

## **RFPG Submission to SCS Global Services Regarding VicForests Operations**

Dec 6, 2017

### **Part 1. Evidence of non-compliance with statutory requirements of the *Forests Act (1958)* and of *Sustainable Forests (Timber) Act 2004*:**

#### **Illegal Logging**

##### **1. Illegal logging of the Rubicon Valley Historic and Cultural Features Reserve**

Two coupes in the Rubicon State Forest, which have been logged, are located in the *Rubicon Valley Historic and Cultural Features Reserve* and are wholly outside the area specified in the Allocation Order which is the principal instrument allowing VicForests to harvest and sell timber. To the best of our knowledge VicForests did not, and presumably still does not, have any other licence to harvest and sell, which could only be granted under S.52 of the *Forests Act (1958)*. Logging of these two coupes was therefore illegal. These coupes are:

- “Archibald” (287-507-0001) and
- “Little Jacqui” (287-509-0003) and are depicted in the Coupe Map at Attachment 1.

#### **Forests Act 1958**

##### **4 Forest produce is property of the Crown**

(1) All forest produce in State forest is the property of the Crown.

(2) Property in forest produce only passes from the Crown to another person in accordance with this Act.

##### **52 Licences and permits with respect to forests**

(1) The Minister may grant a licence or permit for a term of not more than 20 years, subject to any covenants, terms and conditions that may be prescribed, any additional covenants, terms and conditions that the Minister considers appropriate to impose in a particular case, and the payment of any rent, fees, royalties or charges that the Minister may determine.

#### **Sustainable Forests (Timber) Act 2004**

##### **PART 3—ALLOCATION TO VICFORESTS**

##### **12A Timber resources are property of the Crown**

(1) All timber resources in State forest are the property of the Crown.

(2) Property in timber resources only passes from the Crown—

- (a) to VicForests in accordance with section 14(1); or
- (b) otherwise in accordance with this Act.

##### **13 Minister may make allocation order**

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The Minister, by order published in the Government Gazette, may—  
(a) allocate timber in State forests to VicForests for the purposes of harvesting and selling, or harvesting or selling, timber resources . . . . .

**14 Property vests in VicForests on publication of order**

- (1) On the publication of an order under section 13, property in the timber allocated by the order is vested in VicForests.  
(2) VicForests may only harvest and sell, or harvest or sell, vested timber resources in accordance with the order.

## 2. Illegal logging of areas >120ha in extent

There are two areas within the Rubicon State Forest, and at least one other area nearby (on the Matlock plateau in the Big River State Forest) where separate clearfelled areas of coupes within any 5 year period adjoin without the required intervening buffer strips at least 20m wide<sup>1</sup> to create contiguous clearfelled areas greater than 120ha. This is a clear contravention of the legally-binding *Code of Forest Practice for Timber Production 2014* (CFP).

### **Sustainable Forests (Timber) Act 2004**

#### **PART 6—MANAGEMENT OF TIMBER HARVESTING**

##### **Division 1—Codes of Practice**

##### **46 Compliance with Codes of Practice**

The following persons must comply with any relevant Code of Practice relating to timber harvesting—

- (a) VicForests;
- (b) a person who has entered into an agreement with VicForests for the harvesting and sale of timber resources or the harvesting or sale of timber resources;
- (c) [repealed]
- (d) any other person undertaking timber harvesting operations in a State forest.

The relevant clause of the CFP states:

3.1.1.5 The size of clearfall, seed tree harvesting or shelterwood coupes should generally not exceed 40 hectares net harvested area. Coupes may be aggregated but not exceed 120 hectares net harvested area over a period of up to five years. Aggregated coupes must not be contiguous (forming a coupe greater than 120 hectares within a five year period).

Google Earth™ images of the three coupe aggregates, with additional explanatory details for the Rubicon Forest coupes, are set out in attachments 2, 3 and 4.

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<sup>1</sup> 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”.

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It needs to be also pointed out that these coupe aggregates occur in the midst of much larger coupe aggregates that are intended to be or have been clearfelled, thereby contravening the required protection of the high conservation values of these areas (see further below).

### 3. Illegal logging of steep slopes

Large areas of the coupes “Rio” (287-508-0009) and “Bonds” (287-508-0002) are steep, with many areas with slopes of around 25°. These areas have been recently logged and Attachment 5 shows an image of a major erosion area in Rio. The soils of the Cerberean Plateau, on which the Rubicon State Forest sits, are derived from igneous rocks, specifically Lake Mountain Rhyodacite and Rubicon Rhyolite, which are well-known to be highly erodible when their vegetation cover is removed.

The Coupe Maps for Rio and Bonds fail to identify the steep slopes on these coupes, despite the identification of erosion hazard being a planning requirement, as shown by the map legend including a specification for slopes 20°-30° (see Attachment 6). The Harvest Unit Operations Plan for Rio also fails to identify the extensive presence of steep slopes which contravenes section 2.3 of the *Management Standards and Procedures* which form part of the CFP as an Appendix.

The relevant clause of the CFP, to which VicForests’ actions run counter, states:

#### **Timber harvesting operations on steep slopes**

2.5.1.9 Timber harvesting operations must not occur on slopes where they cannot be conducted safely, or they threaten the stability of the soil or have high potential for adverse off-site effects. The potential for mass soil movement must be assessed by the managing authority and necessary preventative actions undertaken.

2.5.1.10 On slopes with a high soil erosion hazard or where there is an assessed risk of mass soil movement, additional measures must be taken to avoid movement of soil into streams, such as modification to harvesting methods or increasing of the widths of buffers and filter strips.

### 4. Illegal logging of areas of landscape sensitivity

In 1994 Victoria’s Land Conservation Council made a range of recommendations in relation to the Rubicon State Forest that were accepted by the Victorian Government, by Executive Order (Order-in-Council), on 17 June 1997. Recommendation E7 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 operation through the creation of a *Special Protection Zone* (SPZ) along the Cerberean Plateau escarpments. Unfortunately the relevant SPZ omitted to include certain upper parts of the escarpment, including an area on which the Flea Creek and

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Top Cat coupes are located. However the exclusion of these areas from the SPZ did not allow that VicForests to ignore the identified high landscape values of this area.

Despite several meetings that were held with VicForests in 2014 prior to these coupes being logged, at which local community representatives strongly argued that the areas visible from the valley should be left unharvested, VicForests proceed to clearfell the relevant parts of these coupes (see aerial image in Attachment 2 with relevant coupes labelled).

This is certainly not the only occasion where this requirement to protect the identified high landscape value of the escarpment views has been breached. For example, a coupe on the Black Range, the eastern part of which is readily visible from the Maroondah Hwy (coupe 284-503-0009 "New Whiteback"), was recently clearfelled with similar effect.

These actions contravene the CFP, sub-clause ii below being relevant:

- 3.1.1.3 When preparing a Timber Harvesting Plan, the following issues must be addressed:
- i. methods to minimise impacts on biodiversity, water quality and river health from timber production including associated roads;
  - ii. ways to minimise impacts on significant visual landscape values; and
  - iii. ways to minimise impacts on cultural heritage values.

### 5. Illegal 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.

Much of the spread appears to be due to inadequate vehicle and equipment hygiene if the proliferation of infestations along roads that have been re-topped or remade is any guide.

Attachment 7 shows several images of infestations but it will only be through field inspection that the staggering scale of the blackberry problem becomes apparent.

The relevant clause of the CFP, 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.

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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.

### 6. Illegal failure to perpetuate the biodiversity of the Rubicon State Forest

This failure is without doubt the most egregious illegality of VicForests' activities in the Rubicon State Forest. It includes, but is not limited to:

- a. A major acceleration of harvesting (compared with pre-fire levels) despite the extensive fire killed areas in the massive Murrindindi bushfire of 2009, leaving around half of the forest in the *General Management Zone* less than 20 years old. This has profound ecological consequences, that will become catastrophic in the event of another major bushfire in the near future (made more likely by global warming) since ash species do not produce seed until around 20 years of age
- b. complete reliance on post-harvest burning for regeneration purposes, despite the profound impact this has on understory species whose regeneration has already been setback by the massive soil disturbance that logging entails (e.g major loss of treeferns in understory)
- c. reliance on buffers between adjoining coupes whose width is totally inadequate (and generally barely above the specified minimum width) to support their function as wildlife corridors
- d. failure to control weeds and vermin as required under the CFP (see above)
- e. a failure to protect isolated retained trees, and often trees in buffer strips as well, from the impact of the post-harvest regeneration burn as required under the CFP
- f. failure to protect small springs and soaks that may not be readily detected from pre-harvest aerial surveys, or shown on maps, as required under the CFP (evidence of this in relation to the coupe Flea can be provided on request)
- g. a failure to conduct proper comprehensive on-the-ground flora and fauna surveys prior to harvesting instead relying on cursory field inspections and 'desk-top' analysis, and this despite a range of acknowledged threatened flora and fauna in the area including:
  - greater glider
  - sooty owl
  - barred galaxias
  - tree persoonia
  - leadbeaters possum
  - powerful owl
  - murray spiny crayfish
  - lake mountain grevillea

The relevant clauses of the CFP state, all of which VicForests actions contravene, state:

#### **Perpetuating the biodiversity of harvested native forests**

2.2.2.8 Long-term (strategic) forest management planning must incorporate wildlife corridors, comprising appropriate widths of retained forest, to facilitate

animal movement between patches of forest of varying ages and stages of development, and contribute to a linked system of reserves.

2.2.2.9 Modify coupe size and rotation periods to maintain a diversity of forest structures throughout the landscape.

2.2.2.10 Retain and protect habitat trees or habitat patches and long-lived understorey species to provide for the continuity and replacement of old hollow-bearing trees and existing vegetation types within each coupe.

2.2.2.11 Use silvicultural systems that suit the ecological requirements of the forest.

## 7. Illegal failure to ensure proper forest regeneration across many parts of the Rubicon State Forest

“Parks North” is a clearfelled fire-salvage alpine ash coupe with very poor regeneration in large patches, and many blackberries. Had more time been available, we would also have inspected several coupes on the Royston Range with quite unsatisfactory alpine ash regeneration, but prolific regeneration of mountain hickory wattle (*Acacia quinquinerva*)

Section 2.6.1 of the CFP covers regeneration requirements, three of which (6, 7 & 8) are commonly breached:

### **Mandatory Actions**

2.6.1.1 Planning and management of timber harvesting operations must comply with relevant regeneration measures specified within the Management Standards and Procedures.

2.6.1.2 State forest available for timber harvesting operations must not be cleared to provide land for the establishment of plantations.

2.6.1.3 Action must be taken by the managing authority to ensure the successful regeneration of a harvested coupe, except where:

- i. the land is to be used for an approved purpose for which native vegetation is not compatible (for example services, public infrastructure and structures); or
- ii. timber has been harvested by thinning; or
- iii. the naturally occurring regrowth is assessed as sufficient.

2.6.1.4 Following timber harvesting operations, State forest must be regenerated with overstorey species native to the area, wherever possible using the same provenances, or if not available, from an ecologically similar locality.

2.6.1.5 Regeneration must aim to achieve the approximate canopy floristics that were common to the coupe prior to harvesting, if known.

2.6.1.6 Silvicultural methods for regeneration must suit the ecological requirements of the forest type, taking into consideration the requirements of sensitive understorey species and local conditions.

2.6.1.7 Harvested coupes must be regenerated as soon as practical, including follow up or remedial action in the event of regeneration failure.

2.6.1.8 All practical measures must be taken to protect areas excluded from harvesting from the impacts of burns and other regeneration activities.

2.6.1.9 Where mechanical disturbance is used, it must be undertaken with due consideration of erosion risks and the proximity of waterways (Section 2.2).

## 8. Overall Illegal failure, and failure of public trust, in the cumulative impact of abrogating the CFP principles and most Mandatory Action elements of 2.1.1.1

This failure, while still requiring litigation to confirm it, is a breach of the CFP by virtue of the many code violations identified here. It is also a shocking breach of public trust:

### **The six Code principles are that:**

1. Biological diversity and the ecological characteristics of native flora and fauna within forests are maintained.
2. The ecologically sustainable long-term timber harvesting capacity of forests managed for timber harvesting is maintained or enhanced.
3. Forest ecosystem health and vitality is monitored and managed to reduce pest and weed impacts.
4. Soil and water assets within forests are conserved. River health is maintained or improved.
5. Cultural heritage values within forests are protected and respected.
6. Planning is conducted in a way that meets all legal obligations and operational requirements.

They are more self-evidently, as shown in the foregoing sections and by the forthcoming field visit, a breach of long-term forest management planning, specified by a headlined Mandatory Actions section, as follows:

### **Mandatory Actions**

#### **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.

## Part 2. Evidence of VicForests' failure to protect High Conservation Value Forests

The mountain ash and alpine ash forests of eastern Victoria are widely regarded as being of High Conservation Value. This has been recognised by two published high-level assessments, one by a Victorian Government body and one by researchers from the Australian National University.

The Report by the Victorian Environment Assessment Council (VEAC)<sup>2</sup>, a State Government body set up specifically to assess the conservation and environmental values, rated the entire Rubicon State Forest (like most ash forest areas available for logging) as making a 'relatively high contribution to biodiversity conservation based on scarcity, habitat condition and connectivity' (see Figure 2.5 of report). And using a 'focussed forest-dependent threatened species analysis' the report found almost all of the Rubicon State Forest warranted the highest conservation level assigned (see Figure 2.11 of report).

The assessment by ANU researchers<sup>3</sup> ranked the mountain ash forest ecosystem of Victoria's Central Highlands as critically endangered with a high chance of ecosystem collapse within the next 50 years in the absence of strong countervailing action, including a substantial reduction of logging pressure.

The Rubicon Forest Protection Group considers that the Rubicon State Forest (and also the adjoining State Forests - (Toolangi SF, Marysville SF, Big River SF) has specific qualities and faces specific threats that, in combination, make it of extraordinarily high conservation value. These qualities include its age structure, ecological values, scenic values, indigenous cultural values, physiography and its location close to Melbourne. Some examples are set out below:

**Age structure:** The 2009 fires, plus this area's logging history means that there are no old-growth ash forest areas remaining in the RSF. Around one third of the area's forests are less than 30 years old. The area's recent logging history means most of the remaining 1939 regrowth stands have been reduced to remnants scattered through the landscape.

**Scenic values:** This forest is a moderately dissected volcanic plateau with numerous vantage points offering expansive vistas. Its high rainfall means there are abundant fast-flowing rivers and streams surrounded by cool-temperate rainforest. These rainforests and the remaining 1939 regrowth forests in the area, are of immense beauty.

**Ecological values:** The physiography of the Cerberean Plateau means there are altitudinal and microclimatic variations that provide multiple eco-clines across a wide range of forest types. As already mentioned, it contains many threatened species, plus many species that have not been officially recorded for some years, but may still be present (e.g. spot-tailed quoll). The Rubicon State Forest is also a centre of diversity within Australia for caddisflies<sup>4</sup>.

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<sup>2</sup> Victorian Environment Assessment Council. 2017. Conservation Values of State Forests Assessment Report. [www.veac.vic.gov.au](http://www.veac.vic.gov.au)

<sup>3</sup> Abstract at Attachment 8, and article at <http://onlinelibrary.wiley.com/doi/10.1111/aec.12200/abstract>

<sup>4</sup> Neboiss, A. (1962). *The Australian Hydrobiosinae*. Pacific Insects, 4:522-583



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VicForests current management practices (documented above) and proposed rates of logging into the future (below) present a grave threat to these remaining high conservation values.

### *VicForests' Resource Outlook 2017: too little too late*

Earlier this year VicForests released its latest timber *Resource Outlook* – its timber supply blueprint for the next 14 years<sup>5</sup>. It is a key document which the Government considers in allocating public native forests to VicForests for logging.

The headline cut of 40%, in ash timber supply doesn't happen for another 3 years and is largely based on current high rates of leadbeater's possum colony discoveries continuing for another 7 years. Considering the substantial proportion of possum habitat destroyed in past bushfires, particularly Black Saturday in 2009, these supply cuts can also be seen partly as reflecting timber losses due to past fires.

In areas where few colonies have been found, as in most of the Rubicon and Marysville State Forests, future logging will continue largely unimpeded. In these forests, and in the Toolangi and Mt Disappointment state forests, a much larger share of the remaining '39 regrowth forests demands protection. Working back from the timber volume figures, the *Outlook* sees barely 6,000 ha of ash forest being set aside to cater for critical additions to parks or reserves to protect other forest values. This represents less than 3% of the area of ash forest available for harvesting.

While it does include an end to logging old-growth forests, long-established State Government policy means that any real prospect of such forests being logged was long gone when the previous forecasts were made. So, it's a mirage. Discounting the exclusion of old-growth, the cut in ash timber supply falls to 35%. However forests from 100-117 years of age, which many would also regard as old-growth, will continue to be available for logging. Worryingly, much of this remaining old-growth is found in NorthEast Victoria, far from markets so harvesting is unlikely, but keeping such forests in the overall 'available area' allows an offsetting increase in harvesting in other ash forest areas, in particular the Central Highlands

The Outlook includes a quite inadequate provision for potential future forest zoning changes, such as those that will be needed to protect other threatened species like the greater glider, spot-tailed quoll and the sooty and powerful owls, or those needed to protect high conservation value forest areas.

More worryingly, despite a recent VEAC report suggesting a high likelihood that bushfires losses in the next 20 years could affect as much as 20% of the remaining 1939 regrowth area ash forest<sup>6</sup>, there is no allowance for this in the *Outlook*.

Many of us who have experienced the devastation of these forests in Black Saturday are increasingly dismayed to see logging accelerating in the past few years despite the ecological impacts. In only a few years, the surviving 80 year old forests that emerged from the 1939 fires

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<sup>5</sup> <http://www.vicforests.com.au/planning-1/resource-outlook-2017>

<sup>6</sup> Victorian Environment Assessment Council. 2017. Fibre and Wood Supply Assessment Report.

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and aren't protected in national parks will be reduced to fragments in the landscape. And the young forests that will replace them will be even more susceptible to future bushfires.

Tightening the CFP could go some way to tempering these losses, but the *Outlook* makes no allowance for much-needed improvements to the CFP. Even if they were routinely followed, the provisions in the CFP are very weak on forest biodiversity and scenic values.

In summary, VicForests' proposals for future logging deeply threaten the high conservation value ash forests of the Central Highlands. As well as not taking full effect for another 3 years, it makes no allowance for

- future bushfires, despite likely loss of 20% of ash forests in next 20 years, or
- threatened wildlife, apart from leadbeaters possum, or
- formal cessation of logging in all forests over 100 years old, or
- CFP improvements, or
- regeneration failures becoming commonplace with advancing global warming.

### Change to Allocation Order structure in 2010 inconsistent with protection of High Conservation values.

In 2010 the Government changed the Allocation Order structure to specify harvest limits based on just two forest 'stand-types' across the whole of eastern Victoria: ash and mixed species. Previously there had been a far more detailed specification of stand type harvest limits and these were specified separately for each forest management area. These changes meant that VicForests was able to heavily log much greater areas in individual management areas than in the past and this is a key reason why the high conservation values of the Rubicon State Forest (as well as other forest management areas in the Central Highlands) are now so gravely threatened.

### Proposed adjustments to VicForests proposed revision to its Timber Release Plan ignored

If further evidence were needed of VicForests' disregard for the protection of high conservation value forests, one only needs to examine the submission made by the Rubicon Forest Protection Group to last year's public review of VicForests' proposed revisions to its Timber Release Plan (Attachment 8). Despite the compelling logic presented in this submission, which focussed on the protection of high conservation value forests, it was entirely ignored in the review of the Timber Release Plan (TRP).

Most tellingly, however, is the fact that two coupes which VicForests had voluntarily decided to defer from logging due to their acknowledged high conservation value (286-504-0007 "Snifter" and 287-508-0012 "Calvin") remained on the TRP after the public review. This action, or rather inaction, clearly signals that VicForests does not regard the high conservation value of an area as warranting its exclusion from logging. The logging of Calvin has now commenced.