

SUBMISSION COVER SHEET

Victorian Regional Forest Agreements third five-yearly review

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Your submission and completed cover sheet can be submitted by email to rfa.review@delwp.vic.gov.au or by post to:

RFA Review - Submission
Department of Environment, Land, Water and Planning
PO Box 500
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Submission by Rubicon Forest Protection Group to third 5-year review of Victorian Regional Forest Agreements

Executive Summary

This Submission is focussed principally on the Central Highlands Regional Forest Agreement (RFA) but the issues we raise here are relevant to the four other Victorian RFAs.

This submission addresses matters arising from 1 July 2009 to 30 June 2014, but as the review is also to form the basis of decisions on revising and extending the RFAs, we also need to address matters arising since then.

Key findings

The Rubicon Forest Protection Group (RFPG) considers that the Victorian Government has failed to abide by fundamental undertakings under the Central Highlands RFA.

These are:

- the failure to abide by the principles and practices of ecologically sustainable forest management (ESFM) as required by the RFA
- the failure to adopt sustainable harvest levels by FMA as required by the RFA
- the failure to comply with the *Code of Practice for Timber Production 2014* (the Code) as required by the RFA, and
- the failure to fully implement a system of forest reserves that meets the JANIS criteria as required by the RFA.

The Rubicon Forest Protection Group (RFPG) therefore also considers that the Commonwealth Government has failed to abide by its undertakings agreed under the RFA, specifically by maintaining accreditation of Victoria's forest management system despite it breaching the above provisions.

Recommendations

The RFPG considers that any future Victorian RFAs should require Victoria to establish a proper, legally enforceable, forest management and planning system, including financial penalties for non-compliance and with better opportunities for public interest input.

In support of this, Victoria should also commit to publishing on the web, in a timely fashion, a comprehensive data set, including coupe plans, maps and harvesting schedules.

These revised arrangements should include the establishment of a new forest management planning division of the Victorian Civil and Administrative Tribunal with powers to modify, or order a halt to forest operations found to be non-compliant with this system.

In the meantime, the Central Highlands RFA should not be renewed until a VEAC review of the area has been undertaken, the Code of Practice for Timber Harvesting has been revised and strengthened following an independent review and a new Forest Management Plan developed.

Failure by Victoria to adopt Ecologically Sustainable Forest Management

Clause 7 of the RFA (below) commits Victoria to “developing and implementing Ecologically Sustainable Forest Management (ESFM)”.

7. Parties confirm their commitment to the goals, objectives and implementation of the *National Forest Policy Statement (NFPS)* by:
 developing and implementing Ecologically Sustainable Forest Management (ESFM);
 establishing a Comprehensive, Adequate and Representative (CAR) reserve system; and
 facilitating the development of an internationally competitive wood products industry.

So what constitutes ESFM?

The *National Forest Policy Statement NFPS*, adopted by the RFA must give guidance here. Various relevant references in the NFPS are set out below:

The protection of the full range of forest ecosystems and other environmental values is fundamental to ecologically sustainable forest management. It entails the maintenance of the ecological processes that sustain forest ecosystems, the conservation of the biological diversity associated with forests (particularly endangered and vulnerable species and communities), and the protection of water quality and associated aquatic habitats.

. . . areas that have important biological, cultural, archaeological, geological, recreational and landscape values will continue to be set aside and protected from harvesting operations or managed during operations so as to safeguard those values.

. . . each Government will, where possible, ensure that effective corridor systems link reserves, refuges and areas with a relatively large range of altitudinal and other geographical variation so as to take into account the possible impacts of climate change.

Forest management agencies will monitor and appropriately control the threat to publicly owned native forest ecosystems posed by feral animals, exotic plants, pests and diseases.

Protection of the conservation and commercial values of forests will necessitate protecting forest areas from the potentially harmful effects of diseases, weeds, pests (including feral animals), chemicals and wildfire. Accordingly, the Governments agree to give high priority to the protection of public forests from these agents.

. . . the floristic and faunal diversity of native forests, including their successional stages, be maintained on public land;

Ecologically sustainable forest management will be given effect through the continued development of integrated planning processes, through codes of practice and environmental prescriptions, and through management plans that, among other things, incorporate sustainable yield harvesting practices.

So is ESFM adopted in practise?

The Rubicon State Forest is an area of astonishing beauty and huge tourism potential that contains around 15% of the available ash forests in the Central Highlands RFA region. Its high conservation value was confirmed last year in the report, *Conservation values of state forests*, by the Victorian Environment Assessment Council.

The RFPG has approached VicForests, DELWP and Victorian Government Ministers on many occasions pointing to a variety of failures to protect the conservation values of the forest and abide by the Code.

Our main arguments are documented in *Unsustainable!*, our 2016 submission to VicForests and the Victorian Government, which we include as an Appendix to this submission.

The fundamental problem is the scale and intensity of logging in the Rubicon State Forest (RSF) since the 2009 fires. This is the antithesis of ESFM and utterly unsustainable. The origin of the problem lies in a major change made, without fanfare and overlooked by the previous RFA reviewer, to the Allocation Order which is the legal instrument passing the ownership of the timber in public native forests to VicForests.

In 2010, as is documented in *Unsustainable!*, the Government changed the rules so that instead of the allocation being specified by FMA and by a range of forest types, it was set statewide only - - without any reference to FMA - - and by just two forest types: ash and mixed species. This change was made as a result of the three landscape level fires of the 2000s that meant that the previous approach setting sustainable harvest levels by individual FMA would prevent contractual commitments being met.

As a result, and despite 13,500 ha of ash forest in the Central FMA being killed in the 2009 fires pre-fire harvest levels in the RSF rose dramatically once fire salvage logging ended. Over the past 6 years or so logging rates in the Central FMA have been around double the levels forecast for this period back in 2004 when VicForests was created, and affirmed 3 years later in 2007. So much for the sustainable harvesting provisions – by FMA – agreed in the RFA!

But the dire ecological consequences of this change have been ignored by VicForests and by the Victorian Government. And as the following points illustrate, what is happening in the RSF is at odds with the dictums of ESFM cited above.

- Buffers between coupes and along watercourses are generally the bare minimum width provided for under the Code (and its forerunner in 2007) and unable to meaningfully serve as wildlife corridors and refuges.
- These inadequate buffers mean that individual coupes merge into giant mega-coupes well in excess of the maximum sizes permitted under the Code.
- We have observed (and reported) several instances where ephemeral springs and watercourses are left unprotected from harvesting and effectively destroyed.
- Proper pre-logging surveys are rare with most pre-logging fauna assessments conducted via desk-top assessment and cursory in-coupe inspections.
- Blackberries are rampant in logged areas and along most forest roads and tracks with little or no attempts to limit their spread.

- Little effort is made to remove logging slash from around the base of retained trees – as required by the Code - resulting in frequent tree death in regeneration burns.
- Silvicultural methods that would preserve the floristic diversity of understorey and ground level flora (such as by static long reach harvesters that minimise ground disturbance and avoid regeneration burning) are largely ignored, with the dominant consideration being maximising harvested area and re-seeding only the overstorey species. Regrowth retention harvesting is a recent welcome improvement but is employed sparingly.
- At current harvesting rates within as little as 5 years there may be no substantially intact areas of 1939 ash regrowth remaining apart from the limited alpine ash areas within the Mt Torbreck and Mt Bullfight reserves. Apart from buffer strips and scattered isolated patches, almost all the remaining ‘available’ forest will then be in the age range 0-35 years and at great ecological risk due to climate change and fire, especially since ash species do not produce seed until about age 20. Across the Central Highlands RFA, it will bring threatened animals including Leadbeaters possum, the greater glider and the sooty and powerful owls much closer to extinction.
- Provisions under the Code designed to protect area of high landscape sensitivity are routinely ignored. For example Government policy requirements to protect views of the forested escarpment seen from the Maroondah and Goulburn Valley Highways have been ignored as have Code provisions designed to protect the forested landscape as seen from the Rubicon Valley Historic and Cultural Features Reserve.

Abandonment of sustainable harvest levels by FMA

The changes made to the Allocation Order in 2010 described above, and in *Unsustainable!*, means that a fundamental premise on which all the Victorian RFAs rest - - that each RFA area, and each FMA within that, are managed for sustainable timber production - - no longer applies. And it has not done so for almost half the life of the RFAs.

Indeed, the very idea that all of the ash forests of Victoria and all the mixed species forests can be considered as a single system or ecosystem for the purposes of ESFM is absurd. The 2010 changes were made exclusively to meet the contracted timber supply requirements that had been jeopardised by fire losses, with no regard for the ecological consequences.

On the other hand, there is a far more reasonable match between broad ecosystem extent and RFA boundaries, making the requirement for setting sustainable harvest levels by RFA a much more reasonable approach.

Clearly, the impact of landscape level fires, including in 1939, means that Victoria has a heavily modal forest age distribution making it very difficult to schedule harvest levels to provide an even and economically viable timber flow if ESFM is to be realised at an RFA level. But that is the premise of the RFAs and we believe it must be adhered to.

And as we argued in *Unsustainable!*, ecologically sustainable forest management in the Central FMA requires cessation of further logging for several decades to come.

Failure to comply with the *Code of Practice for Timber Production 2014*

Some of the specific breaches of the Code which we have identified might be considered by some to be scattered transgressions with restricted impacts or reflecting poor judgement rather than professional negligence.

However others are more clearcut or have widespread adverse consequences. Examples of these are set out below:

Failure to comply with planning principles

Mandatory planning actions required by the Code are set out below. Of these RFPG considers that i, ii, v, vi & vii are routinely breached. Examples of some of these breaches follow.

2.1.1.1 Long-term forest management planning must:

- i. meet the requirements of this Code & the Management Standards and Procedures;
- ii. provide for the perpetuation of native biodiversity;
- iii. maintain a range of forest age classes and structures;
- iv. identify and mitigate impacts on all cultural heritage values;
- v. minimise impact on water quality and quantity within any particular catchment;
- vi. minimise adverse visual impact in landscape sensitivity areas; and
- vii. facilitate effective regeneration of harvested forest.

Logging of areas >120ha in extent

There are two areas within the Rubicon State Forest (on the Royston Range), and at least one other area nearby (on the Matlock plateau in the Big River State Forest also in the RFA) where separate clearfelled areas of coupes adjoin without the required intervening buffer strips at least 20m wide¹ to create contiguous clearfelled areas greater than 120ha. These are clear contraventions of the Code but as far as we are aware have been ignored by DELWP, despite the evidence of aerial imagery. The relevant clause of the *Management Standards* states:

2.4.1.2 The maximum aggregated size of coupes that contain clearfall, seed tree or shelterwood 1 is 120 ha net harvested area within a 5 year period.

Failure to control spread of blackberries

Vast areas of the Rubicon State Forest that have been logged are infested with blackberries, a declared noxious weed throughout Victoria. The few areas that have been spared intensive logging are relatively free of infestations but it is advancing rapidly throughout the area with no apparent attempt by VicForests to control it, or if efforts have been undertaken by VicForests they are wholly ineffectual.

¹ Clause 2.4.7.1 of the Management Standards and Procedures states "20 m is the minimum width of vegetation to be retained between coupe aggregates that have both been harvested within the last 5 years".

The relevant clauses of the Code, the latter clearly contravened by VicForests' inaction, states:

Maintaining forest health

2.2.2.13 Implement appropriate vehicle and equipment hygiene precautions when moving from areas of known pest plant, pest animal and pathogen infestations.

2.2.2.14 Implement appropriate control actions where timber harvesting operations have introduced or exacerbated a pathogen or weed.

The implications for the loss of biodiversity and of the overall values that contribute to the high conservation value of a forest are immediately obvious to any ecologist. Compounding this problem is the additional problem of feral deer which thrive in a blackberry-rich environment. As well as accelerating its spread deer also browse many of the understory species which might otherwise allow something resembling the original community richness to be restored.

Logging of areas of high landscape sensitivity

In 1994 Victoria's Land Conservation Council (LCC), following a long and detailed investigation, made a range of recommendations in relation to the forests in this area almost all of which were accepted by the Victorian Government. Recommendation E7, accepted in 1997, required the protection, amongst other things, of:

landscape values of the forested escarpments as viewed from the Maroondah and Goulburn Valley Highways

This recommendation was put into effect through the creation of *Special Protection Zones* (SPZs) along the Cerberean Plateau and Black Range escarpments. However, these SPZs do not extend to higher parts of the escarpments, so management action, rather than zoning, was needed if Government policy was to be followed.

Several meetings were held with VicForests in 2014 ahead of several coupes at the northern end of the Royston Range being logged at which local community representatives strongly argued that the areas visible from the valley should be left intact in keeping with Government policy. However VicForests went on to clearfell the relevant parts of these coupes.

Logging of areas of high landscape sensitivity close to the Rubicon Valley Historic and Cultural Features Reserve (RVHCFR) represent another clearcut breach. The northern end of Royston River Road is the principal access to the Rubicon Valley Historic and Cultural Features Reserve (RVHCFR), to the Royston Falls and to Elephant Rock all of which are of great tourist potential, especially given three popular camping grounds and two outdoor education centres nearby.

The recent logging of coupes in this vicinity despite RFPG's objections, and in the RVHCFR itself, not only breaches clause 2.1.1.1.vi, but is a clear breach of clause 5.3.1 of the Management Standards governing landscape protection in the this area. Clause 5.3.1.6 states:

Middleground (500 m – 6.5 km)

5.3.1.6 In the middle ground, between 500 m and 6.5 km, seen from the features listed in table 9 in Appendix 5 of the Planning Standards:

(a) manage timber harvesting operations to ensure landscape alterations are only subtly apparent within 5 years of the operation; and

(b) shape, position and time timber harvesting operations and new roads to minimise their visual impact.

Table 9 of Appendix 5 of the Planning Standards lists the Rubicon Historic and Cultural Features Reserve as one such feature (on p.142).

However a coupe currently being logged (“Calvin”) and two proposed new coupes just north of it, all of which adjoin the Reserve, are clearly visible from the Reserve, as are two other coupes which were logged last year and well as the proposed new coupe on the Reserve itself.

Failure to implement a system of forest reserves that meets the JANIS criteria

The NFPS establishes that the forest reserve system should be based on the principles of comprehensiveness, adequacy and representativeness: the JANIS criteria. We make no comment on the question of comprehensiveness or representativeness of the current reserve system in the Central Highlands, but we certainly consider the current reserve system to be inadequate.

The IUCN recently added the mountain ash ecosystem to its Red List following an ecosystem risk assessment that examined the extent of logging, past and planned, plus areas killed in recent fires and the risk of increased fire frequency in the future.

We acknowledge that the reserve system has been extended a little in recent years with over 3,000 ha of forest reserved in 200m radius harvesting exclusion zones to protect Leadbeaters possum colonies. However this does not remedy the overall inadequacy of the reserve system.

There are many special ecological features of the Rubicon State Forest such as:

- its broad extent on the Cerberean Plateau,
- its altitudinal range allowing the conjunction of alpine ash and mountain ash stands, as well as higher elevation snow gum and lower elevation mixed species forests, and
- its location, marking the northeastern limit of Victoria’s mountain ash forests.

The RFPG considers that the RFA should not be renewed or extended unless and until there has been a comprehensive public inquiry by VEAC into the need for part or all of this forest, as well as other areas in the Central Highlands RFA, to be added to the existing reserve system.

Failure by Commonwealth to revoke Victoria's accreditation under Clause 47

Clauses 40 and 47 (below) accredit Victoria's processes and systems, as they stood at the commencement of the RFA, as meeting the requirements of ESFM.

40. The Parties agree that Victorian processes and systems provide for ecologically sustainable management of forests in the Central Highlands and that these processes and systems are accredited in clause 47 of this Agreement.

..

47. The Commonwealth accredits Victoria's forest management system for the Central Highlands as amended by this Agreement. The system includes:
the Forest Management Plan and the process for its review;
the *Flora and Fauna Guarantee Act 1988*;
the process for forecasting sawlog sustainable yield in the Central Highlands; and
the systems and processes established by the Code of Forest Practices for Timber Production and the Code of Practice for Fire Management on Public Land.

At the same time clause 89.1 states that the Commonwealth will:

89.1. Maintain accreditation of Victoria's forest management system for Central Highlands as amended by this Agreement providing changes to the system are consistent with the provisions of this Agreement;

As we believe has been made clear in this submission, changes to the forest management system on which the RFA was based, especially the changes to the Allocation Order in 2010 and the consequent abandonment of sustainable harvest levels by FMA and RFA, plus the manifest failures by Victoria to practise ESFM, are completely inconsistent with the RFA.

We therefore look forward to the Reviewer stating in his/her Report that both Victoria and the Commonwealth have failed to fulfil their fundamental obligations under the RFA.

Conclusion

The RFPG considers that any future Victorian RFAs should require Victoria to establish a proper, legally enforceable, forest management and planning system, including financial penalties for non-compliance and with better opportunities for public interest input.

In support of this, Victoria should also commit to publishing on the web, in a timely fashion, a comprehensive data set, including coupe plans, maps and harvesting schedules.

These revised arrangements should include the establishment of a new forest management planning division of the Victorian Civil and Administrative Tribunal with powers to modify, or order a halt to forest operations found to be non-compliant with this system. This would be consistent with VicForests' role as a commercial enterprise.

In the meantime, the Central Highlands RFA should not be renewed until a VEAC review of the area has been undertaken, the Code of Practice for Timber Harvesting has been revised and strengthened following an independent review and a new Forest Management Plan developed.