

Protect the Rubicon

A Roadmap for Forest Governance Reform

RFPG Discussion Paper
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Since its inception in 2015, the Rubicon Forest Protection Group has been striving on various fronts to protect the unique environment of the Rubicon State Forest from the onslaught of widespread clearfell logging that is destroying the multitude of natural and social values of this extraordinarily diverse forest atop the ancient Cerberean plateau.

The inadequacies of Victoria's forest management and planning system was highlighted in a [2013 report](#) by the Victorian Auditor-General whose conclusions were that:

“the environmental, social and economic sustainability of timber resource management could be enhanced by improving the way DEPI [DELWP] protects forest values, documents decisions affecting where harvesting can occur, and manages its backlog of forest regeneration from before 2004. VicForests can also improve its process for estimating sustainable harvest levels.

DEPI [DELWP] has not had the measures, monitoring and data to show what its activities are achieving, or how forest health and the condition of other forest values are faring over time.”

In June 2018, the Auditor-General issued a [follow-up report](#) which amplifies these concerns and points to inaction by State Government departments in addressing the issues previously raised. In the interim VicForests sought – and failed – to gain basic accreditation under the Forest Stewardship Council (FSC) for its forest management practices. The FSC is the world's leading independent accreditor of sustainable forest management. The reasons why VicForests' accreditation bid failed are yet to be revealed, but many forest conservation groups, including [RFPG](#), highlighted multiple failings by VicForests across almost all assessment criteria.

In March 2018 the State and Commonwealth Governments [announced](#) that Victoria's existing Regional Forest Agreements (RFAs) are to continue until March 2020 when they will be replaced by new 'modernised' RFAs. The Victorian Government has launched a RFA Modernisation Project and has promised an open consultative process.

There are grounds for scepticism in view of the failures of the Forest Industry Taskforce but the promised consultation around the new 'modernised' RFAs provides an opportunity to progress the reform of the regulatory framework governing Victoria's ash forests.

The RFPG has developed this discussion paper as a contribution policy debate around Forest Governance Reform. The paper includes three parts:

- the failings of the current regime of forest governance: issues which must be addressed;
- how we got where we are now: the forces supporting the continuing destruction of native forests;
- proposals: a program of action for forest governance reform (including revision of the Code).

The Rubicon Forest Protection Group (RFPG) seeks feedback from members and friends regarding the critique, the analysis and the proposals. Please write to info@rubiconforest.org.

1. The failings of forest governance: issues which must be addressed

1. Unsustainable logging. Current logging rates are utterly unsustainable due to past over-commitment based on flawed data and massive losses in bushfires of the noughties (2004,

2006-2007,2009). The age profile of the ash forests of the Central Highlands projects a long wait for harvestable timber.

- Despite utterances to the contrary by Government and timber industry apparatchiks, by any objective measure what is occurring in the Rubicon State Forest, across the Central FMA and across the ash forests of the Central Highlands, what is occurring now is [Unsustainable!](#)
2. Disregard of forest values other than wood production. Forest management is focused almost solely on wood production with disregard for other forest values (biodiversity, recreation, tourism, etc).
 - Diverse post '39 regrowth forests have been converted into ecologically impoverished, blackberry infested quasi monocultures, with no regard for understorey floristic diversity provision, erosion on steep slopes, or protection of retained trees.
 3. The CAR reserve system is neither comprehensive, nor adequate, nor representative.
 - Yarra Ranges National Park was specifically designed to exclude all commercially desirable ash forests outside Melbourne Water catchments;
 - Alpine National Park specifically designed to exclude all commercially desirable ash forests;
 - Most SPZs too small to be ecologically effective.
 4. Lack of accountability regarding State Government compliance with commitments under the RFAs.
 - FMA-based sustainable yield ceilings were abandoned in 2010, despite this being contrary to the RFA provisions.
 - Evaluation of DELWP and VicForests compliance with RFA obligations is weak and ineffective.
 5. Conflict between National Forest Policy and RFAs.
 - NFP requires that "Forest management is effective and responsive to the community", whereas RFAs require that wood supply be maintained regardless of environmental consequences (clause 71 Cent Highlands RFA).
 6. Monitoring of Code compliance is weak, secretive and conflicted.
 - DELWP interpretation of Code compliance requirements is narrow and does not take account of Code Principles and long-term planning objectives.
 - Illegal logging outside the Allocation Order in the Rubicon Historic Area has been ignored.
 - Code compliance reporting and breach determination are kept secret which is at odds with the FoI Act and the NFP.
 7. Ecological sustainability is compromised by having the Allocation Order set on State wide basis without regard for circumstances of specific forest areas and types.
 - The disappearance of all largely intact areas of '39 ash regrowth from within State Forests in the central highlands is imminent.
 8. There is no provision in the RFAs for modification in the face of fire (past and future) and climate change.
 - The likelihood of future mega-fires at ever-shorter intervals has substantially increased and with it the threat of destroying ash forest ecosystems.
 9. Failure of plantations policy
 - Near zero expansion of hardwood and softwood plantations over past 20 years in eastern Victoria
 10. The loopholes in the Code are many and varied including, for example:
 - Lack of definition of 'retained vegetation' for purposes of ensuring no megacoups (120+ha);
 - No specification of what 'range of age classes and structures' means;
 - VF definition of "rainforest" at odds with definition in Code;
 - DELWP still has not released Biosis report into some Code shortcomings.

11. Lack of provision in current Resource Outlook for future bushfire losses;
 - No provision for future bushfires, despite likely loss of 20% of ash forests in next 20 years (VEAC).
12. Lack of transparency in the planning of harvesting.
 - TRP process a sham with no accountability;
 - Coupe plans generally inadequate and not placed on web greatly limiting opportunity for public input.

2. How we got where we are now: the forces supporting the continuing destruction of native forests

1. History. We inherit assumptions regarding natural resources as inexhaustible and the environment as an inexhaustible receptacle for 'waste' (including CO₂). These assumptions date back to periods when human populations were much smaller and industries and technologies much less destructive.
2. Unsustainable resource extraction and the exhaustion of environmental services are hidden (geographically distant and scientifically complex). The processes of biodiversity loss are hidden and the consequences emerge slowly.
 - the science of climate change (including fire risk) is complex and probabilistic;
 - much of the beauty which is at risk is hidden and unappreciated;
 - the values of the forest, other than timber production, are not sufficiently appreciated.
3. There is political resistance to valuing the earth's resources and services and recognizing the costs of depleting those resources and exhausting those services.
 - the influence of those industries (including the logging of native forests) which are based on the conversion of environmental assets into income, corporate profit, and cheaper products is powerful. This includes: native forest logging and milling; and commerce in the cheaper pulp and sawlogs from NF logging (cheaper because of externalization of real environmental costs). The Wood Pulp Agreement as a legislated instrument which locks in the continued exploitation of NFs;
 - the costs of transition to ecological sustainability and the likely incidence of those costs raise further opposition: the costs of corporate restructuring; employment (and contract) transition; and the cost to tax payers (in an environment of tax competition).
4. The influence of tightly organised constituencies in swinging seats can be more powerful in shaping electoral sentiment than concern regarding wider and more diffused public goods.
 - This includes farmers' opposition to plantations (because of their impact on water and employment) and corporate and union contributions to electoral financing.
5. The policy failures associated with the managed investment schemes set back plantation development considerably.
6. Adversarial politics tends to obscure the public good and magnify the conflict.

Proposals: a program of action for forest governance reform

1. Victorian Environmental Assessment Council (VEAC) should be commissioned to undertake an immediate review of representativeness and adequacy of the existing system of conservation reserves as devices for protecting the full range of forest values across all forested land in the Central Highlands.
 - Rationale: Scientific and general understanding of forest values has expanded dramatically since the RFAs were agreed to in 1990, as have the competing pressures on the remaining forests. In addition the forests of Eastern Victoria have experienced three massive fire events and accelerated logging that have radically changed the overall ecological context. It is over 20 years since the last comprehensive review was conducted of the Central Highlands (LCC Melbourne Area 2 review) which contains the forests under the greatest logging pressure.
 - Implementation: The review needs to be undertaken by VEAC review using its normal 2-stage process with widespread public input. The current DELWP proposal for a more limited DELWP-managed review with limited public input and based mainly on updating flora and fauna survey information rather than the full gamut of environmental values is completely inadequate. The outcome of the review should be reflected (a) in new parks and reserves and (b) in specific protections that should be incorporated in a revised forest management plan.
2. A rigorous and transparent review of the 2014 Code of Practice for Timber Harvesting (including the Management Standards and Procedures) should be undertaken. Such a review is envisaged in the Code itself (Section 1.1 last para) and the Management Standards and Procedures (see para 1.5.1.1(b)).
 - Rationale: There are numerous gaps and inconsistencies in the Code of Practice for Timber Harvesting that must be remedied before anyone can have confidence that its proper application can protect the ecological and social values of public native forests from logging. See attachment below.
 - Implementation: The review should be carried out by a specially constituted tripartite panel from outside Government, perhaps comprising a forest ecologist, a lawyer and a forester. (See attachment for possible areas for revision). Like the other comparable reviews it should be a 2-stage process with public input at each stage: first to provisions that should be changed or added and second to a new draft Code.
3. Official Commonwealth statutory position – the RFA accreditation inspector – needs to be established in the Department of Environment to conduct annual reviews of compliance with the Code and other RFA provisions and produce annual reports to be tabled in both State and Federal Parliaments.
 - Rationale: At present there is no routine process for Commonwealth accreditation of Victoria's compliance with fundamental RFA requirements to be assessed, much less challenged. RFAs are intended to prevent the application of Commonwealth law on the grounds that state law, such as the Code and the Flora and Fauna Guarantee Act, if properly applied, allow the objectives of the Commonwealth Environment Protection and Biodiversity Act to be met. However the lack of any provision requiring the Commonwealth to satisfy itself that the state is adhering to its legal obligations (the current 5-yearly review provisions in the RFAs are wholly inadequate in this regard) is a serious oversight and must be remedied.
 - Implementation: Amend Cwllth legislation and incorporate the necessary arrangements for scrutiny in new RFA
4. Strengthen the provisions for Code enforcement including: (i) transferring the compliance monitoring functions currently in DELWP to an independent and appropriately-resourced

statutory body, such as the EPA; (ii) establishing a new forest management planning division of the Victorian Civil and Administrative Tribunal (VCAT) with powers to modify, or order a halt to forest operations found to be non-compliant with the Code, and (iii) establishing an effective system of financial penalties and effective sanctions on individuals responsible where breaches are found.

- Rationale: The lack of independent accountability in the way the Code is implemented and the opaque way DEWLP conducts its investigations is a major shortcoming. It stands in contrast to all equivalent areas of environmental regulation enforcement, such as through the EPA or the NSW Land and Environment Court. These proposals seek to establish due process that is open and accountable.
 - Implementation: Amend state legislation
5. Require VF to review the 2017 Resource Outlook – with the modelling underpinning such a review to be published - so that: (i) ecologically sustainable sawlog and pulplog availability projections are made at an FMA or RFA level, by forest type; (ii) an allowance is made – on a probabilistic basis such as was used by VEAC– to account for future bushfire losses, and (iii) allowance is made for the outcome of the proposed Code of Practice review.
- Rationale: VicForests’ ‘Resource Outlook’ is a key input to Government planning and regulation of timber harvesting. The Victorian Auditor-General was also critical of the way the resource outlook was conducted and, although there have been some improvements, it is still far from adequate. The latest Outlook (2017) treats the ash forests and mixed species forests of eastern Victoria as single ecological units, counter to the ecological sustainability requirements of the National Forest Policy.
 - Implementation: Allocation Order to be revised to reflect the resultant drop in estimated sustainable harvest levels and restore the setting of ecologically sustainable harvest areas at the FMA level as occurred prior to 2010, rather than being set on a statewide basis as at present.
6. All “timber town” municipalities to be supported to conduct social impact evaluation of local harvesting activity.
- Rationale: Meaningfully engaging with regional communities affected by logging is something that VicForests has not treated as a priority, apart from its community support grants program which, regrettably, requires recipients to refrain from publicly criticising VicForests. Businesses, community groups and individuals who disagree with what is happening are effectively sidelined. The Forest Stewardship Council is widely regarded as the leading the world in terms of the ecological and social perspectives underpinning its forest management accreditation, and its auditors have previously commented on the inadequacy of VicForests’ assessments of the [adverse] social impacts on affected communities.
 - Implementation: Enhanced TRP consultation process; enhanced Forest Management Plan development and updating processes
7. Adoption of harvesting methods other than clearfelling (not simply more trials) across a substantial majority of the ash forest area set for harvesting in any particular year.
- Rationale: Clearfelling and subsequent regeneration burning has a resemblance to the impact of major fire on ash forests, but only insofar as the dominant overstorey species is concerned. Clearfell harvesting and burning does massive harm to the multitude of understorey species that comprise a ‘natural’ forest as well as the native wildlife that the forest supports. It also results in wider and more severe habitat loss than other harvesting methods. As expert reports have shown ([such as](#)), ash forests can be regenerated successfully by other harvesting regimes, albeit less profitably.

- Implementation: Improved specification of silvicultural requirements as part of Allocation Order and Forest Management Plans
8. Order-in-Council establishing VicForests to be amended to broaden its forest management obligations beyond simply harvesting and selling logs, with the Board to include at least one member with conservation knowledge and experience.
 - Rationale: Under the Order in Council, VicForests' responsibilities are to undertake the sale and supply of timber resources in Victorian State forests, and related management activities, as agreed by the Treasurer and the Minister, on a commercial basis and to develop and manage an open and competitive sales system for timber resources. The disregard in its charter, of social and environmental obligations, assuming that they can be safely left to other parties to manage is inconsistent with contemporary ideas about unduly narrow organisational obligations, as the current banking Royal Commission has already amply demonstrated.
 - Implementation: Amended Order-in-Council
 9. Repeal Wood Pulp Agreement Act.
 - Rationale: See 2nd reading speech by Samantha Dunn, Victorian Legislative Council, 22 August 2018
 - Implementation: State legislation
 10. Ban the export of unprocessed sawlogs and restrict woodchip exports to ensure sufficient resource available for local processing.
 11. Develop a comprehensive set of transition policies and roadmaps encompassing: building and paper technologies; employment transition; economic development options (both for regional communities and affected industrial sectors); and plantation development.
 12. Promote public awareness of the devastation being wrought in Victoria's native forests and the broad policy directions which are needed. In particular there is an urgent need for resources to support and promote tourism to enable more people to visit the forests and spend quiet time in the forests.

Attachment: Proposed changes to Code and MSPs (not exhaustive)

1. Detailed specification of where full coupe-level flora and fauna surveys to be undertaken.
2. Review of schedule of tourist roads and vantage points from which vistas must be protected, in the near and middle distance.

NOTE: The above two revisions requires consideration of the 'program of landscape, and pre-harvest surveys' announced by Minister for Environment in March but not yet publicly released.

3. Improved blackberry control in logged coupes and along timber haulage roads. Invasion of forests by blackberries is a 'threatening process' listed under the Flora and Fauna Guarantee Act.
4. No logging of slopes >20°. Logging on steep slopes presents unacceptable erosion risks, and makes it very difficult to contain regeneration burns to the logged area.
5. Establish a definition of 'retained vegetation', including structure, composition and extent, in relation to the surrounding forest, in relation to coupe aggregates. Recent findings by DELWP in response to alleged breaches of the provision that 'aggregated' coupes not exceed 120ha (MSPs para 2.4.1.2) reveal that any retained vegetation can meet this provision, no matter how sparse.
6. Improved habitat tree retention requirements (refer MSPs Section 4.1).
7. Improve protection of retained habitat trees from regeneration burns (refer MSPs section 4.1 and clauses 7.2.4.1(c))
8. Revised definition of 'rainforest' so that emergent eucalypts up to projected foliage of 30% can be considered rainforest, ie remedy current contradiction between 'mixed forest' definition in MSPs and 'rainforest' definition in Code.
9. Mandatory use of silvicultural methods that allow original understorey re-establishment and the specification of this in coupe plans. The failure to protect understorey diversity from the impact of clearfelling operations is widespread, despite the Code (refer MSPs clause 2.3.1.1(h)iii)
10. Updating of all Tables and Appendices in Code and MSPs to ensure that all threatened species in all areas have specific mandatory actions should they be either found within, or nearby, or likely to be found within, or nearby. For example, despite confirmed past sightings of spot-tailed quolls close to a coupe in the Rubicon State Forest, this was not referenced in the coupe plan.
11. Requirement for effective measures to prevent regeneration burns killing retained vegetation and the specification of this in coupe plans (refer MSPs clauses 2.2.2.5 and 2.2.2.10).
12. Improved spatial and temporal specification of requirement that "a range of forest age structure and classes" must be maintained and the specification in coupe plans of how this is being Code achieved (refer Code clause 2.1.1.1iii).
13. Incorporate specific reference in the Code to threatening processes applicable to native forests listed under the Flora and Fauna Guarantee Act (eg, habitat fragmentation, invasion by blackberries, loss of hollow-bearing trees from native forests), in particular those with Action Statements in place, and require the coupe plans and timber release plans in each individual State Forest (e.g. Rubicon State Forest, Marysville State Forest, etc) to identify how they mitigate the risk that these threatening processes present.
14. Revise Code to regulate log truck traffic on forest roads and small local feeder roads, in particular through curfews and substantially reduced speed limits, to improve amenity for

local residents and improve safety for other forest users. (e.g. log trucks speeding on gravel roads in the forest, especially in holiday periods, deter other users from entering the forest.)

15. Ensure proper opportunities for timely well-informed public input into all planning and harvesting decisions.
16. For reported breaches, disclose summary details of each report and the investigation outcomes.