

1 September 2011

To: Mr Steve Hartley for Gary Whytcross as requested.

Mr Gary Whytcross
Director
Environment Protection and Regulation
Office of Environment and Heritage
Department of Premier and Cabinet

Dear Mr Whytcross,

RE: Evidence of Inadequate Consultation by Forests NSW for Recent Logging Activities in NSW's Far South East State Forests

As requested by Mr Steve Hartley, I hereby submit evidence pertaining to Forests NSW's (FNSW) inability to comply with regulations pertaining to their logging activities in the forests of the far south east of NSW. It provides evidence of inadequate consultation with local groups and specifies requirements of the Regional Forest Agreements.

For example, FNSW claims to have conducted appropriate surveys in Bermagui prior to logging. Residents of Bermagui and Tanja recently received letters notifying them of timber harvesting and acknowledging that the forests to be logged contained koalas.¹ This letter is assumptive in that it assumes that residents will have scientific knowledge of the whereabouts of koalas. FNSW has, in the past, been informed that koalas are within the locality of proposed logging compartments, and despite this, logging has continued. This shows that their intent is fraudulent.

In my Submission to the Senate Inquiry into the Health and Sustainability of Koala Populations, I noted that FNSW appeared not to have undertaken legally required consultation² with certain groups prior to logging and provided supportive evidence.

Herewith are extracts from official documents which govern forestry operations in SE NSW and hard evidence of non-compliance.

Terms of Licence under the Threatened Species Conservation Act 1995 Eden

8.8.12. Koala survey

Where a Koala has been detected within two kilometres of a compartment boundary in the period since 1980, or local knowledge indicates that koalas are likely to be present, the following survey regimes and habitat protection measures must be implemented.

¹ Appendices 2 and 3 Letters From Forests NSW to Bermagui and Tanja Residents indicating knowledge of koala presence

² The constitutional definition of 'consultation' goes beyond just sending an advice letter

- a) Consultation with the local community should be undertaken during the harvest planning stage. As a minimum this should include contact and exchange of information with neighbours, local animal welfare and conservation groups.

Regional Forest Agreement for the Eden Region of New South Wales

Monitoring, Reporting and Consultative Mechanisms

Clause 48

Comprehensive Regional Assessments and the development of this Agreement have provided extensive opportunities for public participation and reporting. Parties recognise that the public reporting activities and on-going opportunities for public participation and consultation associated with existing New South Wales and Commonwealth processes and instruments will continue. A range of these processes and improvements are listed in Attachment 5.

Attachment 5: Public Reporting And Consultative Mechanisms: Existing Commitments

1. The following processes currently include public reporting and consultative mechanisms relevant to the management of The Eden region's forests:

(l) consultation with the Aboriginal community in relation to Aboriginal cultural heritage information;

The Forestry and National Park Estate Act 1998

(2) A forest agreement must contain (but is not limited to) the following provisions with respect to land in the region:

(c) provisions with respect to community consultation on forestry operations and other matters covered by the agreement,

(d) provisions with respect to arrangements made or to be made relating to native title rights and interests or Aboriginal land claims,

EDEN IFOA Dec 1999

15. Records concerning heritage items

(3) SFNSW must consult with relevant Aboriginal communities for the purposes of subclause (1) and for the purposes of determining the measures that are to be taken to ensure that appropriate levels of confidentiality are maintained regarding the location of, and other details concerning, indigenous heritage.

(6) In this clause, "indigenous heritage" includes relics and Aboriginal places within the meaning of the *National Parks and Wildlife Act 1974*.

Mentioned above is made of consultation with:

1. Neighbours
2. Local animal welfare
3. Conservation groups
4. General communities
5. Aboriginal communities,

and for on-going opportunities for public participation and consultation.

1. Neighbours

Rather than depend on hearsay as to whether residents had been consulted, on 16th July 2011, I conducted a door-to-door survey of all the people whose residences about the Bermagui State Forest. I found that only one person was consulted and almost 100% stated that they opposed the imminent logging. Some had not received a letter of advice.

2. Local animal welfare groups

I did not believe that an animal welfare group would approve of logging in areas in which were known to contain koalas. Janine Green, President of the animal welfare group, *WIRES*, confirmed that they had not been consulted. See Appendix 1, a letter from Wires Far South East Branch to Forests NSW explaining that they had not been consulted with.

3. Conservation groups

Friends of Five Forests based in Bermagui, confirmed that there was no consultation regarding the Bermagui State Forest logging in either its 2009 or its June 2011 campaign. *“As spokesperson for the Conservation and Environment group Friends of Five Forests based in Bermagui I can state that there was no consultation from Forests NSW with our group regarding the logging in the Bermagui forests either in 2009 or in this recent logging campaign June 2011. Friends of the Five Forests is well known to Forests NSW.”* Suzanne Foulkes.

I belong to the South East Region Conservation Alliance and can state that FNSW has not consulted this group on any aspect of their recent and local logging activities.

4. General communities

I have no evidence to support that the local community has experienced any consultation process.

5. Aboriginal communities

Two members of the Gulaga and Biamanga Boards of Management told me that neither the traditional owners nor other Board members, nor the Board itself had been consulted.

6. On-going opportunities for public participation and consultation.

Despite the intensive peaceful public protests and continued letters of objection to local and current logging practices, FNSW has offered no opportunity for any form of public participation and consultation. Conversely, I have witness peaceful protestors being intimidated by members of the forestry industry as they have objected to logging practices.

This evidence indicates to me that FNSW is untrustworthy and is conducting logging illegally, without due consultation and without respect for the wishes of the community.

These are serious allegations and cast grave doubts on the capacity of FNSW to conduct their business professionally. At risk, therefore, as a result, is the health and sustainability of all State forests and their wildlife. That FNSW can ignore the will of the people by denying them open and honest consultative rights is reprehensible.

Yours sincerely,

Dr Bronte Somerset
Web editor, South East Region Conservation Alliance Inc
www.serca.org.au

APPENDIX 1: Letter from Wires Far South East Branch to Forests NSW 18.07.2011



*The NSW Wildlife Information,
Rescue & Education Service Inc.*

18 July, 2011

WIREs Far South East Branch
Post Office Box 1219
Bega, 2550

Mr Daniel Tuan
Regional Manager
Forests NSW
Post Office Box 42
Batemans Bay, NSW 2536

Dear Mr Tuan,

I am writing to express my concern that our local WIREs Branch was never notified that logging was going to start in the Bermagui State Forest in July 2011.

I believe that it is a requirement of Forests NSW to contact local native animal welfare organisations before logging can legally commence. WIREs is very concerned that this part of your duty was not met.

Faithfull yours,

Janine Green
President
WIREs Far South Coast Branch

**APPENDIX 2: Letter From Forests NSW to Bermagui Residents 27.05.2011
indicating knowledge of koala presence**



FORESTS NSW
ABN 43 141 857 513

2 Crown St (PO Box 42) Batemans Bay NSW 2536

www.dpi.nsw.gov.au/forests T 4475 1400 F 02 4472 6557



Your reference

Our reference



27 May 2011



**Re: Notification of Timber Harvesting
Compartment 2001 & 2002, Bermagui State Forest**

Forests NSW, Southern Region is currently planning to harvest Compartment 2001 & 2002, Bermagui State Forest which is located within close proximity to your property Lot 193, DP 752130.

The location of Compartment 2001 & 2002 in respect to your property is shown on the attached map.

The harvesting activity is scheduled to commence in the third quarter of 2011 and will continue over a 6 month period. During active harvesting, timber haulage will be via Cobargo – Bermagui Road.

Database searches show that Koalas have been detected around the area. If you have any additional information in regards to Koalas in this area please contact Andrew Kemsley on the contact number listed below within 14 days of the date of this letter.

Following harvesting (usually in the Autumn-Winter months), a top disposal burn may be carried out within the compartments to reduce fuel loads and promote regeneration weather permitting. Firebreaks will be upgraded as part of the harvesting activity to ensure fire does not enter your property. If you have any concerns regarding burning please contact Rob Young on (02) 6496 8809. Further information can be provided closer to the scheduled burn if required.

Should you have any queries regarding the harvesting activity, please do not hesitate to contact Andrew Kemsley on 64968814.

Yours sincerely

Andrew Kemsley
For: DANIEL TUAN
REGIONAL MANAGER

Forests NSW is a public trading enterprise within Industry & Investment NSW

APPENDIX 3: Letter from Forests NSW to Tanja Residents 13.07.2011 indicating knowledge of koala presence



FORESTS NSW
ADN 42 141 857 813

2 Crown St (PO Box 42) Belemans Bay NSW 2536

www.fpi.nsw.gov.au/forests T 4475 1400 F 02 4472 8557

13th July 2011

[Redacted]

Your reference

Our reference

[Redacted]

Dear [Redacted]

I am writing to inform you that Forests NSW are planning forestry activities in Tanja State Forest. There are known Koala records on various tenures around this area.

Forests NSW seeks any additional information that you have on Koala activity in the area that you believe may be of interest. If you have information to share please contact Shane Clohesy on (02) 6496 8826 within 14 days of the date of this letter.

Yours faithfully

Shane Clohesy
for
DANIEL TUAN
REGIONAL MANAGER