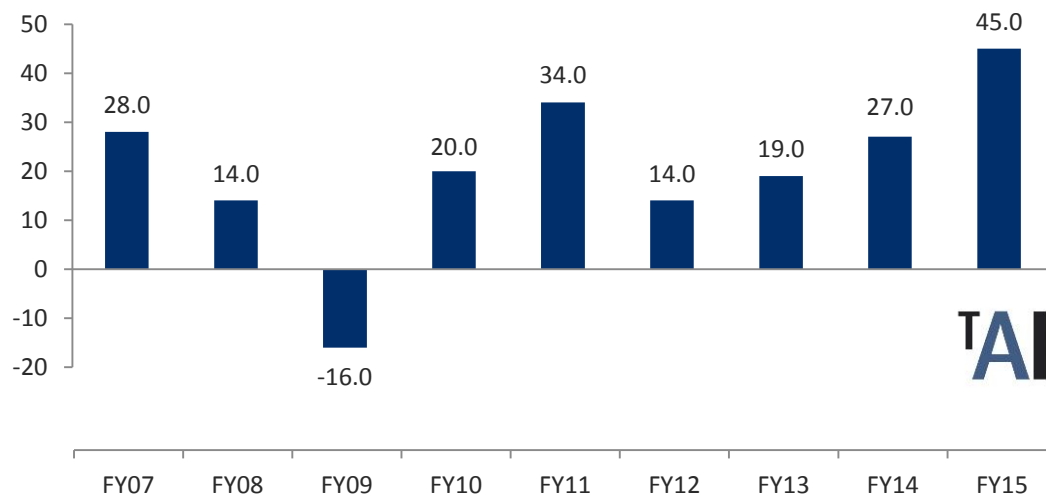
# Forestry Corporation total financial performance

## HISTORIC PROFITABILITY

Forestry Corporation has had mixed financial success over the past decade. In terms of total comprehensive income, a total net loss of \$63m was incurred over the decade, however, this was largely a result of impairments and revaluations of biological assets as a result of falling prices. Excluding these items (and interest and tax), an average operating profit of \$20.5m per annum was achieved since FY07, with a notable loss in FY09.

**Exhibit 2** Forestry Corporation operating profit, FY07 to FY15

A\$ Millions



Source: Forestry Corporation of NSW, "Annual Reports 2004-05 to 2013-14"

Forestry Corporation has paid a total of \$119m in dividends to the NSW Government in the past 10 years. Over the same period, the NSW Government paid Forestry Corporation a total of \$136m in grants related to Community Service Obligations (CSOs) and other non-operational activities. The grants reimburse the Corporation for expenses incurred through the provision of recreation facilities, education and advisory services, government liaison and regulatory services, community fire protection, and research. From the NSW Government's perspective, dividends from

total forestry activities have therefore fallen \$17m short of paying for the management of the NSW state forest estate.

## EXEMPTION FROM LOCAL RATES

Forestry Corporation does not pay local government rates on any of the 1.8 million hectares of land under its management. The *State Owned Corporations Act 1989* states that statutory SOCs are not exempt from rates or taxes simply by nature of their link to the public sector. However, since the state forests estate is classified as Crown land, the Corporation is exempted from paying rates under provisions of the *NSW Local Government Act 1993*<sup>7</sup>.

Regardless of legislative treatment, Forestry Corporation benefits from the provision of services administered by local governments, and contributes incremental expenses primarily through an increased rate of local road asset degradation<sup>7</sup>.

Assessing the benefit to NSW from forestry activities therefore requires these incremental costs borne by local governments to be subtracted from Forestry Corporation's economic profit. In Bega Valley Shire alone, the local council estimates that Forestry Corporation is avoiding rates of \$6.4m per annum on land that has an active logging licence<sup>8</sup>. Extrapolating this figure to the rest of NSW, it is likely that the total incremental costs borne by all local governments as a result of Forestry Corporation's activities will exceed the \$20.5m in average annual operating profit it earns, thereby making it value destructive for NSW ratepayers.

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<sup>7</sup> Deloitte Access Economics, "Review of local government rating exemption provisions", (2013).

<sup>8</sup> Bega Valley Shire Council, "Ordinary Meeting Minutes, 12 June 2013"

# Financial performance of the native forestry division

## HISTORIC PROFITABILITY

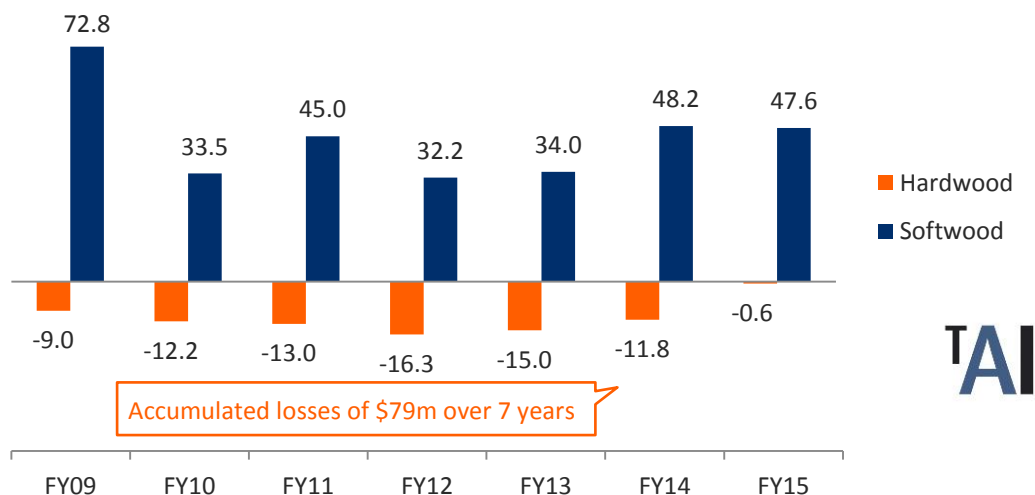
Although Forestry Corporation has on average recorded modest operating profits over the past decade, hidden in these results is a cross-subsidisation between softwood and hardwood operations.

The only segment reporting that Forestry Corporation provides in its annual reporting is between the Hardwood Forests Division and the Softwood Plantation Division. The Hardwood Forests Division includes both native and plantation hardwood logging, but native logging accounts for approximately 95% of revenue (Exhibit 1). The softwood division is comprised completely of wood harvested from pine plantation assets, and therefore the split between Forestry Corporation’s operating segments is essentially a split between native forest logging and plantation forest logging.

Analysis of the financial performance of these segments reveals that in the 6 years between FY09 and FY14 (the only period for which segment reporting exists), the Hardwood Forests Division (native forestry) lost an average of \$11m per annum in operating profit (Exhibit 3).

**Exhibit 3** Operating profit by segment

A\$ Millions



Source: Forestry Corporation of NSW, “Annual Reports 2008-09 to 2014-15”



The negative earning potential from native forest logging is further confirmed in Forestry Corporation's annual reports (including the latest report) under the biological asset valuation section, where it states that "... as the net cash flows from the CGU (native forests) are negative, related assets apart from land are 100% impaired"<sup>9</sup>. In other words, native forestry assets are essentially worthless in the Corporation's accounts. Forestry Corporation also acknowledges it "... may have onerous contracts in relation to wood supply agreements for native forest timber", for which the present value of the contract is negative, but the full amount cannot be determined due to allowances for movements in price and volume in the supply agreements<sup>9</sup>.

The significance of these results is that Forestry Corporation has been running a loss-making business unit for the last decade, which has been cross-subsidised by the profitable plantation business. In the Corporation's own words "FY15 saw the HFD deliver an EBIT profit result for the first time in over a decade"<sup>9</sup>. The cost of this decision has been borne by the citizens of NSW by means of lower dividend payments from Forestry Corporation (and its predecessor) to the NSW Government.

During 2014, Forestry Corporation went through a major organisational restructure, reducing costs by \$5m per annum (presumably primarily through redundancies). As a result of lower overheads, the hardwood division recorded marginally positive earnings before interest and tax (EBIT) of \$2m in 2014-15, the first positive result in over a decade<sup>9</sup>. The division's operating profit, however, remained negative at -\$0.6m (Exhibit 3).

The marginally positive earnings result the division recorded in FY15, however, does not consider the debt it is servicing. Forestry Corporation as a whole pays annual interest to service its debt of \$7.8m<sup>9</sup>, so in the event that the Corporation were broken up, the hardwood division would have to make a multi-million-dollar profit just to cover its debt, let alone meet any sensible Return on Capital Employed (ROCE) rate that NSW citizens should demand.

While the division made a strong turnaround in an aggregate financial sense in 2014-15, the fundamentals of the native forestry business did not change; neither the value or volume of product improved, with revenue remaining flat at \$99m. Businesses can always cut costs to make a short-term financial improvement, but without changes in technology or operating practices, there is generally no long-term benefit.

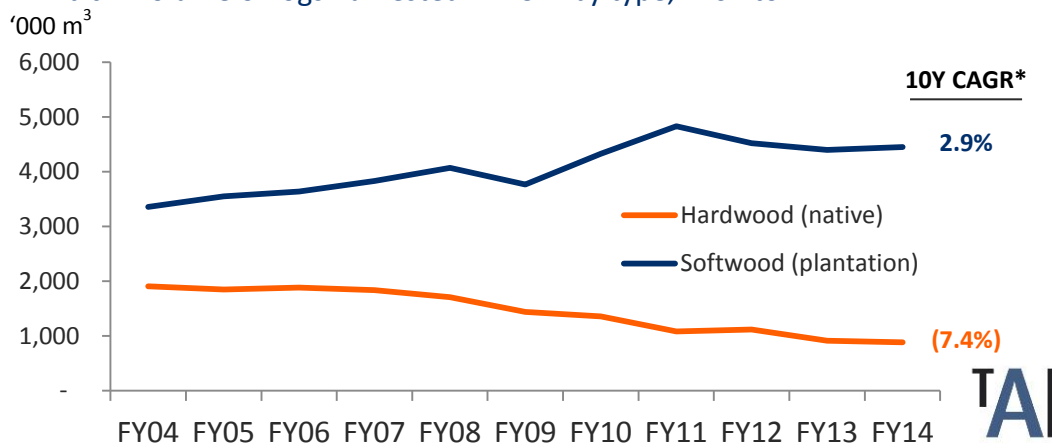
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<sup>9</sup> Forestry Corporation of NSW, "Annual Report 2014-15"

## DEMAND FOR NATIVE FOREST LOGGING

Demand for hardwood from native forestry has been declining steadily over the last decade at an average rate of 7.4% per annum, which is in stark contrast to the 2.9% per annum growth experience by softwood from plantations (Exhibit 4).

**Exhibit 4** Volume of logs harvested in NSW by type, FY04 to FY14



Source: Department of Agriculture and Water Resources, "Australian forest and wood products statistics", (2015)

\* Compound annual growth rate

A number of persisting factors has been responsible for the historic decline in hardwood production volumes<sup>10</sup>, such as:

- Increasing domestic and international competition from softwood and hardwood plantations
- Weak demand for structural timber due to low detached housing construction growth
- Decreasing demand from the Japanese pulp and paper industry from falling paper product consumption
- Wood saving efficiencies and substitutions in production processes
- Increased operating costs relative to international competitors
- Reductions in the land available for native forestry

Given that many of these trends will continue, it is likely that demand for the Corporation's hardwood will continue its downward trajectory into the future, making the positive profit result in FY15 for the division increasingly difficult to repeat.

While Forestry Corporation has demonstrated its willingness to shed jobs in order to turn a loss making division into a cost neutral one, if it wants to begin generating a

<sup>10</sup> Macintosh, A., "The Australian native forest sector: causes of the decline and prospects for the future" (The Australia Institute, 2013).

return that justifies its existence, it will need to radically transform its business model, and search for new markets to sell its product. One such new market the industry has hitched its hopes to is biomass power generation.

## **BIOMASS POWER GENERATION**

### **Background**

Biomass power generation is the process of generating electricity from burning or decomposing biomass solids such as wood. To fight declining volumes, and poor economic performance, the native forestry industry has long lobbied for waste products from logging activities to be permitted for use in biomass power plants.

In 2013, the *Protection of the Environment Operations (General) Regulations* were amended in NSW to allow invasive native species, pulpwood, and trees from thinning activities to be used as fuel in biomass power plants<sup>11</sup>. Two years later, a bill was passed in federal parliament to allow the burning of native forest waste to be counted as a renewable energy source under the Renewable Energy Target (RET) legislation<sup>12</sup>.

### **Biomass cost competitiveness against other renewables**

According to Bloomberg, the minimum levelised cost of electricity<sup>13</sup> (LCOE) generated using biomass technologies in Australia is around A\$140 per MWh. This is currently comparable to the cost of large-scale solar PV, but significantly more expensive than onshore wind projects on an unsubsidised basis (Exhibit 5).

Biomass power generation, however, is a relatively mature technology, and therefore the cost is unlikely to decrease significantly over the next decade. On the contrary, the cost solar PV is still on a downwards trajectory, and is likely to reach a LCOE of \$100/MWh by 2020 (Exhibit 5).

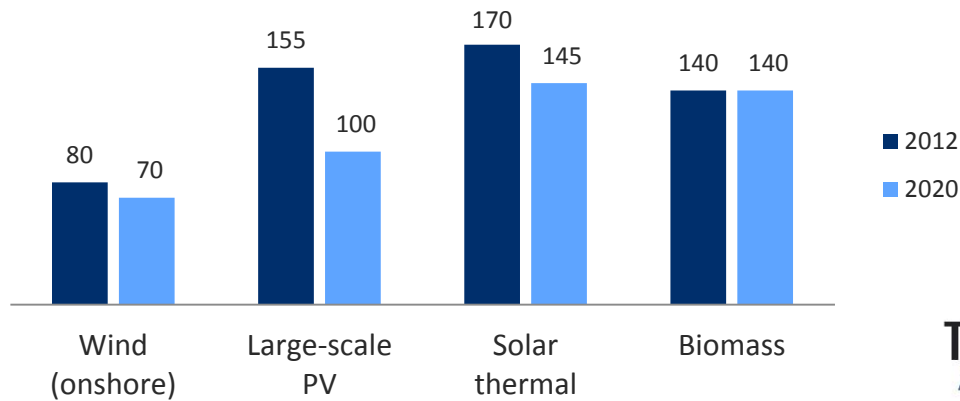
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<sup>11</sup> NSW Environmental Protection Agency, "Amendments to the burning of native forest biomaterials: questions and answers", (2015).

<sup>12</sup> Clarke, M. "Renewable Energy Target: Greens accuse Government of creating 'dead koala certificates'" (ABC News, 2015)

<sup>13</sup> The LCOE represents the effective cost per unit of energy produced by different power generation technologies. It can be used to compare the cost of competing technologies regardless of their cost structure.

**Exhibit 5** Minimum LCOE for renewables in Australia, 2012  
LCOE A\$/MWh (Real)



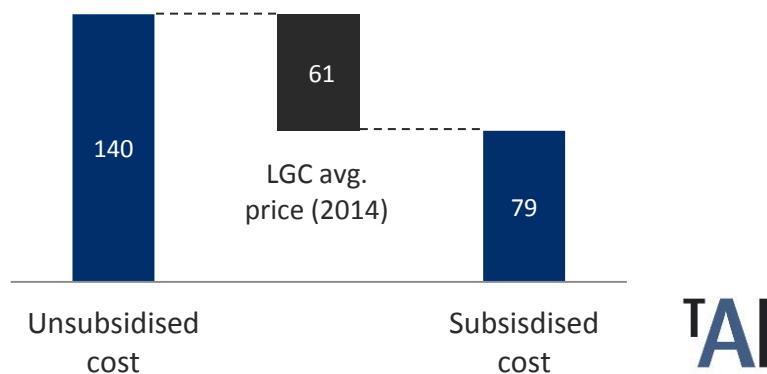
Source: Bloomberg New Energy Finance



## Impact of inclusion in the RET

After changes to the RET were passed in mid-2015, electricity generated from native forest waste is now eligible for large-scale renewable energy generation certificates (LGCs). LGCs effectively subsidise the cost of generating renewable energy by issuing the producer with a certificate for every MWh of electricity they generate, which they can then sell on an open market. The average price for LGCs in 2014 was \$60.98 per MWh<sup>14</sup>, which based on the minimum LCOE estimated by Bloomberg implies an effective cost of \$79 per MWh for biomass power generation (Exhibit 6).

**Exhibit 6** LCOE of biomass with Large Scale Generation Certificate (LGC)  
LCOE A\$/MWh



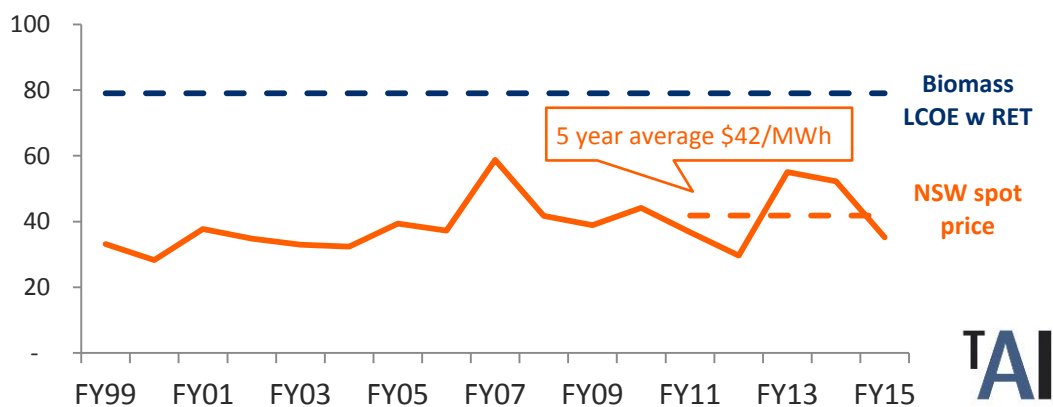
Source: Bloomberg New Energy Finance; Mercari, "LCG Closing Rates", (2015).

In simple terms, for biomass power to be economically viable, the cost of producing energy must be less than the price it is sold for. The average spot price for electricity

<sup>14</sup> Mercari, "LCG Closing Rates", (2015).

sold on the wholesale National Energy Market (NEM) in NSW over the past 5 years was \$42 per MWh. Since estimates for the subsidised cost of producing biomass energy are almost twice as high at \$79 per MWh, without a dramatic increase in wholesale prices, or decrease in the cost of producing biomass electricity, it is unlikely that a new woodchip-fired power plant would be economic under current conditions.

**Exhibit 7** Historical NSW wholesale electricity spot market price  
A\$ / MWh (nominal)



Source: Australian Energy Market Operator (AEMO): *Average Price Tables*

The current level of supply of power generation in the NEM, and the lack of a carbon price, means that new power generators must effectively compete with the short-run marginal cost of existing coal-fired power stations, which is typically around \$30 per MWh.

Although the average price of electricity is only around \$42 per MWh, prices can spike to more than 10 times that amount during peak periods. Gas and hydro power plants currently provide additional capacity to the market during these times, and therefore receive a higher price for their output. Since biomass power can be turned on and off (unlike other renewables) it may be possible for the technology to make an economic return in the peak power market, but even here it would once again have to compete with existing and already paid for peak power stations.

## Benefit of biofuels to Forestry Corporation

According to the Australian Forest Products Association (AFPA), 3,000 GWh of electricity could be supplied annually from wood related wastes by 2020<sup>16</sup>, equivalent to about 1.5% of the total electricity supply in Australia<sup>15</sup>. In a briefing note prepared by The Australia Institute, this figure was found to be possible only if practically all

<sup>15</sup> Australian Energy Market Operator (AEMO), "National Electricity Forecasting Report Overview (NEFR)", (2015).

hardwood timber production across the country was diverted to biofuel<sup>16</sup>. Since the local commodity price for biofuel from native forestry is likely to be pegged to the net back export price<sup>17</sup> of wood chips, however, this transition alone won't be expected improve profitability for Forestry Corporation.

The *Protection of the Environment Operations (General) Amendment (Native Forest Bio-material) Regulation 2013* requires that there be no increase to the intensity of clearing or logging as a result of biofuel production. Increasing production to meet growing demand from biofuels is therefore not possible under current law. However even if the regulations were relaxed to allow greater volumes for biomass, since Forestry Corporation is currently barely profitable from 700,000 m<sup>3</sup> of sawlog and 500,000 tonnes of pulp annually<sup>18</sup>, and it is a predominantly variable cost business, simply increasing volume without increasing price is unlikely to improve to profitability.

The benefit to Forestry Corporation is therefore limited to increasing the value received from pulpwood, tree crowns, and thinning trees associated with current logging activities. The breakdown of revenue and cost for this segment is not disclosed in the corporation's annual reporting, so further analysis is difficult. For arguments sake, however, assuming an incremental operating profit margin of 50%, and a commodity price of \$80 per tonne for biomass woodchips, Forestry Corporation would need to sell an additional 325,000 tonnes of pulpwood (84% of FY13 volumes) just to restore what the Hardwood Forests Division lost in FY14. Generating a sensible return to the state of NSW would require at least that much again.

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<sup>16</sup> Denniss, R., "Briefing note: Do we need to burn the forests to save the environment?", (The Australia Institute, 2015).

<sup>17</sup> Seaborne commodity price of wood chips less the cost of freight to port.

<sup>18</sup> Forestry Corporation of NSW, "Annual Reports 2004-05 to 2013-14"

# Forests and the Emissions Reduction Fund

Native forest logging activities generate considerable greenhouse gas emissions, since typically less than 5% of harvested biomass ends up in long-term timber products, such as furniture. The majority of wood harvested from native forests in Australia is consumed in short term products such as paper, which generally only delays emissions by around three years<sup>19</sup>. Biomass waste from native forest logging which is not removed also contributes incremental emissions, due to accelerated decomposition once felled<sup>19</sup>.

Nationally, native forestry logging generates 38 million tonnes of carbon dioxide emissions, which if reversed, would constitute a substantial proportion of Australia's required emissions abatement to 2030. Avoiding deforestation, however, is currently only recognised as a method under the Emissions Reduction Fund (ERF) if "...a clearing consent for the purpose of converting the native forest to cropland or grassland..." exists, which therefore excludes more Forestry Corporation logging activities<sup>20</sup>. While there is nothing that specifically excludes logging from the ERF legislation, for Forestry Corporation to claim revenue from the cessation of logging activities in native forests under the ERF, a new method would need to be designed, agreed upon, and introduced<sup>21 22</sup>.

The results of the first ERF auction released in April 2015 showed the Clean Energy Regulator had awarded contracts for 47 million tonnes of abatement at an average price of \$13.95 per tonne<sup>23</sup>. While national emissions from forestry are estimated at 38 million tonnes annually, the Kyoto Protocol limits credits from forest management to 3.5% of base-year emissions, which is approximately 15 million tonnes of CO<sub>2</sub> equivalent per year<sup>19</sup>. If Forestry Corporation were to capture just one fifth of this budget, it would be worth over \$40 million per year in revenue from the ERF. Given

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<sup>19</sup>Lindenmayer, D., Mackey, B., "Native forests can help hit emissions targets – if we leave them alone", (The Conversation, 2015).

<sup>20</sup>Clean Energy Regulator, "Native forest protection (avoided deforestation)", (2015).

<sup>21</sup>Arup, T., "Highlands logging halt would earn Victoria \$30m a year in emissions reductions: report" (The Age, 2015)

<sup>22</sup>Excluding those projects specifically allowed under the Verified Carbon Standard (a small group of transition projects in Tasmania)

<sup>23</sup>The Hon. Greg Hunt MP, "First Emissions Reduction Fund auction delivers significant abatement", (Media release, 2015).



that native forestry doesn't currently provide any economic value to the state of NSW, citizens of NSW would be \$40 million per year better off if native forests were left alone rather than logged.

# Funding forest protection

Irrespective of commercial activities, native forests require some level of management to reduce the risk and damage from fires, contain invasive species, and build and maintain infrastructure for the enjoyment of the public. Much of this management of the native forestry areas is already funded by the public through state government grants. In 2014-15, Forestry Corporation received Community Service Obligations grants worth \$15.6 million for the provision of non-commercial services relating to its native forestry estate including “provision of recreation facilities, education and advisory services, government liaison and regulatory services, community fire protection and research”<sup>24</sup>.

If native forestry were discontinued in NSW, funding for the maintenance and management of these areas would still need to continue, but could easily be done through the National Parks and Wildlife Service, rather than Forestry Corporation. By consolidating state forests into the much larger National Parks program, significant ecological and conservation benefits could be realised by the sharing of knowledge and practices in a much broader organisation. Furthermore, since much of the overheads and organisational capabilities for managing land by the National Parks and Wildlife Service already exist, this is unlikely to be a higher cost alternative.

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<sup>24</sup> Forestry Corporation of NSW, “Annual Report 2014-15”, p28

# Employment from the forestry and logging industry

Forestry Corporations mandate, as set out in the *Forestry Act (NSW) 2012 – Section 10*, is to maximise the net worth of the Corporation to its shareholder, the Government of NSW. For an ordinary business, the best way to achieve this mandate would be to close or divest the loss-making division, rather than continuing to run it at a loss. Although inconsistent with the rationale for corporatisation, Forestry Corporation’s public sector ownership will no doubt mean that other factors, such as the impact to the labour force, will need to be considered in any decision.

## TOTAL INDUSTRY

The forestry and logging industry is a relatively small employer in the Australian economy. In 2011, the industry employed 5,398 people nationally, with a further 2,168 people employed in forestry support services. New South Wales has the largest share of workers, with a total of 2,126 engaged either directly or through a support service, followed by Victoria [1,487], Tasmania [1,130] and Queensland [1,122]<sup>25</sup>.

In NSW, people employed in the forestry and logging industry represented less than 0.1% of the total workforce. For context, the financial and insurance industry employs over 150,000 [5%], and the manufacturing industry over 250,000 [9%], more than 100 times that of forestry<sup>25</sup>.

Furthermore, the forestry and logging industry (including support services) rarely represents an overly large proportion of the workforce in any single region, directly employing more than 1% of the workforce in just 5 of the 152 NSW Local Government Areas (Table 1).

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<sup>25</sup> Australian Bureau of Statistics, “Census of Population and Housing”, (2011).

**Table 1** Forestry employment in NSW

| NSW Local Government Area | Employed in Forestry <sup>26</sup> (#) | Total Workforce (#) | Forestry (%) |
|---------------------------|--|---------------------|--------------|
| 1. Bombala                | 77                                     | 997                 | 7.7%         |
| 2. Oberon                 | 78                                     | 2,018               | 3.9%         |
| 3. Tumut Shire            | 121                                    | 4,279               | 2.8%         |
| 4. Walcha                 | 21                                     | 1,335               | 1.6%         |
| 5. Tumbarumba             | 20                                     | 1,306               | 1.5%         |
| 6. Wakool                 | 6                                      | 758                 | 0.8%         |
| 7. Balranald              | 12                                     | 1,523               | 0.8%         |
| 8. Bega Valley            | 61                                     | 11,212              | 0.5%         |
| 9. Bathurst               | 71                                     | 15,229              | 0.5%         |
| 10. Eurobodalla           | 51                                     | 11,014              | 0.5%         |
| All other NSW (142)       | 1,608                                  | 2,983,855           | 0.1%         |
| <b>Total NSW</b>          | <b>2,126</b>                           | <b>3,033,526</b>    | <b>0.1%</b>  |

Source: Australian Bureau of Statistics: *2011 Census of Population and Housing*

## NATIVE FORESTRY

Native forestry represents an even smaller share of total employment. Employment figures for native forestry were not available in the 2011 census, but considering it represents only 25% of total harvesting volume by Forestry Corporation (Exhibit 1), it is likely that not more than 600 people are directly employed in the native forestry and logging industry in NSW.

There is some related employment in wood processing and transport as a result of native forest logging, although precise numbers are difficult to estimate due to crossover with other industries and plantation forestry. Given the cost to NSW taxpayers of propping up an unprofitable business, and the potential value left on the table from ERF revenue, the question of how much more we are willing to pay to keep this small industry afloat must be answered.

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<sup>26</sup> Forestry and Logging, and Forestry Support Services

# Conclusion

Native forest logging in NSW imposes costs on the NSW taxpayer through the losses of the Hardwood Forests Division of the Forestry Corporation of NSW, which have averaged \$11 million per year in recent years. Further costs are incurred by local councils and their ratepayers as the Corporation uses council facilities without contributing through the payment of rates due to an administrative exemption to these payments.

Changes to the Renewable Energy Target to include electricity generation through burning of biomass will not affect the economics of forestry in NSW as very few locations will be able to compete with biomass energy in the National Electricity Market and the cost of renewable energy decreases. Conversely, changes to the Emissions Reduction Fund to include native forest protection would make conservation the economically obvious choice.

Taxpayers are already paying for the basic management of much of the native forestry area through state government grants and through the losses that native forestry incurs. This funding could be diverted to the National Parks and Wildlife Service to incorporate these areas into the national park estate.

Forestry is not a major employer in NSW at a state level or at a local level. Native forestry is a fraction of total forestry employment, perhaps 600 people in the state representing less than 0.1% of the total workforce.

Native forest logging could end in NSW with minimal economic disruption and potentially substantial savings for NSW taxpayers.

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