



Environmental
Defenders Office

**Submission in response to the 5-yearly review of the
Tasmanian Regional Forest Agreement: Outcomes
Report 2017-2022**

6 September 2024

About EDO

EDO is a community legal centre specialising in public interest environmental law. We help people who want to protect the environment through law. Our reputation is built on:

Successful environmental outcomes using the law. With over 30 years' experience in environmental law, EDO has a proven track record in achieving positive environmental outcomes for the community.

Broad environmental expertise. EDO is the acknowledged expert when it comes to the law and how it applies to the environment. We help the community to solve environmental issues by providing legal and scientific advice, community legal education and proposals for better laws.

Independent and accessible services. As a non-government and not-for-profit legal centre, our services are provided without fear or favour. Anyone can contact us to get free initial legal advice about an environmental problem, with many of our services targeted at rural and regional communities.

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Acknowledgement

The EDO recognises and pays respect to the First Nations peoples of the lands, seas and rivers of Australia. We pay our respects to the First Nations Elders past, present and emerging, and aspire to learn from traditional knowledges and customs that exist from and within First Laws so that together, we can protect our environment and First Nations cultural heritage through both First and Western laws. We recognise that First Nations Countries were never ceded and express our remorse for the injustices and inequities that have been and continue to be endured by the First Nations of Australia and the Torres Strait Islands since the beginning of colonisation.

EDO recognises self-determination as a person's right to freely determine their own political status and freely pursue their economic, social and cultural development. EDO respects all First Nations' right to be self-determined, which extends to recognising the many different First Nations within Australia and the Torres Strait Islands, as well as the multitude of languages, cultures, protocols and First Laws.

First Laws are the laws that existed prior to colonisation and continue to exist today within all First Nations. It refers to the learning and transmission of customs, traditions, kinship and heritage. First Laws are a way of living and interacting with Country that balances human needs and environmental needs to ensure the environment and ecosystems that nurture, support, and sustain human life are also nurtured, supported, and sustained. Country is sacred and spiritual, with culture, First Laws, spirituality, social obligations and kinship all stemming from relationships to and with the land.

A note on language

We acknowledge there is a legacy of writing about First Nations peoples without seeking guidance about terminology. We also acknowledge that where possible, specificity is more respectful. For the purpose of this submission, we have chosen to use the term First Nations peoples. We acknowledge that not all First Nations peoples will identify with that term and that they may instead identify using other terms or with their immediate community or language group.

First Laws is a term used to describe the laws that exist within First Nations. It is not intended to diminish the importance or status of the customs, traditions, kinship and heritage of First Nations in Australia. The EDO respects all First Laws and values their inherent and immeasurable worth. EDO recognises there are many different terms used throughout First Nations for what is understood in the Western world as First Laws.

Role of EDO

EDO is a non-Indigenous community legal centre that works alongside First Nations peoples around Australia and the Torres Strait Islands in their efforts to protect their Countries and cultural heritage from damage and destruction.

EDO has and continues to work with First Nations clients who have interacted with western laws, including litigation and engaging in western law reform processes.

Out of respect for First Nations' self-determination, EDO has provided high-level key recommendations for western law reform to empower First Nations to protect their Countries and cultural heritage. These high-level recommendations comply with Australia's obligations under international law and provide respectful and effective protection of First Nations' Countries and cultural heritage.

Executive Summary

Based on the criteria in clause 9 of the Tasmanian Regional Forest Agreement (**TRFA**), Environmental Defenders Office (**EDO**) has genuine concerns that Tasmania's Forest Management System does not demonstrate Ecologically Sustainable Forest Management (**ESFM**).

In particular, we note:

- Tasmania's Forest Management System is **unable to demonstrate adaptive forest management**, particularly in the areas of responding to climate change and improving compliance and enforcement.
- Ongoing trends in biodiversity decline and specific examples of failing to protect or seek to recover threatened species like the Swift Parrot indicate that the **Parties have failed to provide for the adequate protection of Matters of National Environmental Significance**.
- There are **significant shortcomings in putting in place relevant Statutory Conservation Planning Documents**.
- The Tasmanian Regional Forest Agreement Outcomes Report 2017–2022 (**Outcomes Report**) **fails to effectively demonstrate how the social and economic benefits of forestry and other forest uses are being achieved**; or consider the economic, social, and environmental benefits of ceasing native forestry operations in Tasmania and alternative pathways for achieving ESFM.
- There are **significant issues that were intended to be addressed by responding to the recommendations made by the previous 5-year review that remain outstanding**.

For the reasons outlined above, there are compelling reasons not to be satisfied that Tasmania's Forest Management System is demonstrating ESFM and accordingly our overarching recommendation is that **the RFA should not be eligible for automatic renewal**. We make additional recommendations for addressing the concerns outlined in our submission – see below.

We also take this opportunity to repeat EDO's long-held position that RFAs are no longer a suitable framework for forest management because they lack critical Federal oversight and do not provide the equivalent level of protection for matters of national environmental significance as the *Environment Protection and Biodiversity Conservation Act 1999* (**EPBC Act**). The Federal government must prioritise applying National Environmental Standards to RFAs as part of its Nature Positive reforms.

Summary of Recommendations

Overarching recommendation: The Independent Review find that Tasmania's Forest Management System does not demonstrate Ecologically Sustainable Forest Management (in accordance with clause 9C of the TRFA).

Additional recommendations:

Recommendation 1: Tasmania's Forest Management System, including the *Forest Practices Act 1985 (FP Act)* and the Forest Practices Code, be updated to require decision-makers to act consistently with Tasmania's legislated net zero GHG emissions targets.

Recommendation 2: To better provide for adaptive forest management, amendments to the FP Act should be made to allow for general public comment on proposed Forest Practices Plans (FPPs), merits appeals of FPP certifications, and civil enforcement of FPP and Forest Practices Code requirements. The Forest Practices Code should be comprehensively updated to ensure its provisions are mandatory and enforceable.

Recommendation 3: To better protect Matters of National Environmental Significance, threatened species prescriptions established under the Forest Practices Code should be comprehensively reviewed to ensure any updated prescriptions are founded on robust science and are designed to conserve species and their habitat. The draft new prescriptions should be made available for public comment before finalisation.

Recommendation 4: To better protect Matters of National Environmental Significance, amendments to the *Nature Conservation Act 2002 (Tas) (NC Act)* compensation provisions are required to close the gaps in protection for threatened vegetation communities/threatened ecological communities.

Recommendation 5: Action needs to be taken to address the large gaps in statutory conservation planning documentation for threatened species. This could include setting targets for the number of Recovery Plans or Listing Advices that must be in place, with prioritisation given to forest-dependent threatened species, such as the Tasmanian Wedge-tailed Eagle.

Recommendation 6: To demonstrate economic sustainability, all government subsidies to Sustainable Timber Tasmania (STT), both direct and indirect, should cease, and STT's economic reporting (including its annual reports) should at least match the standards of other state-run forestry corporations.

Recommendation 7: The Independent Review should give more detailed consideration to the economic, social, and environmental benefits of ceasing native forestry operations in Tasmania, and whether that would be a more appropriate pathway for achieving ESFM.

Recommendation 8: The Independent Review must not find that ESFM has been achieved given key recommendations of the preceding RFA reviews have not fully been implemented.

Recommendation 9: The Federal government must prioritise applying National Environmental Standards to RFAs as part of its Nature Positive reforms.

Recommendation 10: The Federal government should work with the Tasmanian government to ensure Tasmania's Forest Management System achieves ESFM as required by the RFA framework before the Tasmanian RFA is allowed to roll over.

Introduction

EDO welcomes the opportunity to comment on the Outcomes Report and 5-year review of the TRFA.

EDO continues to hold long-standing concerns that the Regional Forest Agreement (**RFA**) framework generally fails to provide for the ecologically sustainable management of Tasmania's forests. We were disappointed that in 2017, the TRFA was extended for a further 20 years without substantial improvement on how forests would be managed or environmental outcomes achieved. We are also concerned that the TRFA Review and Extension Process allows for the rolling renewal of the TRFA.

EDO has genuine concerns that Tasmania's Forest Management System¹ does **not** demonstrate ESFM. It is also EDO's long-held view that RFAs are not a suitable framework for forest management because they lack critical Federal oversight and do not provide the equivalent level of protection for matters of national environmental significance as the EPBC Act.

Our submission is structured as follows:

- **Part A – Response to 5-year review**
 - Response to reporting criteria
 - a. Demonstrate adaptive forest management in accordance with the RFA framework
 - b. Demonstrate how the Parties have provided for the protection of Matters of National Environmental Significance, including trends and the status of Matters of National Environmental Significance or other environmental values, which may be impacted by Forestry Operations
 - c. Demonstrate how relevant Statutory Conservation Planning Documents have been implemented as part of the Forest Management System
 - d. Demonstrate how social and economic benefits of forestry and other forest uses are being achieved
 - e. Assess the extent to which key findings and/or recommendations from the preceding 5-yearly reviews have been addressed
 - Conclusions regarding 5-year review
- **Part B – Regional Forest Agreements and Nature Positive reforms**

¹ The TRFA defines "Forest Management System" as the "State's suite of legislation, policies, codes, plans and management practices as summarised in Tasmania's Forest Management System: An Overview (2017) as amended from time to time."

Part A – Response to 5-year review

Response to reporting criteria

Clause 9C of the TRFA provides that the purpose of the 5-yearly review is to examine Tasmania’s forest management to demonstrate ESFM, including to:

- a. demonstrate adaptive forest management in accordance with the RFA framework;
- b. demonstrate how the Parties have provided for the protection of Matters of National Environmental Significance, including trends and the status of Matters of National Environmental Significance or other environmental values, which may be impacted by Forestry Operations;
- c. demonstrate how relevant Statutory Conservation Planning Documents have been implemented as part of the Forest Management System;
- d. demonstrate how social and economic benefits of forestry and other Forest uses are being achieved; and
- e. assess the extent to which key findings and/or recommendations for preceding 5 yearly reviews have been addressed.

The Outcomes Report addresses each of these criteria. We respond to each of the criteria below.

a. Demonstrate adaptive forest management in accordance with the RFA framework

The term ‘adaptive forest management’ is not clearly defined within the RFA framework, but the Outcomes Report explains that adaptive forest management occurs when management approaches are adjusted over time based on new information, changing conditions and evolving knowledge.²

Our submission considers two key areas, **climate change** and **compliance and enforcement**, to highlight areas where Tasmania’s Forest Management System is failing to demonstrate adaptive forest management. There are other areas where the system is failing to demonstrate adaptive forest management - some of which, like responses to threatened species declines, are discussed under subsequent criteria in our submission.

Climate Change

Anthropogenic climate change is having significant impacts in Australia and across the globe. The World Meteorological Organization has confirmed that 2023 was the hottest year on record “by a huge margin”.³ Last year, the annual average global temperature approached 1.5 degrees Celsius (°C) above pre-industrial levels.⁴ Australia’s average annual temperature has already warmed by

² Outcomes Report, section 2, p 9.

³ World Meteorological Organization (2024) [WMO confirms that 2023 smashes global temperature record.](#)

⁴ Ibid.

around 1.5°C since 1850,⁵ and the best available science tells us that average temperatures are projected to rise further.

Urgent and rapid reductions in greenhouse gas (**GHG**) emissions from both direct and indirect sources are now required to meet the Paris Agreement goal of “holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit warming to 1.5°C”.⁶ The longer emissions reductions are delayed, the more pronounced and severe the effects of climate change will become.

The Outcomes Report notes that the Tasmanian legislative and policy framework for the management of Tasmania’s forest estate changed during the reporting period, with the introduction of amendments in 2022 to the *Climate Change (State Action) Act 2008* (Tas).⁷ These amendments provided:

- a statutory net zero or lower by 2030 greenhouse gas (GHG) emissions target;
- the undertaking of statewide climate change risk assessments every 5 years, with the first due in 2024; and,
- the development and implementation of sectoral emissions reductions and resilience plans (**ERRPs**), including for the Land Use, Land Use Change and Forestry (**LULUCF**) sector by November 2024.

Although it is not mentioned in the Outcomes Report, we note that at a Commonwealth level, the Federal Government has legislated a 43 per cent reduction in GHG from 2005 levels by the year 2030 and a net zero by 2050 target.⁸ Researchers have estimated that to achieve this national 2030 GHG reduction target, emissions need to be reduced by around 15.3 megatons each year from 2021: the equivalent of the annual net GHG emissions generated by logging native forests.⁹

Based on the available data, lutruwita/Tasmania achieved net zero GHG emissions in 2013 and this has been maintained up to the latest reported year, 2022.¹⁰ This achievement is entirely

⁵ See CSIRO (Commonwealth Scientific and Industrial Research Organisation), [Response to Notice to Give Information 21 April 2020 for the Royal Commission into National Natural Disaster Arrangements](#), 21 April 2020.

⁶ In December 2015, over 190 nations affirmed a goal to reduce greenhouse gas emissions in order to limit average global warming to well below 2°C above preindustrial levels and to pursue efforts to limit warming to 1.5°C. United Nations Framework Convention on Climate Change Conference of the Parties 21, Adoption of the Paris Agreement, ‘Annex -Paris Agreement’, Article 2 (FCCC/CP/2015/L.9/Rev.1). The Paris Agreement builds on past international commitments in Cancun, Lima and elsewhere under the 1992 UN Framework Convention on Climate Change.

⁷ Outcomes Report, section 2.1.

⁸ *Climate Change Act 2022* (Cth), section 10.

⁹ Prof Brendan Mackey, quoted in Australian National University (2022) [Stopping native forest logging key to getting to net zero](#); and Dr Jen Sanger (2022) Tasmania’s Forest Carbon: From Emissions Disaster to climate Solution. Tree Projects, Wilderness Society and Tasmanian Climate Collective.

¹⁰ Australian Government, [State and territory greenhouse gas inventories: annual emissions](#), accessed on 22 June 2023; and Climate Change Office, Renewables, Climate and Future Industries Tasmania (ReCFIT), [Tasmanian Greenhouse Gas Emissions Report 2024](#), Department of State Growth. Accessed on 30 August 2024.

attributable to the carbon stored in native forests (which fall within the LULUCF sector).¹¹

However, reliance on the LULUCF sector alone to mitigate Tasmania's GHG emissions is risky. For example:

- It is vulnerable to rapid change, for example, through changing carbon calculation methods.¹²
- The carbon stored in our forests is also vulnerable to being released through policy changes, such as changes to land use practices arising from policies such as the Agri-Vision 2050 and Rural Water Use Strategy,¹³ the relaxing of planning scheme restrictions on vegetation clearing through the roll out of the new Tasmanian Planning Scheme, and the “unlocking of the wood bank” including through the proposed conversion of 39,000 hectares of currently protected forests to production forestry.¹⁴
- Carbon stored in Tasmania's forests is also particularly vulnerable to wildfire, a phenomenon that is predicted to become more frequent with climate change.¹⁵ Currently, the Tasmanian and Australian governments' GHG inventories do not account for the GHG emissions emitted through bushfires. This is because bushfires are treated as “natural disturbance” beyond control, and it is assumed that the equivalent amount will be sequestered during forest recovery.¹⁶ However, researchers have expressed doubt about the ability of forests to recover from wildfires as they increase in intensity and frequency, casting doubt over the underlying assumption of the GHG accounts.¹⁷ There is increasing scientific research indicating that one of the best ways to prevent these wildfires is to leave native forests standing. Tall, wet, older forests are less flammable than forests regrowing after disturbances like forestry.¹⁸

Point Advisory has modelled that if lutruwita/Tasmania continued on a “business as usual” path, its emissions could sharply increase by 2050,¹⁹ which would put at risk the achievement of Tasmania's legislated net zero or lower by 2030 GHG target and undermine steps towards the achievement of Australia's obligations under the Paris Agreement. More recent modelling has

¹¹ Ibid. See also Brendan Mackey et al 2022 Environ. Res. Lett. 17 054028 [DOI 10.1088/1748-9326/ac661b](https://doi.org/10.1088/1748-9326/ac661b)

¹² Climate Action Tracker (2023) [Australia: Policies and Action](#) under the heading “Land Use Land Use Change and Forestry, accessed on 28 August 2024.

¹³ Natural Resources and Environment Tasmania, [AgriVision 2050 - Tasmania Government Policies](#) and [Tasmanian Sustainable Agri-Food Plan 2019-23](#).

¹⁴ Tasmanian Liberals (2024) [Keep Tasmania's Forestry Industry Strong](#).

¹⁵ IPCC, 2001; Lucas et al., 2007; Sharples et al., 2016

¹⁶ Australian Government (2020) [Estimating greenhouse gas emissions from bushfires in Australia's temperate forests: focus on 2019-20. Technical Report](#);

¹⁷ Bowman, D. M. J. S., Williamson, G. J., Price, O. F., Ndalila, M. N., & Bradstock, R. A. (2021). Australian forests, megafires and the risk of dwindling carbon stocks. *Plant, Cell & Environment*, 44(2), 347–355. <https://doi.org/https://doi.org/10.1111/pce.13916>. See also Climate Action Tracker (2023) [Australia: Policies and Action](#) under the heading “Land Use Land Use Change and Forestry”.

¹⁸ Taylor, C., McCarthy, M.A. and Lindenmayer, D.B. (2014) Nonlinear effects of stand age on fire severity. *Conservation Letters*, 7, 355-370 <https://doi.org/10.1111/conl.12122>; Furlaud, J.M., Prior, L.D., Williamson, G.J. et al. (2021) Fire risk and severity decline with stand development in Tasmanian giant Eucalyptus forest. *Forest Ecology and Management*, 502,119724, <https://doi.org/10.1016/j.foreco.2021.119724>

¹⁹ Point Advisory (2021) [Net Zero Emissions Pathway Options for Tasmania - Background Paper](#), accessed on 23 June 2023. Refer to the “high business as usual” rate outlined in Table 1 on p 6.

estimated that the native forestry industry is one of the biggest emitters of GHG emissions.²⁰ This modelling underscores the need for urgent action to mitigate Tasmania’s GHG emissions.

Managing Tasmania’s forest estate to limit native forestry is one of the best opportunities for action to be taken to mitigate GHG emissions and adapt to a changing climate.²¹

The Outcomes Report refers to various research and initiatives undertaken and underway concerning climate change and forestry.²² Notably, one of these initiatives has made recommendations that:²³

- “The importance of climate change and the need for the industry to address it should be embedded in the Forest Practices Code.”
- “FPA need (sic) to integrate climate change into their strategic plan and promote climate change to government and decision makers, including the risks and management options. This will help promote broader understanding of the role forestry can play to mitigate climate change.”

We understand that the Tasmanian government is currently considering these recommendations. As of the date of this submission, however, no changes have been made to either the Forest Practices Code or Tasmania’s Forest Management System more generally, to reflect and adapt to the science which confirms Tasmania’s native forests are the primary reason Tasmania’s GHG emissions are below net zero and contribute significantly to the lowering of Australia’s GHG emissions.

Recommendation 1: Tasmania’s Forest Management System, including the FP Act and the Forest Practices Code, be updated to require decision-makers to act consistently with Tasmania’s legislated net zero GHG emissions targets.

Compliance and enforcement

Compliance and enforcement are crucial features of any adaptive management regime. They provide the clearest indication of whether a regulatory system is achieving its stated objectives, and where, when, and how it is failing.

Compliance in Tasmania’s Forest Management System is based on a self-described co-regulatory approach,²⁴ which is comprised of self-management by the forest industry and monitoring and enforcement by the Forest Practices Authority (**FPA**).²⁵

²⁰ Dr Jen Sanger (2022) [Tasmania’s Forest Carbon: From Emissions Disaster to Climate Solution](#). Tree Projects, Wilderness Society and Tasmanian Climate Collective.

²¹ Brendan Mackey et al 2022 Environ. Res. Lett. 17 054028 [DOI 10.1088/1748-9326/ac661b](#)

²² Outcomes Report, section 2.2.3, p 15.

²³ Koch, A (2023) [Adapting the forest practices system to climate change – results from a practitioner workshop, March 2023, FPA Report to the Board of the Forest Practices Authority](#) at p 34.

²⁴ FP Act, Schedule 7.

²⁵ FP Act, s 4G.

Under this system, which is primarily established under the *Forest Practices Act 1985* (**FP Act**), a person wishing to undertake forestry operations must prepare a Forest Practice Plan (**FPP**) in accordance with the Forest Practices Code and have it certified by a Forest Practices Officer (**FPO**).²⁶ FPOs can be employed by the FPA, by forestry companies such as Sustainable Timber Tasmania (**STT**) or they can be independent contractors.²⁷ Upon completion of the forest operations, the person responsible for the forestry operations must submit a compliance report to the FPA stating whether the FPP was properly implemented.²⁸ These reports must be signed by the FPO.

This co-regulatory approach has been criticised for resulting in little to no regulation.²⁹ It has also been the subject of legal challenges which have asserted the apprehended bias of employed FPOs renders their certification of FPPs unlawful.³⁰ Unfortunately, these criticisms are not reflected in the Outcomes Report.

As mentioned, the Forest Practices Code is the key statutory document that provides the standards that FPPs must meet in order to be certified by FPOs. However, the Code is littered with discretionary language (e.g., “shall” instead of “must” or “will” statements) and has long been criticised for failing to provide clear, enforceable rules for forestry.³¹ Importantly, as discussed later in the submission, the Code auspices management prescriptions for threatened species which are also unclear and/or unenforceable. The unenforceable nature of the Forest Practices Code stands in contrast to the forestry practices frameworks in other states, such as Victoria and NSW.

The Outcomes Report provides an overview of the FPA’s annual assessment program with a table (Table 1) which provides a percentage of the compliance of FPPs with Forest Practices Code requirements.³² The Outcomes Report states, “[s]ince 2018–19, more than 90% of all assessed forest operations across all tenures met or exceeded the required minimum standards of the Forest Practices Code (Table 1).” EDO considers this statement and Table 1 to be misleading. They give the impression that the FPA has undertaken detailed compliance monitoring for all FPPs lodged in a given year. However, as mentioned in the text above the table and the statement, the FPA takes a “risk based approach” to monitoring and compliance. It does not undertake monitoring or compliance of all forestry activities undertaken in any given year. In reality, the table represents reports of compliance provided to the FPA by the person undertaking the operations and verified by the FPO.³³ In most instances, the FPO will be employed or contracted by

²⁶ FP Act, ss 17 - 19.

²⁷ FP Act, ss 38 and 39.

²⁸ FP Act, s 25A.

²⁹ Rainforest Action Network (2008) [The Truth Behind Tasmanian Forest Destruction and the Japanese Paper Industry: Who Logs them? Who Buys them?](#) See also, Dr Phill Pullinger (2015) [Pulling a Swiftie Systemic Tasmanian Government approval of logging known to damage Swift Parrot habitat](#). Environment Tasmania.

³⁰ *Blue Derby Wild Inc v Forest Practices Authority* (No 2) [2024] TASFC 1

³¹ Changes to the Forest Practices Code in 2019 did not address its many failings, including the discretionary and unenforceable language used throughout the document. For more details on these issues, refer to [EDO’s submission on the Draft Forest Practices Code 2019](#).

³² Outcomes Report, section 2.2.1

³³ Refer to Forest Practices Authority (2021) [Forest Practices Authority Annual Report for 2020-2021](#) at p 23, accessed on 29 August 2024.

the person undertaking the operations, meaning there is a real incentive to under-report non-compliance with the FPPs.

The FPA only audits a small sample of the total FPPs for compliance with the Code, ranging from 40 to 55 FPPs each year.³⁴ While the FPA reports a generally high level of compliance with the Code, EDO is concerned that this may be more reflective of the discretionary and non-mandatory prescriptions in the Code than high levels of environmental management and outcomes – issues that are addressed in greater detail in our case study on the Swift Parrot under criterion b below. It also may reflect the difficulty in establishing non-compliance with Forest Practices Code and FPP requirements when the forests have already been harvested (i.e., it is not possible to establish the presence of threatened species or their habitat when the trees are gone).

The Outcomes Report does not otherwise directly report on the rates of non-compliance with the Forest Management System, including the FP Act. While the FPA does provide an overview of its compliance and enforcement statistics in its annual reports, it is difficult to ascertain the nature and effectiveness of its efforts in these respects, as very few details are provided about the nature of the investigations, fines, and prosecutions under the FP Act. This is significant as concerns have been raised about the provisions in the FP Act not being an appropriate deterrent against breaches of the Act. For example:

- The penalty amount under the FP Act is small in comparison to other jurisdictions and will not necessarily act as a strong deterrent from breaching the FP Act.
- There is also the troubling provision in the FP Act (s 47B) that allows a person who has unlawfully cleared land to keep the timber or native vegetation community, which sends offenders the wrong message about compliance and is very unlikely to act as a strong deterrent (but rather may encourage or, at least, not dissuade non-compliance). Under this provision, the ‘prescribed fine’ is also at the FPA’s discretion (i.e., the FPA and the offender come to an agreement about the fine and so a prosecution is withdrawn), which is also problematic and is unlikely to indicate that non-compliance will not be tolerated.

Unlike most other environmental and planning laws in Tasmania and nationally, the FP Act does not provide for general public comment on, appeals or the civil enforcement of FPPs.³⁵ This means that the buck effectively starts and stops with the FPA when it comes to compliance and enforcement.

Despite criticisms of the compliance and enforcement elements of the Tasmanian Forest Management System, there has been no substantial improvement to this component of the

³⁴ Ibid at p 24 – 26.

³⁵ We understand that a recent attempt at a private prosecution of a breach of a FPP by STT was dismissed by the Tasmanian Magistrates Court on the basis that the FP Act does not allow such proceedings to be commenced without the consent of the FPA. Other Tasmanian legislation that does provide better public participation rights and civil enforcement includes the *Land Use Planning and Approvals Act 1993*, *Environmental Management and Pollution Control Act 1994* and *Water Management Act 2000*. At a Federal level, the EPBC Act provides a greater level of public comment on proposed actions and their assessment, and for civil enforcement of EPBC Act requirements and approval conditions.

framework.³⁶ Lack of independent on-ground compliance and enforcement remain fundamental weaknesses of the Tasmanian Forest Management System which prevent the identification and response to breaches of standards. Without third-party appeal and civil enforcement rights relating to forestry combined with more rigorous oversight by government agencies to provide an effective deterrent to poor practices, the system will continue to fail to deliver ESFM and protection of natural values, including matters of national environmental significance.

Recommendation 2: To better provide for adaptive forest management, amendments to the FP Act should be made to allow for general public comment on proposed FPPs, merits appeals of FPP certifications, and civil enforcement of FPP and Forest Practices Code requirements. The Forest Practices Code should be comprehensively updated to ensure its provisions are mandatory and enforceable.

b. Demonstrate how the Parties have provided for the protection of Matters of National Environmental Significance, including trends and the status of Matters of National Environmental Significance or other environmental values, which may be impacted by Forestry Operations

The National Forest Policy Statement (**NFPS**), which is to be implemented through RFAs, states:³⁷

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.

Notwithstanding the conservation goals of the NFPS and ESFM, the State of the Forests Report 2022 booklet³⁸ states that since 2016, an additional 10 species have been listed under the Tasmanian *Threatened Species Protection Act 1995* – 7 plant species and 3 animal species, and 4 species (2 plants and 2 animals) were uplisted. At the same time, 5 species were de-listed and 5 species were down-listed. This demonstrates an overall increase in the number and status of species listed as threatened in Tasmania since the last review. A 2020 report by the Wilderness Society, shows a similar decline in the status of both Federally- and State-listed threatened species in Tasmania since the commencement of the TRFA.³⁹ These trends show how ineffective the frameworks in place, including the Tasmanian Forest Management System, have been at protecting Matters of National Environmental Significance such as threatened species.

³⁶ Refer to EDO's submission on the Draft Forest Practices Code 2019.

³⁷ Commonwealth of Australia (1995) [National Forest Policy Statement](#), Commonwealth of Australia, Canberra. See also TRFA, clause 19.

³⁸ Forest Practices Authority (2023) [State of the forests Tasmania 2022 booklet](#), Forest Practices Authority, Hobart, Tasmania.

³⁹ The Wilderness Society (2020) [Creating Jobs, Protecting Forests? The State of the Nation's RFAs](#), The Wilderness Society, Melbourne, Australia, Figure 3, p 1, and Figure 5, p 20.

At the national level, under the EPBC Act, the Tasmanian White Gum (*Eucalyptus viminalis*) Wet Forest and the Tasmanian forests and woodlands dominated by black gum or Brookers gum (*Eucalyptus ovata*/*E. brookeriana*) have been listed as a critically endangered threatened ecological communities. There are also ongoing concerns about the failure of the Tasmanian Forest Management System to improve protections for critically endangered species that continue to be at risk of ongoing decline and extinction. While the Outlook Report suggests adaptive management has been applied by the FPA and Department of Natural Resource and Environment Tasmania (**NRE**) to improve protections for the Swift Parrot, for example, **Case Study 1** below highlights EDO's continuing concerns about how the management of Tasmania's forests is failing this critically endangered species.

Case Study 1: The TRFA and the Swift Parrot

The primary species at risk from forest practices operations in Tasmania is the Swift Parrot (*Lathamus discolor*) which is listed as critically endangered under the IUCN Red List and the EPBC Act. In 2020, the population was estimated to be just 750 parrots, a significant decline from the population of 2,000 or so estimated in 2011.⁴⁰ With the population likely to halve every four years, the Swift Parrot is on a pathway to imminent extinction unless meaningful recovery steps are urgently taken.

Critical actions for recovery include the protection of existing breeding and feeding habitat. Tasmanian native forests contain the entirety of the Swift Parrot's breeding habitat, with the wet and dry eucalypt forests of south-east Tasmania identified as key biodiversity areas that contain habitat critical to breeding success: namely, suitable foraging trees at sufficient density, together with suitable nesting habitat (hollow-bearing eucalypts) within the foraging range (about 10 km).⁴¹ Key threats to the parrot's survival are its breeding success (including protection from nest predation by Sugar Gliders) and habitat loss. Sugar glider predation is exacerbated through fragmentation caused by logging in breeding habitat.

Forest harvesting is recognised by the National Recovery Plan for the Swift Parrot as a key threatening process. Whilst the Plan acknowledges more monitoring is required to quantify the loss of habitat across Tasmania, it notes that between the commencement of the TRFA in 1997 and 2016, forest harvesting resulted in the loss of 23% of potential nesting habitat in the key biodiversity areas in Tasmania's southern forests. The Recovery Plan nominates the 'maintenance of Swift Parrot breeding and foraging habitat at local, regional and landscape scales' as a primary strategy for recovery. However, the Recovery Plan proceeds on the mistaken assumption that the TRFA provides adequate protection, with actions only referring to

⁴⁰ Department of Climate Change Energy Environment and Water (DCCEEW) (2024), [National Recovery Plan for the Swift Parrot \(*Lathamus discolor*\)](#), see also Olah, G., Waples, R.S. & Stojanovic, D. 2024, 'Influence of molecular marker type on estimating effective population size and other genetic parameters in a critically endangered parrot', *Ecology and Evolution*, vol. 14, e11102. [doi: 10.1002/ece3.11102](https://doi.org/10.1002/ece3.11102), which estimated a population of 498 individuals.

⁴¹ DCCEEW (2024), [National Recovery Plan for the Swift Parrot \(*Lathamus discolor*\)](#)

‘identifying’ specific breeding and foraging habitat, and ‘prioritising’ to determine which sites need increased protection.

Tasmania’s Forest Management System does not provide mandatory positive requirements for the ongoing conservation and protection of threatened species in forests subject to the TRFA. At most, the Forest Practices Code, and requirements for FPPs include provisions directed towards the management of threatened species. These provisions patently have not been effective in conserving species, as evidenced by the continued rapid decline in the Swift Parrot population and the observed continuation of logging in areas of, or near to, known habitat for breeding and foraging.

The effectiveness of management prescriptions for threatened species under the Forest Practices Code has been questioned in numerous cases. For instance, by the Federal Court in *Brown v Forestry Tasmania (No 4)* [2006] FCA 1729 (**Wielangta case**), Justice Marshall found that the State’s management prescriptions did not in fact “protect” listed threatened species, including the Swift Parrot. The Court found that expert zoologist advice was routinely ignored and that on one occasion logging took place in an area meant to be protected. Justice Marshall found the forestry operations authorised under State forestry practices laws were not “in accordance with” the TRFA and therefore were not covered by s38 of the EPBC Act. The Commonwealth government’s response was to amend the RFA, not to require the State to amend the management prescriptions. On appeal, the Full Court found the parties to the amended TRFA did not intend the management prescriptions to be binding and overturned Justice Marshall’s decision. Importantly, however, the Full Court did not overturn Justice Marshall’s findings of fact concerning the failures of forestry operations to accord with relevant prescriptions.

Documents produced by the Tasmanian Government under the right to information (**RTI**) in 2014 demonstrated no change to these practices. They indicated that scientific advice on logging of coupes containing Swift Parrot habitat was provided to the Tasmanian Department of Primary Industries Parks Water and Environment (the agency with oversight of threatened species protection), but DPIPWE did not follow it in allowing approval of logging of those coupes.⁴²

Since that time, there have been numerous reports of continued logging in areas known to constitute Swift Parrot habitat. For example, in 2021, two coupes containing Swift Parrot habitat in the Denison Valley near Huonville were logged,⁴³ while in 2017, the ABC reported a site used by researchers for monitoring the Swift Parrot for over a decade had now been felled.⁴⁴ In 2020, STT failed to gain Forest Stewardship Council (**FSC**) certification on account of 10 non-

⁴² Dr Phill Pullinger (2015) [Pulling a Swiftie Systemic Tasmanian Government approval of logging known to damage Swift Parrot habitat](#). Environment Tasmania

⁴³ The Tree Projects, The Wilderness Society, Birdlife Australia (2022) [On the Edge of Extinction: the Case for the Swift Parrot Protection Plan](#).

⁴⁴ Harriet Aird (2017) [Conservation scientists 'shocked' at logging of endangered swift parrot nesting site](#) ABC News.

conformities, 6 of them being the continued logging of Swift Parrot habitat.⁴⁵ As recently as 2022, the Bob Brown Foundation reported instances of logging of Swift Parrot habitat at Snow Hill coupes in the Eastern Tiers.⁴⁶

The FPA and the NRE have introduced new measures which are claimed to be directed at protecting Swift Parrots, including a moratorium on logging on Bruny Island and a Public Authority Management Agreement (**PAMA**) with STT for the Swift Parrot in the Southern Forests area. However, logging in key breeding areas of Swift Parrot habitat even continues to be permitted under the PAMA.⁴⁷

The PAMA was gazetted on 19 August 2021, binding STT to certain actions including:

- Forest harvesting and associated activities in certain zones of the Southern Forests Permanent Timber Production Zone (**PTPZ**) land must “comply with relevant laws relating to the Swift Parrot”, and not occur within 50 m of a nesting tree ‘where nest activity has been identified’.
- If a Swift Parrot is sighted within an operational area, all harvesting within 50 m of that ‘area’ will cease pending advice from DPIW as to whether operations can proceed “in accordance with the PAMA”. It is unclear what “area” the 50 m buffer applies to.
- With several exemptions, forest harvesting is excluded altogether from the “potential nesting habitat,” as defined by STT’s 2018 spatial layer “potential habitat trees” within zones 1 and 2 of the PAMA. The potential habitat tree layer is characterised by the likely availability of nesting trees, not foraging habitat.

Critically, the PAMA does nothing to protect foraging habitat, which needs to be available within 10 km of the nesting habitat to make a nest viable. It is well known that areas of foraging habitat, and therefore breeding habitat, change from year to year, depending on the flowering of the main foraging species. Continued logging of foraging trees reduces the potential breeding range.⁴⁸ The PAMA allows for up to 22,600 hectares of southeastern forest breeding habitat to be logged, and in effect only protects 2,900 ha of habitat from logging, after accounting for areas within the PTPZ land already reserved or excluded from logging due to operational

⁴⁵ SCS Global Services Report (2020) [Forest Management and Stump-To-Forest Gate Chain of Custody Certification Evaluation Report: Sustainable Timber Tasmania dated 3 February 2020.](#)

⁴⁶ Charley Gros and Jenny Weber (2023) [Swift parrot crisis report: Snow Hill SH045A logging coupe](#) Bob Brown Foundation.

⁴⁷ The Tree Projects, The Wilderness Society, Birdlife Australia (2022) [On the Edge of Extinction: the Case for the Swift Parrot Protection Plan.](#)

⁴⁸ As confirmed in the FSC audit, which acknowledged that the continued clearing of Swift Parrot foraging habitat by STT “... meets Tasmanian regulatory requirements; however, it does not protect critically endangered habitat as required using the Precautionary Approach and Best Available Information as defined in the FSC-Australia FM Standard”. SCS Global Services Report (2020) [Forest Management and Stump-To-Forest Gate Chain of Custody Certification Evaluation Report: Sustainable Timber Tasmania dated 3 February 2020.](#) at p 52.

constraints.⁴⁹ Finally, the PAMA and moratorium on harvesting on Bruny Island do nothing to address the need to protect the significant areas of Swift Parrot habitat elsewhere in the state.

By failing to protect or seek to recover threatened species like the Swift Parrot, Tasmania's Forest Management System does not "provide for the ecologically sustainable management and use of forested areas" covered by the TRFA. Amending the TRFA will not resolve these issues. Rather, the science underpinning the agreement, and the underlying Forest Management System need a comprehensive review. As Justice Marshall pointed out in the Wielangta case, the TRFA provides an alternative to the normal assessment process under the EPBC Act and should achieve the same standards.⁵⁰ A key way that this can be achieved is by the Federal government applying National Environmental Standards to RFAs as part of its Nature Positive reforms – this is discussed in more detail in Part B of EDO's submission.

Recommendation 3: To better protect Matters of National Environmental Significance, threatened species prescriptions established under the Forest Practices Code should be comprehensively reviewed to ensure any updated prescriptions are founded on robust science and are designed to conserve species and their habitat. The draft new prescriptions should be made available for public comment before finalisation.

Case Study 2 highlights other serious flaws in Tasmania's Forest Management System which allows for the clearing of threatened habitats and fails to protect Matters of National Environmental Significance.

Case Study 2 – loopholes allowing clearing of Threatened Species' habitat

Over the review period, EDO acted for the Tasmanian Conservation Trust Inc (**TCT**) in a successful legal challenge to an FPP that purported to authorise the clearing and conversion of over 1800 hectares of forest on private property at Ansons Bay in Tasmania's northeast (**Ansons Bay clearing case**).⁵¹

Nearly 500 hectares of this forest were comprised of threatened native vegetation communities listed under Tasmania's *Nature Conservation Act 2002* (Tas) (**NC Act**) at the time of the FPP certification in 2015. One of these communities, the Tasmanian forests and woodlands dominated by black gum or Brookers gum (*Eucalyptus ovata*/*E. brookeriana*) (which is recognised as Swift Parrot habitat) was listed as a threatened ecological community under the EPBC Act while the case was ongoing.

While TCT's case succeeded in overturning the certification of the FPP and therefore in preventing the clearing of these important threatened forests, the Court's ruling was based on

⁴⁹ The Tree Projects, The Wilderness Society, Birdlife Australia (2022) [On the Edge of Extinction: the Case for the Swift Parrot Protection Plan](#).

⁵⁰ *Brown v Forestry Tasmania* (No 4) [2006] FCA 1729 at [238]

⁵¹ See *Tasmania Conservation Trust Incorporated v Forest Practices Authority* [2022] TASSC 29. A summary of this case is provided in Appendix 4 of the Outcomes Report, however, that summary fails to highlight the problematic nature of the relevant compensation provisions in the NC Act.

procedural (although still very concerning) errors by the FPA rather than because the NC Act and FP Act gave effective protection to the threatened vegetation in question.

The case highlighted a serious loophole in Tasmania's Forest Management System which effectively allows a person to gain approval to clear threatened vegetation communities where compensation has been refused by the Minister administering the NC Act (for example, because the person has not undertaken to protect the vegetation by way of a conservation covenant or management agreement) – a situation that Justice Estcourt described as leading to “absurd” and as leading to negative conservation outcomes.⁵²

No amendments to the problematic sections of the NC Act highlighted in the Ansons Bay clearing case have been foreshadowed by the Tasmanian government since the Supreme Court's decision,⁵³ meaning that the clearing of threatened species habitat (including habitat for Matters of National Environmental Significance) may still be approved via the loophole. If left unaddressed, this loophole threatens to undermine the TRFA, the Permanent Native Forest Estate policy, and the achievement of ESM.

Recommendation 4: To better protect Matters of National Environmental Significance, amendments to the NC Act compensation provisions are required to close the gaps in protection for threatened vegetation communities/threatened ecological communities.

c. Demonstrate how relevant Statutory Conservation Planning Documents have been implemented as part of the Forest Management System

While the Outcomes Report highlights statutory conservation planning documents that are in place, it fails to highlight the extent to which statutory conservation documents are absent. Our submission to the *Discussion Paper - Developing a new threatened species strategy for Tasmania* dated December 2023,⁵⁴ highlighted that:

- Of the 686 species currently listed under the TSP Act (at the time of writing), recovery plans have been developed for less than 30 per cent of listed threatened species, and the vast majority of the recovery plans are out-of-date.⁵⁵
- Many listed species, particularly listed flora species, do not have a listing statement.⁵⁶ While notes sheets on the species are provided, they are lacking in the detail and information that

⁵² *Tasmania Conservation Trust Incorporated v Forest Practices Authority* [2022] TASSC 29 at [52].

⁵³ Disappointingly, the only legislative reforms arising from the case were draconian retrospective laws aimed at validating FPPs certified by FPOs who lacked proper delegations from the FPA: see the [Forest Practices Amendment \(Validation\) Act 2022](#)

⁵⁴ See EDO's [Submission on the Discussion Paper for Tasmania's Threatened Species Strategy](#).

⁵⁵ Department of Natural Resource and Environment Tasmania webpage Recovery Plans for Listed Threatened Species available at: <https://nre.tas.gov.au/conservation/threatened-species-and-communities/recovery-plans>

⁵⁶ By 2 July 2023, only 48% of listed species had a listing statement, see [Natural Resources and Environment Tasmania Annual Report 2022-23](#) at p 31

listing statements provide concerning distributional and biological data, recovery program information, actions carried out and actions required, advice on threats and management of species.

Case Study 3 below highlights the failure to provide adequate statutory conservation planning documents for Tasmania's Wedge-tailed Eagle.

Case Study 3 – Tasmanian Wedge-tailed Eagle

The Tasmanian Wedge-tailed Eagle (*Aquila audax fleayi*) was listed as endangered under the EPBC Act when its first threatened species list was established in July 2000 (before this it was listed under the Endangered Species Protection Act 1992 (Cth) (the **ESP Act**)).

The Threatened Tasmanian Eagles Recovery Plan 2006-2010 states that the Wedge-tailed Eagle is endemic to the State and is known to occur in all habitats throughout Tasmania, however, the species requires old-growth forest on sheltered sites for nesting and this, combined with territorial behaviour act to limit its breeding range and potential.⁵⁷ When the plan was published, the size of the population was estimated at between 1000 and 1500 individuals, with fewer than 500 breeding adults.

The Recovery Plan is out-of-date. A review of the Recovery Plan in 2021 found that many of the objectives and actions in the recovery plan should continue in a modified form,⁵⁸ yet an updated Recovery Plan has not been finalised.

There is currently no approved Conservation Advice or Listing Advice for the species (presumably due to it being originally listed under the ESP Act).

Recommendation 5: Action needs to be taken to address the large gaps in statutory conservation planning documentation for threatened species. This could include setting targets for the number of Recovery Plans or Listing Advices that must be in place, with prioritisation given to forest-dependent threatened species, such as the Tasmanian Wedge-tailed Eagle.

d. Demonstrate how social and economic benefits of forestry and other forest uses are being achieved

Presumably, to address the ESFM objective of forest product industry economic sustainability,⁵⁹ criterion (d) of the 5-yearly review requires the parties to demonstrate how the social and economic benefits of forestry and other forest uses are being achieved.

⁵⁷ Threatened Species Section (2006) [Threatened Tasmanian Eagles Recovery Plan 2006-2010](#). Department of Primary Industries and Water, Hobart.

⁵⁸ Department of Environment and Energy (2021) [Recovery Plan Review for Tasmanian Threatened Eagles Recovery Plan 2006- 2010](#)

⁵⁹ TRFA, clause 62.

The Outcomes Report provides a high-level summary and refers to the State of the Forests report for a more detailed analysis of these issues, however, both reports fail to adequately assess the social and economic sustainability of the current operating model for the native forest industry.

Employment in the forestry industry

The Outcomes Report and the State of the Forests report refer to outdated employment data and analysis in addressing the numbers of workers employed in the forestry sector in Tasmania. This data, compiled in May 2018, estimated direct employment associated with the Tasmanian timber industry to be 2,714 people, while indirect employment generated by the forestry industry was estimated to be 2,651 people, implying 5,365 direct and indirect jobs were generated in the Tasmanian forest industry.⁶⁰

However, more up-to-date data indicates that the total number of workers employed directly or indirectly has fallen substantially since that time. The Australia Institute Tasmania analysis of Australian Census data from 2021 found 885 people worked in all forestry and logging in Tasmania (both plantation and native forestry), with a further 1,430 workers employed across all wood product and paper manufacturing industries.⁶¹ According to this analysis, the total number of people directly and indirectly employed in the industry was 2,315, representing under 1% of all Tasmanian jobs.⁶² Only a fraction of those jobs were dependent on native forestry.

These analyses reveal that since the commencement of the TRFA and its renewal in 2017, employment in the forest sector has declined and remains low relative to other sectors of the Tasmanian economy. As discussed further below, the level of public subsidisation of STT (and, thereby, native forestry jobs), is not sustainable and options to transition away from native forestry should be more fully explored.

Economic benefits of forestry

The Outcomes Report does not directly address the economic sustainability of native forestry in Tasmania but rather addresses the value of logs. It reports that:

Over the reporting period, Australian forests and wood products statistics data (published quarterly by the Australian Bureau of Agricultural and Resources Economics and Sciences) indicates that the value of logs harvested has increased by 10.7% from 2016–17 (\$357.2 million) to 2020–21 (\$395.5 million). The consumer price index increased by 8% over the reporting period, so the increase in real terms was 2.7%.⁶³

⁶⁰ Outcomes Report, section 5.1, p 48.

⁶¹ The Australia Institute (2023) [Q&A: Native Forest Logging in Tasmania](#). The Blueprint Institute analysis of 2022 employment figures shows that 3,315 people were employed in the Tasmanian forestry sector in both native forests and plantations, with only 1,118 of those being directly dependent on native forest logging: Cross, D., Ouliaris, M., Williams, L., Poulton, C., Lubberink, J., Black, S., An Tran, M., (2023) [Branching Out: Seeing the Forest for the Trees: Exploring Alternate Land Use Options for the Native Forests of Tasmania](#), Blueprint Institute.

⁶² The Australia Institute (2023) [Q&A: Native Forest Logging in Tasmania](#).

⁶³ Outcomes Report, section 5, p 47.

The failure of the Outcomes Report to address the economic sustainability of native forestry is not surprising given that, in September 2016, STT's Board formally advised the Minister for Resources that native forest logging on State land was not profitable under its current quota and was likely to remain that way for the foreseeable future. To improve its financial viability, the Board requested the Minister to reduce the logging quota from 136,000 cubic metres to 96,000 cubic metres per year. However, the then-Resources Minister, Guy Barnett declined to lower the sawlog quota, while at the same time saying that, "Tasmanians are entitled to expect that industry pays its own way for the public native forest that it utilises."⁶⁴

Yet, native forestry on public lands has been heavily subsidised by the Tasmanian and Australian Governments over the last few decades. Between 2004–2017, STT was awarded an estimated \$331 million in Federal and State subsidies.⁶⁵ Economist John Lawrence has calculated that the publicly funded STT (and before that, Forestry Tasmania) lost a staggering \$1.3 billion in the period between 1997 and 2017.⁶⁶ While STT has reported headline profits in more recent years,⁶⁷ a detailed analysis of its books by the Blueprint Institute revealed that between the 2017 and 2023 financial years, STT made an operational loss of \$7.7 million.⁶⁸

Criticisms have also been levelled at the opaque accounting methods employed by STT when reporting on its financial position in recent years, including its failure to attribute any value to the land on which the forests it logs grow (such as by attributing a nominal rental price for this land).⁶⁹ Even when direct enquiries have been made, STT has refused access to crucial information about how it prices harvested native timber, which makes analysis of its ongoing economic sustainability difficult.⁷⁰

STT's ongoing failure to provide a clear overview of its economic position points to serious and ongoing problems it faces on this front. When considering the factors outlined above, it is difficult to see how the economic benefits of forestry are being achieved. To address some of these issues, the Blueprint Institute has made recommendations that all public subsidies to STT should immediately stop and improvements should be made to STT's economic reporting, such that it matches that of other state-run forestry corporations, particularly as it relates to the price of timber.⁷¹ EDO supports these recommendations.

⁶⁴ Guy Barnett, Minister of Resources (2016) [Ministerial Statement: Forestry](#).

⁶⁵ John Lawrence (2017) [Forestry Tasmania's demise in detail](#), Tasfintalk.

⁶⁶ John Lawrence (2018) [Tasmanian regional forest agreement delivers \\$1.3bn losses in 'giant fraud' on taxpayers](#), The Guardian published 27 Mar 2018. See also John Lawrence's notes on his analysis of the industry: https://uploads.guim.co.uk/2018/03/27/Forestry_Tasmania_and_the_RFA.pdf

⁶⁷ This is due, at least in part, to changes in the way STT needs to report on its costs.

⁶⁸ Cross, D., Ouliaris, M., Williams, L., Poulton, C., Lubberink, J., Black, S., An Tran, M., (2023) [Branching Out: Seeing the Forest for the Trees: Exploring Alternate Land Use Options for the Native Forests of Tasmania](#), Blueprint Institute.

⁶⁹ John Lawrence (2018) [Tasmanian regional forest agreement delivers \\$1.3bn losses in 'giant fraud' on taxpayers](#), The Guardian published 27 Mar 2018. See also John Lawrence's notes on his analysis of the industry: https://uploads.guim.co.uk/2018/03/27/Forestry_Tasmania_and_the_RFA.pdf

⁷⁰ Cross, D., Ouliaris, M., Williams, L., Poulton, C., Lubberink, J., Black, S., An Tran, M., (2023) [Branching Out: Seeing the Forest for the Trees: Exploring Alternate Land Use Options for the Native Forests of Tasmania](#), Blueprint Institute.

⁷¹ Ibid.

Recommendation 6: To demonstrate economic sustainability, all government subsidies to STT, both direct and indirect, should cease, and STT’s economic reporting (including its annual reports) should at least match the standards of other state-run forestry corporations.

By making these changes, it will be easier to obtain a more accurate understanding of whether any economic benefit is being achieved from forestry.

Value in leaving Tasmania’s native forests standing

Disappointingly, the Outcomes Report has not properly explored the economic, social, and environmental value presented by leaving Tasmania’s remaining native forests standing.

The Blueprint Institute has undertaken a cost-benefit analysis of the option of ceasing STT’s native forest operations in 2025 compared to business-as-usual. Even with its generous pro-forestry assumptions and substantial allocation of funds to assist with a just transition of the native forest industry, the Blueprint Institute analysis finds that Tasmanians would be \$72 million better off if native forestry ceased from next year.⁷² Importantly, the analysis takes account of the substantial GHG emissions abatement that would be achieved by leaving Tasmania’s native forests standing.

A reduction in the Tasmanian government’s sawlog quota in line with what was put forward by the STT Board in 2016, or removing it entirely, would mean that the industry would no longer be dependent on government subsidies.⁷³

There would be further environmental and social benefits in such a move, as even a reduction of the quantity of native forestry to 96,000 cubic metres a year would be sufficient to protect key Swift Parrot breeding and foraging habitat as set out in the proposed Swift Parrot Protection Plan put forward by Birdlife Australia, The Tree Projects and the Wilderness Society.⁷⁴ The protection of these forests would also have added biodiversity benefits for other forest-dependent species, such as the endangered Wedge-tailed Eagle, Tasmanian Devils and Spotted-tailed Quolls, and other industries, such as nature-based tourism.

In its latest report addressing the urgent steps that must be taken to achieve Australia’s net-zero GHG emissions target by 2050, the Climate Change Authority found that limiting deforestation and protecting existing forests are significant and cost-effective means to work towards the target. However, the Climate Change Authority noted that:

Potential barriers to limiting deforestation and protection of existing forests are the limited financial and regulatory requirements to assign an economic value and factor carbon and biodiversity impacts into decision making.

⁷² Cross, D., Ouliaris, M., Williams, L., Poulton, C., Lubberink, J., Black, S., An Tran, M., (2023) [Branching Out: Seeing the Forest for the Trees: Exploring Alternate Land Use Options for the Native Forests of Tasmania](#), Blueprint Institute.

⁷³ The Tree Projects, The Wilderness Society, Birdlife Australia (2022) [On the Edge of Extinction: the Case for the Swift Parrot Protection Plan](#).

⁷⁴ Ibid.

Carbon and environmental markets are an opportunity to harness investment to achieve land-based carbon removal and other environmental and social outcomes. ...

Trends in nature-related risk disclosure are following those in climate-related disclosure, with a number of food, agriculture and forestry companies committing to the Taskforce for Nature-related Financial Disclosures (TNFD, 2024). Increasing measurement and disclosure of the risks and dependencies on nature by businesses and institutions is also likely to support appropriate valuing of natural capital and biological sequestration. ...⁷⁵

The failure of the Outcomes and State of the Forests reports to accurately measure and address the economic values associated with carbon and biodiversity values in the native forests available to be logged under the TRFA is a missed opportunity. If these additional values were properly accounted for, it would provide a more balanced view of the relative benefits of forestry and other uses (including carbon storage, and biodiversity protection) and their contributions to ESFM.

Given ongoing concerns that forestry operations are not able to achieve ESFM and growing evidence about the social, economic, and environmental benefits of retaining native forests there is a compelling case for transitioning away from native forest logging.

Recommendation 7: The Independent Review should give more detailed consideration to the economic, social, and environmental benefits of ceasing native forestry operations in Tasmania, and whether that would be a more appropriate pathway for achieving ESFM.

e. Assess the extent to which key findings and/or recommendations from the preceding 5-yearly reviews have been addressed

Section 6 of the Outcomes report addresses whether recommendations for previous TRFA reviews have been achieved or actioned.

Our submission responds specifically to the previous recommendation concerning **transparency and access to information** and **Aboriginal cultural heritage**.

Transparency and access to information

Recommendation 2 of the previous review provides:⁷⁶

Recommendation 2: The state considers continuing improvements to transparency in the development of forest practices plans and the accessibility to non-private information for these plans.

The Joint Government response to this recommendation in 2016 stated, “The state will continue to provide access to forest practices plans through the Forest Practices Authority, and will

⁷⁵ Climate Change Authority (2024) [Sectors Pathways Review](#), Commonwealth of Australia (Climate Change Authority, at p 101.

⁷⁶ Outcomes Report, section 6, p 55.

continue to refer enquiries on the preparation of draft documents and background material directly to forest practices plan applicants.” Yet, the 2022 update for this recommendation states the response for the recommendation is “partially complete” with one of the future actions required being, “STT will make its FPPs available online.”

Given the 9 years since recommendation 2 was made, EDO is disappointed with the slow progress made towards the publication by STT of all certified FPPs for land it owns or manages on its website. The historical failure of STT to publish these documents has meant that interested members of the public need to lodge formal requests to STT under the *Right to Information Act 2009* (Tas) to obtain these key regulatory documents relating to the regulation of forestry on public land. This RTI process commonly takes months and may even take up to three years to result in the disclosure of the FPP.⁷⁷

While STT now has a search tool for FPPs on its website (which was accessible from 1 September 2023),⁷⁸ those wishing to use this tool must create an account linked to an email address and agree to STT’s privacy policy. When a person uses STT’s FPP search tool, they need to provide the exact coupe number which can only be found by using the separate Access Map on STT’s website. The person must also tell STT the reason they have an interest in obtaining the FPP for the coupe (by selecting from a drop-down list of reasons). STT’s website does not provide an explanation or reason for the surveillance of third-party access to FPPs, and the STT privacy policy does not provide information about how STT records and handles this personal information.⁷⁹ Furthermore, STT’s search tool only provides access to FPPs certified since 1 September 2023 which is an incomplete selection of FPPs that might apply to STT’s active forestry operations.

The FPA also fails to provide access to FPPs which authorise forestry on other land.

The public limited access to FPPs held by STT and the FPA is to be contrasted with other regulatory documents, such as permits or licences issued by the Tasmanian EPA which are freely available to the public through Tasmania’s LISTmap,⁸⁰ and with the free access to EPBC Act assessments and approvals on the DCCEEW EPBC Act Public Portal website.⁸¹

The Outcomes Report also states in its status update to recommendation 2 that “The FPA launched an updated version of the publicly available Threatened Species Adviser planning tool, providing an enhanced user experience.”

The EDO appreciates that efforts have been made by the FPA to improve access to the endorsed threatened species planning tools. However, we are disappointed to note that in a similar way to the STT FPP search tool, the FPA website for the Threatened Species Adviser planning tool

⁷⁷ EDO’s report [Transparent Failure: Tasmania’s ineffective right to information system and how to fix it](#), details the Tasmanian government’s poor record when it comes to the release of information under Right to Information (RTI). The report details how it can take up to three years for the Tasmanian Ombudsman to review RTI decisions that have unlawfully denied information to applicants.

⁷⁸ See <https://sttas.com.au/our-responsibilities/operations>

⁷⁹ See [Privacy Policy \(sttas.com.au\)](https://sttas.com.au/privacy-policy)

⁸⁰ See <https://epa.tas.gov.au/business-industry/site-information>

⁸¹ See <https://epbcpublicportal.awe.gov.au/all-referrals/>

prompts users to provide their personal details to gain access to this information and in doing so, requires users to declare they “understand and agree to” the preceding caveats.⁸² Once access to the Threatened Species Adviser planning tool is gained, the tool still does not clearly show all the prescriptions that are being applied by FPOs when they certify FPPs. Rather, the user of the tool must select the type of activities the FPP is going to apply to before the tool presents the relevant prescription(s). Furthermore, even when prescriptions for certain species are displayed, there are many instances where they can be varied by agreement between FPA and NRE. This demonstrates that there is still a lack of clarity and a great deal of discretion about what standards apply to protect threatened species and their habitat.

As outlined above, the lack of clarity about the management prescriptions that apply to threatened species does little to ensure these prescriptions will be rigorously applied and enforced. The lack of clarity also hinders the ability of the public, media, and Parliamentarians to hold the FPA, STT and other forest managers to account for these standards. Finally, we note that the discretionary (or “by agreement”) nature of the threatened species prescriptions also calls into question whether they are made in accordance with the requirements of the TRFA, including the need to take note of public comment.⁸³

Aboriginal cultural heritage

Recommendations 4 and 15 of the previous review provide:⁸⁴

Recommendation 4: The parties seek opportunities to encourage greater involvement of the Aboriginal community in management planning and forest stewardship during the Tasmanian Regional Forest Agreement renewal/extension process

Recommendation 15: The state considers improved mechanisms for the protection of Aboriginal cultural heritage as part of the Tasmanian Regional Forest Agreement renewal/extension

The status updates to these recommendations refer to amendments to the *Aboriginal Heritage Act 1975* (Tas) and to Tasmanian Government commitments to review that legislation.

EDO notes that despite the Tasmanian Government’s repeated commitments to update the “woefully inadequate” and “shamefully disrespectful” *Aboriginal Heritage Act 1975*,⁸⁵ progress appears to have stalled. No Bill has been tabled since the Government’s review was initiated in 2019.

While since the last 5-yearly review of the TRFA, new procedures for managing Aboriginal cultural heritage when preparing forest practices plans have been developed and updated, there are

⁸² The FPA’s updated Threatened Species Adviser planning tool can be accessed here:

https://www.fpa.tas.gov.au/planning/biodiversity/threatened_species_adviser

⁸³ TRFA, clause 31.

⁸⁴ Outcomes Report, section 6, pp 58, 67.

⁸⁵ Heritage Minister in the Hodgman State Government Matthew Groom, 25 June 2016, “Relics Act shamefully disrespectful”, The Mercury, accessed at:

<http://www.kooriweb.org/foley/news/2000s/2016/hr25jun2016.pdf>

currently no mandatory requirements to consult with Tasmanian Aboriginal people about proposed logging operations. This is significant, as it is recognised that Tasmania’s Aboriginal Heritage Register is incomplete and that some Tasmanian Aboriginal people have reservations about disclosing the locations of their cultural heritage.⁸⁶ It is also inconsistent with the fundamental principles articulated in the United Nations Declaration on the Rights of Indigenous Peoples including free prior and informed consent and self-determination. Tasmanian Aboriginal people “should be the ultimate arbiter of the management of the [cultural heritage] aspects of any proposal that will affect that heritage.”⁸⁷

The Tasmanian Government’s failure to develop and implement modern, respectful Aboriginal cultural heritage protection laws puts Tasmanian Aboriginal cultural heritage at significant risk of damage, destruction and desecration by forestry activities.

As highlighted by these examples above, there are significant issues that were intended to be addressed by responding to the recommendations made by the previous 5-year review that remain outstanding. This 5-year review is the key process through which any concerns about outstanding recommendations can be addressed. To that end, the review should not allow for the automatic renewal of the TRFA while key recommendations of the preceding review remain unaddressed.

Recommendation 8: The Independent Review must not find that ESFM has been achieved given key recommendations of the preceding RFA reviews have not fully been implemented.

Conclusions regarding 5-year review

For the reasons outlined above, based on the criteria in clause 9 of the TRFA, we believe there are genuine concerns that Tasmania’s Forest Management System does not demonstrate ESFM and the RFA should not be eligible for automatic renewal.

Overarching recommendation: The Independent Reviewer find that Tasmania’s Forest Management System does not demonstrate Ecologically Sustainable Forest Management (in accordance with clause 9C of the TRFA).

⁸⁶ Department of Primary Industries, Parks, Water and Environment (2021) [Review of the Aboriginal Heritage Act 1975: Review Report, March 2021](#). The *Pathway to Truth-Telling and Treaty Report* also reported (at p 85) some objections from Tasmanian Aboriginal people about the way cultural sites were recorded and included on the Heritage Register by Aboriginal Heritage Tasmania. Some Tasmanian Aboriginal people felt that having to include sites on the Heritage Register was a “lose-lose situation” in that if the coordinates of significant sites are made public then there is a risk of people stealing or destroying them, but if the locations are not registered, this can happen anyway out of ignorance. Therefore, a search of the register is no guarantee that if a development goes ahead Aboriginal cultural heritage will not be damaged. See Professor Kate Warner, Professor Tim McCormack and Ms Fauve Kurnadi (2021) [Pathway to Truth-telling and Treaty, Report to Premier Peter Gutwein](#).

⁸⁷ Heritage Chairs of Australia and New Zealand (2020) [Dhawura Ngilan: A vision for Aboriginal and Torres Strait Islander heritage in Australia](#), Canberra, at Part 3, at p 35.

Part B – Regional Forest Agreements and Nature Positive reforms

Consistent with our conclusions above, EDO continues to hold long-standing concerns that the RFA framework generally fails to provide for the ecologically sustainable forestry management of Tasmania’s forests. We are also concerned that the current TRFA provides for rolling renewals based on a determination of satisfactory performance under the TRFA by the Commonwealth and Tasmanian governments, with no real accountability around that decision.

Despite ongoing concerns about whether the RFAs are delivering ESFM (e.g. court cases and in public comment on previous reviews), decisions continue to be made to renew or roll over these agreements. Where Court cases have highlighted the unenforceability of the RFA provisions, there has been no action taken to rectify this and guarantee at least some consequence for the failure to abide by the terms and objects of the RFA.⁸⁸

Significantly, the most recent 10-year review of the EPBC Act (**Samuel Review**) found that “there are fundamental shortcomings in the interactions between RFAs and the EPBC Act. The Review has low confidence that the environmental considerations under the RFA Act are equivalent to those imposed by the EPBC Act...”.⁸⁹ To address ongoing concerns about the inadequacies of the RFA framework and lack of Commonwealth oversight on forestry matters, the Review recommended that RFAs be required to demonstrate consistency with new National Environmental Standards in order to continue to be exempt from the need for EPBC Act assessment and approval.⁹⁰

In its *Nature Positive Plan*, the Federal government has committed to work with stakeholders and relevant jurisdictions towards applying National Environmental Standards to RFAs to support their ongoing operation together with stronger environmental protection.⁹¹ The timing and form of this requirement will be subject to further consultation with stakeholders.

National reform on this issue is well overdue and we urge the Federal government to prioritise this element of its reform process to provide certainty to stakeholders about the future of the RFAs.

While national reform to the RFA framework continues, there is no reason to delay taking the necessary steps to ensure that Tasmania’s Forest Management System delivers ESFM. As flagged above, there are genuine concerns that Tasmania’s Forest Management System does not demonstrate ESFM and the TRFA should not be eligible for automatic renewal. The Federal government should work with the Tasmanian government to ensure Tasmania’s Forest

⁸⁸ See, for example, *VicForests v Friends of Leadbeater’s Possum Inc* [2021] FCAFC 66, *Bob Brown Foundation Inc v Commonwealth of Australia* [2021] FCAFC 5 and *Forestry Tasmania v Brown* [2007] FCAFC 186; (2007) 167 FCR 34

⁸⁹ Samuel, G (2020) [Independent Review of the EPBC Act – Final Report](#), Department of Agriculture, Water and the Environment, Canberra, October 2020, (Samuel Review), p 16.

⁹⁰ Samuel Review, p16.

⁹¹ DCCEEW (2022) [Nature Positive Plan: better for the environment, better for business](#), Department of Climate Change, Energy, the Environment and Water, Canberra, December 2022, p 4.

Management System achieves ESFM as required by the RFA framework while looking to strengthen Federal oversight of forestry through its national Nature Positive Reforms.

Recommendation 9: The Federal government must prioritise applying National Environmental Standards to RFAs as part of its Nature Positive reforms.

Recommendation 10: The Federal government should work with the Tasmanian government to ensure Tasmania's Forest Management System achieves ESFM as required by the RFA framework before the Tasmanian RFA is allowed to roll over.