

**Submission to
The Implementation Panel appointed to
advise the Government on the
Environment Conservation Council
Final Report – Box Ironbark Forests
and Woodlands Investigation**



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1. Introduction

Lawyers for Forests Inc (“LFF”) is an association of legal professionals working to promote the conservation and better management of Victoria’s native forests. LFF believes there should be no logging or other activities which detrimentally affect old growth and high conservation value forests.

LFF notes the Minister’s media release on Thursday November 22, 2001 that the Government has “agreed in principle to the Environment Conservation Council’s land tenure recommendations for new and expanded Box-Ironbark forests and woodlands parks and reserves in North Central and North East Victoria,” (“the ECC recommendations”).

LFF does not have the resources to undertake an assessment of whether the ECC recommendations sufficiently protect biodiversity. It relies on other environmental groups to undertake this work, and urges the Government to consider their submissions.

Whilst LFF does not necessarily agree that the ECC recommendations go far enough, LFF urges the Government to implement the ECC’s recommendations as they stand as a minimum, and as soon as possible.

LFF is concerned with the proposal to implement “transitional arrangements.” LFF asks the Government to ensure these transitional arrangements do not undermine the ECC recommendations.

2. Concerns

2.1 The Government should implement the ECC recommendations

LFF urges the Government to accept the ECC recommendations, as its minimum commitment to the preservation of Box Ironbark forests and woodlands.

The ECC is an independent panel constituted under the Environment Conservation Council Act, 1997, (the ECC Act”). Its report (building on the work of the Land Conservation Council) has been produced over the past five years. It has considered a wide range of submissions from a variety of stakeholders over this time, and as such LFF would be surprised if the Government did not adopt its recommendations, and/or introduced transitional measures which undermine its recommendations.

It is also imperative that the ECC’s recommendations be adopted to restore the faith of the public in the ECC and the results of the public consultation process, given the failure to establish marine parks in accordance with the ECC recommendations in its study into that proposal.

In carrying out the investigation into the Box Ironbark forests and woodlands, the ECC was required to have regard to those matters listed in section 20 of the ECC Act, and its terms of reference, including:

- The balanced use or development of public land or any flora, fauna or minerals on above or under that land or water flowing over that land; and
- The economic and social value of any existing or proposed development or use of the land and resources;
- The existence of and the need to conserve and protect any areas of ecological, historical, cultural or recreational value or areas of landscape significance.

The report considers each of the existing commercial uses of the land, and future commercial uses. There is no reason to believe that the ECC has failed to consider these commercial uses in preparing its report and considers that the increase in protected areas represents a balancing of interests. This is discussed further below.

2.2 Nature of the transitional arrangements

A moratorium should be placed on mineral exploration, mining, sawlog, post and eucalyptus oil production, apiculture and firewood collection, (“resource industries”) in the proposed new and extended National and State Parks, (“the new National and State Parks”) and on other activities in other reserves as appropriate pending the Government’s decision. It would be unfortunate if resource industries compromised ecological values of the new National and State parks and other reserves in the interim period between the date of the final ECC report and its implementation.

The ECC was fully aware of and considered the restrictions placed on activities in the various categories of reserves, when it made its recommendations. LFF’s research has shown that in many cases the management arrangements in place for a variety of different types of reserves are inadequate to fulfil the purposes of the reservation. In other cases, the controls on management are the absolute minimum possible to fulfil the purpose of the reservation. LFF understands and is very concerned that the Government is considering watering down the current management controls in certain reserves as part of ‘transitional arrangements’. Existing inadequacies would be further exacerbated if any exceptions to the management controls were created. Further, those reserves whose current controls are only marginally adequate would be likely to fall below the threshold of adequacy if they were undermined by reason of any ‘transitional arrangements’.

LFF believes that such exemptions would significantly undermine the ECC recommendations and would be irreconcilable with the Government’s commitment to accept the ECC recommendations “in principle.”

Unless there are existing licences in place that cannot be terminated, any transitional arrangements should not involve:

- Any of the resource industries being carried out in existing and the new National and State Parks, including mining under 100 metres. Further study is required to establish the effects of apiculture. Until this is done, and in the absence of any data establishing that its impact is minimal, apiculture warrants inclusion in the list of prohibited activities on the basis of the precautionary principle.

- Sawlog, post and eucalyptus oil production and firewood collection being carried out in any of the other reserves, including high conservation value State forests.
- Mining and mineral exploration in Regional Parks, Nature Conservation Reserves and State forests unless an appropriate independent Environmental Impact Assessment, (“EIA”) has been undertaken. (Refer to part 3 of this submission).

Where there are licences that permit resource industries to be undertaken which are inconsistent with the above principles:

- the Government should decline to renew them if this option is available under the terms of the licence, or
- seek to terminate them and provide assistance for the particular industry to relocate its activities to a low conservation value State Forest or appropriately managed plantation; or
- at a minimum, seek to change the existing licence conditions to ensure minimal environmental impact from the activity in question

LFF understands some industries will be affected if the ECC recommendations are implemented. However the number of job losses is few.

The Midas Consulting report appended to the ECC report, (“the Midas report”) estimates the job losses in the resource industries at 44 in the worst case scenario, excluding any job losses in the mining industry, for which no figure is given. The ECC in its final report estimates the job losses in the timber industry at 30. The number of **net** full time equivalent job losses is estimated at 14. However this does not take into account any job increases that may occur as a result of increased tourism to the new reserves.

It should be possible to accommodate those industries or individuals who are affected, by appropriate government assistance. Possibilities exist to utilise the Victorian Funding under the Forest Industry Structural Adjustment Strategy Package. If this is not available, then alternative funding should be provided, so that foresters are treated equitably in comparison with foresters affected under the RFA process.

Opportunities exist to relocate appropriately controlled resource industries to low conservation value State Forests. (And in the latter regard, LFF notes that the lowly protected State Forests make up the highest proportion of all the reserves – at 28.2%). Opportunities also exist for some of the resource industries to move to appropriately managed plantations, and in the long term, these opportunities should be taken.

LFF also notes the Midas report cost benefit analysis, and the Read Sturgess and Associates report, (“the Read report”) attached to the draft ECC report. Both indicate that there is a net economic benefit to the State of Victoria if the ECC recommendations are implemented. Even, in the case of the Read report where no economic benefit is assigned to the retention of ecological diversity. And, in the case of the Midas report, if the dollar value allowance for the maintenance of ecological diversity is removed, and on the worst case scenario.

Neither report addresses the number of jobs that would be created as a result of the flow on effects from increased tourism. It is submitted that the actual job losses identified in the Midas report (at p.17) will be more than offset by job increases in these areas.

LFF also believes the ECC report does not address alternative job opportunities in sufficient detail - in particular given the net economic benefit to the State if the ECC recommendations are adopted. Opportunities exist and LFF urges the implementation panel to focus on this aspect.

2.3 Other issues

LFF has a number of other submissions to make. They are:

- LFF notes the proposal at pp.60-61 of the Report, that mining be permitted in the new national and state parks, within current exploration licences, or renewed mining licences, and in some case, if below 100 metres. LFF does not support this proposal. It is contrary to the intent in establishing such parks. If the government does elect to support the proposal, then, in the case of mining, mandatory non – proponent based EIA should be undertaken. The Environment Effects Act 1978 and the procedures made under them should be amended to ensure this occurs.
- The ECC report recommends that timber harvesting is not permitted in Regional Parks (and presumably also in Nature Conservation Reserves and Natural Features Reserves). LFF notes that such reserves are created under the Crown Land (Reserves) Act 1978, (“the CL(R) Act”) and that a reservation under the CL(R) Act does not necessarily prevent such activities from occurring. LFF notes the obligation in the CL(R) Act to manage the reserved areas for the purposes for which they were reserved and would submit that this obligation necessarily prevents logging and other activities which may have a detrimental effect on conservation. Nevertheless, LFF submits that the legislation should provide more certainty for all parties and explicitly state that such activities are prohibited in areas set aside for conservation purposes. Appropriately drafted Regulations with third party standing provisions inserted into the Act would be an appropriate response to LFF’s concerns.
- LFF supports the retention of large trees in State forests, and notes the ECC recommendation that any thinning should be ecologically driven rather than timber industry driven.
- Although not the subject of the review, LFF believes the legislation generally as it applies to state forest management should be reviewed. It is wrong to consider other categories of reserves apart from National and State Parks as protected when various activities which have detrimental environmental impacts are permitted in them. Further, it has been LFF’s experience that, even if an area is ostensibly set aside for conservation, activities can be permitted at the stroke of a pen and without public consultation. The current Departmental guidelines which set out consultation requirements are of little use if they are not adhered to and not able to be properly enforced. The public has lost faith in the Department of Natural

Resources and Environment through such 'administrative discretions'. Legislation is needed to ensure that Departmental Officers are not given such wide ranging discretions, especially discretions to exclude public consultation on issues which affect threatened species and important ecosystems. Transparency and accountability are essential in order to regain public confidence. LFF would be happy to talk to the Implementation Panel about these issues and to provide a range of examples to demonstrate the points made in this paragraph.

- LFF supports the proposals to investigate joint management initiatives with Aborigines, provided appropriate controls on resource industries remain in place.
- Controls on logging should be the subject of a separate review. LFF believes the current controls are inadequate.

Lucy Turner

President

Lawyers for Forests

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