

Wednesday 9th September, 2009

Mr Michael Davis  
Resource and Conservation Unit  
Department of Environment, Climate Change and Water  
NSW PO Box A290  
Sydney South NSW 1232

Dear Mr Davis,

**Submission on the Regional Forest Agreements as these relate to Wilderness Areas**

The National Forest Policy Statement (NFPS) was agreed in 1992 and signed by the Prime Minister and all State and Territory leaders. The NFPS continues to be Commonwealth and State Government policy.

The NFPS is the fundamental basis for the appropriate conservation milestones in the Forest Agreements in NSW and the Integrated Forestry Operation Approvals (IFOA) put these agreements into effect. These agreements and approvals established under the Forestry and National Park Estate Act, 1998 (FNPE Act) are intended to deliver all the objectives of the NFPS.

Importantly the National Forest Reserve Criteria were developed under the NFPS to guide "the development of a comprehensive, adequate and representative reserve system, and implementation strategies to protect old-growth forests and wilderness as part of the reserve system" (JANIS, 1997). These criteria required protection of 90%, *or more if practicable*, of the area of high quality wilderness ... to be protected.

The states reserved far less wilderness than the NFPS target, including in some cases the wilderness reserved within all the CRA regions of NSW, particularly if wilderness on private land is considered. In regard to the Wilderness Act, 1987, it has been unreasonably fettered and measures should be taken in the CRAs review to redress impediments towards achieving further progress on wilderness protection. These legal proscriptions even prevent effective management of wilderness within reserves systems. All wilderness areas are fragmented by easements and Crown lands that cannot be reserved as wilderness because of the FNPE Act.

At the very least measures in the CRA's should ensure that Wilderness Act processes are not impeded where there is no significant impact upon logging operations.

The forests and woodlands that are located on other Crown reserves, such as on travelling stock routes and trigonometrical reserves that are found within the external boundaries of DECC reserves, do not in any way impact upon the log production purposes of any IFOA. The terms of the IFOA must cease to operate

unreasonably within the boundaries of Crown lands located within national parks so that wilderness processes are no longer frustrated. Wilderness in such Crown reserves instead should be permitted to contribute to the wilderness protection purposes of the NFPS.

Further, the NFPS requires that wilderness be managed through plans of management and this is milestone 18 of the CRA review. In NSW where wilderness is fragmented by redundant Travelling Stock Reserves, Water Reserves and Road Easements wilderness cannot be effectively managed. It is almost dogma in some areas of the bureaucracy that the FNPE Act makes resolution of these matters very difficult as no wilderness management action can be taken on these lands (although it did not stop declaration of the Yengo wilderness).

The forests and woodlands on Crown leasehold and Crown reserve lands located outside DECC reserves also are of almost no relevance to the log production purposes of any IFOA. For example, the 135,000 hectares of identified wilderness in the Macleay Gorges contains no areas that could be logged on a commercial basis. Wilderness on Crown leasehold and Crown reserves should be permitted by the terms of the CRAs to contribute to the wilderness protection purposes of the NFPS.

The forests and woodlands in Forest Management Zones 1, 2, 3 and 3a are also of no relevance to the log production purposes of any IFOA. Wilderness in non-commercial state forest lands (FMZ 1, 2, 3 and 3a) should be permitted by the terms of the CRAs to contribute to the wilderness protection purposes of the NFPS.

Wilderness on all the above public land categories should be subjected to Wilderness Act processes, and where appropriate, declared wilderness under the Wilderness Act, and managed by DECCW to meet JANIS wilderness criteria, and hence help to meet the wilderness targets. Where necessary and appropriate the Crown lease land should be voluntarily acquired as a high priority by DECC to protect wilderness.

Consider the example of section 3.3 of the Forest Agreement of UNE RFA. This RFA states that while timber supplies may be provided from identified wilderness on leasehold and state forest, it stipulated that "areas not required to sustain these [timber] allocations must be considered for reserves consistent with JANIS." The operation of the FNPE Act regarding wilderness extends beyond these particulars in a global fashion and such action on all CRA regions is not valid as it conflicts with the wilderness conservation purposes of the NFPS.

In the case of the above example, it is obvious that areas unavailable for logging being Crown land within the boundaries of DECC reserves or being in FMZs , 2, 3 and 3a, on Crown reserves, or on Crown leases do not count toward timber allocations. These areas should be considered for wilderness assessment processes and declaration consistent with achieving the JANIS wilderness milestone.

Nearly all Crown leasehold is useless for logging operations and should also be considered for wilderness assessment and declaration. Similar provisions operate in the other forest agreements of NSW, and should be considered in the same manner by the forest RFA/IFOA review processes.

Section 4 (3) of the IFOA of UNE states, in part, that "The Ministers have agreed that this approval may be amended to exclude its application to any area of land

that: (a) has been classified as Forest Management Zone 2 or 3A in accordance with the Forest Management Zoning System; and (b) forms part of, or comprises, an area of land which was proposed as wilderness prior to 1 January 2000, and has been considered by the Director of National Parks and Wildlife under section 7 of the Wilderness Act 1987 as being eligible (but for this approval) for identification as wilderness.”

All the IFOAs should be reviewed to identify what wilderness could be declared to achieve further wilderness protection, and if further wilderness capable areas should be identified, assessed and reserved. It should be recalled that the 2002 wilderness decision across NSW was rejected by NSW environment groups as it offered less than half the area in the fully researched Wilderness Plan. On the north coast and for the leasehold land in the Deua, the key issue remains the timely reservation and where necessary the voluntary acquisition of core areas of wilderness Crown lands.

It is also of concern that the FNPE Act provisions may in fact fetter lands actually purchased by the Department of Environment, Climate Change and Water (DECCW) using the Dunphy Funds. Tens of thousands of hectares of land acquired for wilderness reservation purposes may be affected. These include Crown lands in the Macleay Gorges (Green Gully 16,000 ha), in the Ettrema and Budawang Wilderness areas (2,000 ha) gifted by members of the public.

Similarly, a significant amount of high conservation old growth and endangered species habitat, as well as wilderness, were omitted from the reserve system. Such omissions from the comprehensive, adequate and representative reserve system are a major cause for concern and impact upon the achievement of the JANIS milestones that define an ecologically sustainable reserve system.

## **Proposals**

The FNPE Act should permit the provisions of the Wilderness Act to operate on the abovementioned lands with wilderness capability.

Under the FNPE Act, these wilderness capable areas should be deemed IFOA exclusion areas (as defined by an expanded schedule of Wilderness Maps in the FNPE legislation). These exclusion areas should include all ‘identified wilderness’, all those areas formerly known as ‘provisionally identified wilderness’ and ‘state capable wilderness’ within the IFOAs, as well additional exclusion areas for recent wilderness nominations, old growth forests, endangered species and rainforests.

The exclusion areas (including those shown on Appendix D, Maps 1 through to 7 of the UNE and LNE IFOAs) should be retained to permit wilderness assessment process. A means should be developed to expand IFOA exclusion areas over state forests to include exclusion areas for all ‘identified wilderness’, and all areas capable of identification as wilderness in the IFOAs, as well additional exclusions for endangered species and rainforests.

## **Changed circumstances in relation to Accelerated Climate Change**

The entire purposes of the NFPS are imperilled by climate change. **The terms of the CRAs do not address accelerated climate change, which was not considered by the NFPS or the RFA processes.** At its most extreme, climate change could replace forests with heathlands due to increased severity and frequency of fire.

The FNPE Act is a crude instrument to tackle the challenge of accelerated climate change. The legislation should, however, enable wilderness reservation to fairly operate in the state of NSW, as wilderness is the most effective form of adaptive conservation management and best copes with the duress of climate change.

Wilderness areas that can absorb the impact of wild bushfires, provided these are managed for ecological purposes, and then wilderness can fight back to ecological health. Wilderness has greater ecological resilience and more fragmented reserves.

'Conservation planners, too, must consider climate change scenarios in developing plans for the persistence of biodiversity. First, major, climatically-driven biome changes cannot be accommodated by small isolated protected areas', (Soule et. al., 2005).

Most endangered plants and animals are habitat specialists and those habitats are unlikely to move in response to accelerated climate change in a time frame necessary for ecological adaptation. Wilderness, those large, generally intact natural areas, offer the best survival chance for these essentially static habitats and the plants and animals they contain. It is emphasised that many habitats will be static in a spatial sense in relation to the timeframe of accelerated climate change.

It is more likely, for example, that there will be places within a wilderness where a part of an interconnected habitat survives undamaged following a series of bad wildfires than in an isolated reserve. These undamaged parts of a wilderness can recolonise the affected but connected habitat areas, given effective management.

In small or fragmented reserves, an intense fire can be terminal for the habitat and its dependent wildlife. In a wilderness there is a chance that various habitats will survive, just as, for example, the Wollemi Pine survived past natural climate changes in the largest wilderness area in NSW.

The FNPE Act's purposes should be re-evaluated in regard to the need for enhanced wilderness protection and management in the context of accelerated climate change.

The wilderness areas within DECC reserves but not declared under the *Wilderness Act* and potentially subject to accumulative development impacts of visitor infrastructure, including fragmentation by roads. These areas of wilderness require priority protection. This can be most effectively achieved if all Crown timber lands within DECC reserves can be added to the reserve and declared as wilderness.

## **Proposal**

Omit section 39 of the FNPE Act. OR

Alternatively omit a set of schedule of areas from the integrated forestry operation approvals that contains:

- a) all the crown timber lands within the external boundaries of existing reserves under the NPW Act be included in a new schedule of the FNPE Act and be incorporate these lands into the existing reserves under the NPW Act;

- b) Crown reserves or Crown leases do not count toward timber allocations that is capable of being identified as wilderness
- c) State forests zoned FMZs , 2, 3 and 3a, that is capable of being identified as wilderness

### **Public Participation**

The claim in the RFA review report that 'the Wilderness Act allows the public to nominate land suitable for wilderness and to make written submissions about whether an area of land should be identified as wilderness' is an overstatement. The FNPE Act prevents any wilderness processes including those relating to public submissions so there are no processes to comment on. Requests for resolution of this legal problem have come to naught.

The claim that DECCW exceeds the Act's requirements by placing wilderness assessment reports on public exhibition and actively seeking community input on both wilderness identification and declaration is true only because the Act has no such provisions. The Department is being disingenuous to the public making such a remark.

It also provides for public submissions on draft wilderness protection agreements. DECCW, however, does not encourage wilderness protection agreements and only one has ever been made, with the late Dr Val Plumwood.

### **Proposal:**

The IFOA and Forestry and National Park Estate Act be amended so that Wilderness Act processes can take place on lands outside national parks, or at least on such lands outside national parks with no significant timber resources.

### **Logging native forests in relation to climate change and electricity generation**

Burning forest products in power plants is not a solution to accelerated climate change because there is a very significant net loss of carbon from soils and standing forests from logging operations. The losses from burning hardwood from forests are much more than that created by burning coal for the same unit of electricity created.

Bob Carr said that "keeping carbon dioxide locked up", or "sequestered", in the forests will not only slow Australia's rising greenhouse gas emissions but prevent the extinction of native plants and animals.

"Protecting our existing native forests and other vegetation is therefore fundamental to meeting any emissions reduction target. In addition, previously logged natural forests, if allowed to continue growing, will realise their carbon sequestration potential," Mr Carr, SMH September 22, 2008.

Recent economic modeling by Wood and Ajani provided to the Commonwealth Government on the Carbon Pollution Reduction Scheme shows that even a low price of carbon would make it more economical to use plantation forests for carbon sequestration than for wood products (P J Wood and J Ajani, (2008) 'Submission to the Commonwealth Government on the Carbon Pollution Reduction Scheme).

An Australian National University 'Green Carbon' research report further highlights that Australia's natural eucalypt forests store more carbon and are more resistant to the impact of climate change than plantation forests. The logging of natural forests results in three times more carbon dioxide emissions than previously estimated; and if left to regrow, natural eucalypt forests would remove an amount of CO<sub>2</sub> from the atmosphere each year that is equivalent to 24% of Australia's total greenhouse gas emissions in 2005 (B G Mackey et al., (2008), 'Green Carbon: The Role of Natural Forests in Carbon Storage', ANU Press).

### **Proposal**

The terms FNPE Act should proscribe the burning of forests in power plants for electricity generation.

### **Mining – a change in circumstances in relation to state forest and Crown reserves**

An area of about 2,250 hectares between Boonoo Boonoo and Basket Swamp National Parks should be considered by the NSW Government for reservation, following voluntary acquisition of Crown leasehold on informal reserves within the State Forest.

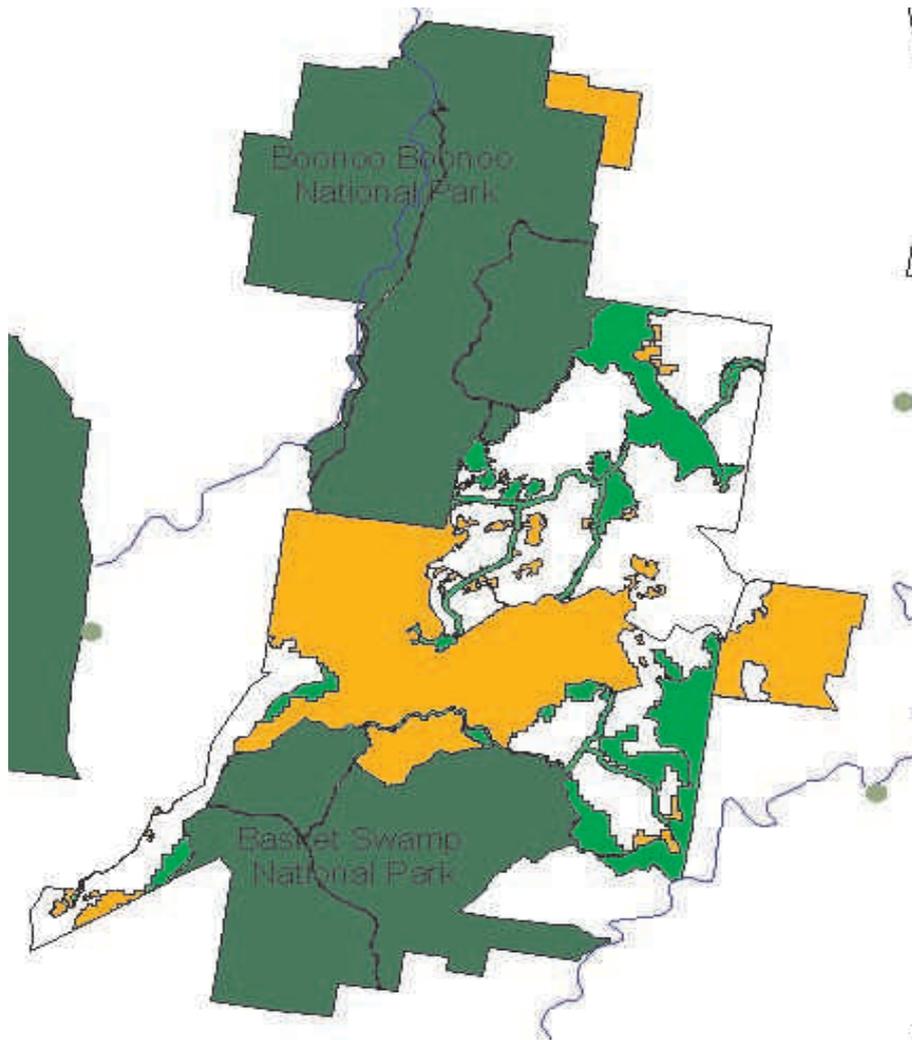
The two Basket Swamps, their catchments and falls downstream are of particular importance for the conservation of biodiversity. The area contains 'HCV' old growth forest of Mixed New England Stringybarks, Dry Heathy New England Blackbutt, Moist Shrubby Stringybark-Gum, Round-leaved, Dry Open New England Blackbutt, and Peppermint-Mountain/Manna Gum.

The minerals interests that prevented reservation and acquisition action can now be downgraded due to thorough mineral exploration of the area in question by several companies using modern exploration techniques. The results of these exploration activities would not have informed the previous reserve boundary decisions and these results are new information that should be taken into account in the review of the UNE IFOA.

### **Proposal**

The DECC needs to review its acquisition priorities in the UNE IFOA as outlined in the Basket Swamp National Park plan of management on page 14, and apply these management actions in relation to state forest leasehold lands on FMZs previously identified as suitable for purchase.

In relation to mining objections over the two Basket Swamps and nearby Falls, Forest Management Zones and reservation priorities should be reviewed in relation to new information that significantly downgrades the areas exploration potential (see map below).



Yours faithfully,

A handwritten signature in black ink, appearing to read 'K. Muir'.

Keith Muir  
Director  
The Colong Foundation for Wilderness Ltd

**Reference**

Soule, M. E. et. al. 2005 The Role of connectivity in Australian Conservation, in Pacific Conservation Biology, pp 266-279.