

**Matthew sparks**

### **RE: Submission to IFOA review**

My name is Matthew sparks I have been involved in independent auditing of FNSW's compliance with the Threatened species license (TSL) in the northeast forestry region for the past ten years.

#### **Things that need addressing in the IOFA itself.**

I am disappointed the five yearly review has taken ten years to happen, despite being enshrined in legislation that it's a five yearly review. This has meant that thousands of hectares of forests have been harvested under conditions that should already have been reviewed.

#### **Environment Pollution License**

Although it seems that the Environment Pollution License (EPL) is not legally enforced via the IOFA or the RFA's I believe this should be the case, and given the "integrated" part of the IFOA it is deceiving that it is not part of the overall package. The EPL and the TSL are compatible parts of the same goal, for example well designed non polluting causeways benefit amphibians and other marine life.

**It is crucial the EPL be enforced across the board like the TSL or the EPL conditions should be included in the TSL.**

**Condition 23.** 2. Of the IFOA (Planning logging operations) is not being adhered too. In my area, Brothers Butterleaf and Oakwood State Forests have been harvested basically in their entirety. Usually FNSW start at the furthest part of the forest and work their way out.

**Availability of documents.** I have recently been refused access to the non-compliance register for the EPL by the Coffs harbor FNSW office. This document is integral to any real audit. I have to continually fight for every document I request. I am blatantly lied too regarding availability of documents by FNSW despite regular complaints to both Department of Climate Change and the NSW ombudsman.

**All areas of “public availability of documents” should be strengthened. a reference to “all registers” must be included in IFOA condition 49.**

**Fisheries license.** A license issued by Department of primary industries to it's self? FNSW's wet dream. I have refrained from investigating breaches of this license believing it a waste of time, I relented recently when I did make a complaint regarding Breaches in Dallmorton State forests. Eight months later I am still waiting to receive a reply, despite subsequent letters to the minister for Primary industries. Is this license FNSW's model for the TSL?

## **CONDITIONS OF THE TSL THAT NEED ADDRESSING.**

### **Where the exclusion zones are applied.**

The application of exclusion zones outside state forest. I have raised this matter with DECC on numerous occasions. I cannot see how this is legal. In Butterleaf state forest for example the 80m wide connection corridor (ridge and head water) had half of it (length ways) applied to the neighboring private property which was a cleared paddock. This is farcical. If this is legal, Why not put all the exclusion zones on the neighboring land and log the state forest in its entirety ?

**This situation must be addressed and the exclusion zones only counted if applied to State Forest.**

### **4.2 Availability of Data.**

I believe that it crucial **that all records of threatened species recorded by FNSW and other Agency's be made public in a fast, accurate and useable way such as via the bionet website**, any manipulation for what ever reason by FNSW or others will be detrimental to threatened species, I cannot emphasize this enough. As things stand at the moment this is not the case, FNSW are manipulating the data as they see fit and DECC seem powerless/unwilling to stop it despite FNSW seemingly being in breach of the TSL as a result.

If things keep going this way I can see a future where FNSW and other big business have sole rights to these records and then “protecting” threatened species where they see fit. **DECC are the authority threatened species records they must act now.**

### ***5.2.1 Compartment Mark-up Surveys***

This condition has placed too much reasonability on one person who is already doing a hard job of marking up boundaries and h and r trees etc and basically the TSL component loses out.

**The answer is two people do the mark up one specializing in the TSL mark up component.**

### ***5.8 RIDGE AND HEAD WATER HABITAT.***

Condition e) Ridge and Headwater Habitat must not, to the greatest extent practicable, cross existing roads.

**This condition is ignored across the board. This condition should be changed to a “must” unless impossible.**

### ***5.10 Heath and Scrub***

Not enough mapping of heath and scrub. This condition is basically left up to the SFO's varying interpretation of the definition of “heath and scrub”.

### ***5.14.1 Tree Roost Protection***

Of my analysis of 384 harvest plans in the northeast forestry region (attached), not one includes an exclusion for a bat tree roost. Given how common these trees should be, it is obvious that no one is looking for them. I realise that these trees are meant to be found in the mark up survey, but I would have thought that the fauna flora surveyors would have found some, it's obvious that this condition is not compatible with wood production and is being ignored.

**This condition must be strengthened, including techniques of identifying roost trees in the condition and Stag retention conditions being strengthened would be a start.**

### ***5.17 Ground Habitat Protection***

Despite being implemented on paper across the board this condition has little or no effect on the harvest area and is basically ignored on the ground.

**The wording should be changed to a “must” as this is an important condition for a lot of threatened species that do not have specific conditions.**

### **6.9.1 Large Forest Owls: Site Based Approach**

Of my analysis of 384 harvest plans in the northeast region the site based approach was not applied once and of the 247 times the landscape approach was applied it resulted in 4 actual exclusion zones on the ground.

**I would like to see more emphasis on the site based approach.**

### **6.11 Swift Parrot *Lathamus discolor*, Regent Honeyeater *Xanthomyza phrygia***

This condition is usually applied via condition 7 b) (in lieu of survey). In reality This condition seems to have no effect on harvest area at all. It's very hard to check compliance with this condition in the field.

### **6.13 Hastings River Mouse *Pseudomys oralis***

I am not happy about the wholesale mapping of HRM habitat in the NE region and subsequently changing of the IFOA to do it. (meanwhile the five yearly review was three years over due) this mapping should have been done via Condition 2. Of the TSL's General and Transitional provisions. b) on a case by case basis which was why this condition is included in the TSL.

I believe this changing of the IFOA purely for FNSW convenience was most likely illegal.

### **6.17 Yellow-bellied Glider *Petaurus australis***

In my analysis of 384 harvest plans in the northeast forestry region, not one 50m exclusion was applied, this is despite 80 feed trees being mapped.  
**This points to a deficiency in the surveys for this animal.**

## **Condition 7.**

**I believe this condition is open to manipulation by FNSW and should be scratched.**

This condition places too much emphasis habitat modeling which could be floored. I wouldn't be surprised to find a case where FNSW would, after surveying and finding a certain animal, that has too much impact on a harvest area, invoke condition 7 instead.

### **Condition 8. Pre-logging and pre-roading surveys**

I believe this is an area that should be watched closely by DECC as it is an area that is very open to manipulation by FNSW and as such should be exposed to rigorous regulation. **A regime of desktop analysis of the harvest plan and flora fauna survey information cross referenced with the NPWS atlas records data with field follow up, is the minimum that is required.**

I have already uncovered FNSW's, (shall we say) short cutting of the HRM and the non riparian frog survey requirements. So it's not like it doesn't happen

I site my analysis of 384 harvest plans as evidence that all the species below which are relatively wide spread in their distribution yet they are clearly underrepresented in "exclusion zone" the figures, **Therefore survey requirements for the following species should be strengthened.**

**Phyloria SPP**

**White crown snake**

**Pale headed snake**

**Koala**

**Micro bat roost trees**

**Bird nest and roost sites**

**Yellow bellied glider dens**

**All threatened plants.**

### **Modeled habitat.**

I am dubious about the accuracy of some of the modeled habitat and believe it is dangerous to rely on this solely when identifying areas to be surveyed especially with regard to identifying new populations or new species.

### **General compliance Issues with the TSL**

First I want to point out how, via statical manipulation FNSW achieve their 99.8% compliance.

4000 harvest inspection reports are completed which contain 87 “potential” breaches each. This sets the background figure so high that even if all the breaches were recorded properly and made it to the finale figure it would still have little effect.

I do not know how other government departments report their compliance and perhaps this is the usual way, but I would have thought that the regulator would be the one to report the figure?

As it stands at the moment two thirds of these 87 “potential breaches” are for the EPL which is not even an enforced license and others only relate to forestry codes of practice, hardly any relate to the TSL it self.

I cannot see why FNSW get to keep bandying about a figure that is basically a lie. Why doesn't the DECC release it's own compliance figures ?

This is aside from the issue of getting serious breaches recorded in the non-compliance register. I estimate that 50% of the breaches I report are not recorded or are miss-recorded in some way. This figure is due to a lax auditing of the breach register and documents by DECC. Ten years in to the IFOA and FNSW are still manipulating the form and content of the document called the “the Non-compliance register” despite it being described in the TSL from the beginning. I see this issue as integral to any attempt at regulation of the TSL.

**I am totally against self regulation by FNSW and believe it would be even more detrimental to the threatened species of NSW.**

That said unhappy with DECC regulation of the TSL. DECC seems to have a culture of apathetic negotiation when it comes to the enforcement of the TSL on

FNSW. Most of the time DECC personnel seem unsure of their position as the authority and regulators of the TSL and at times even give way to FNSW as the authority, on their own license! It seems DECC don't believe in their own laws.

This is an unhealthy state for a regulator to be in. perhaps this may stem from there being no physical penalties for breaches of the TSL (unlike the EPL). **Introducing a tit for tat (replacing destroyed habitat with habitat from the immediate or current harvest area) penalty system such as this for breaches of TSL would work on two levels in making FNSW more conscious of breaches (due to a real potential loss of revenue) and give the DECC compliance personnel a sense of achieving something positive rather than just a interdepartmental transfer of tax payers money.**

I thank you for giving me an opportunity to voice my opinion and hope you give it serious consideration.

Yours Faithfully

Matthew Sparks