

Petition to the Secretariat of the Convention on Biological Diversity.

June 2014.

PROTECT THE LAWS THAT PROTECT THE PLACES YOU LOVE

AUSTRALIAN CONSERVATION FOUNDATION

Environmental Justice Australia

LAWYERS for FORESTS

Environment East Gippsland inc

WAFA Western Australian Forest Alliance

myenvironment

Dandenong Ranges National Park



The undersigned Australian organisations ask the Secretariat of the Convention on Biological Diversity (CBD) to:

a. provide a copy of this petition to the Science, Assessment and Monitoring Division of the Secretariat, for the Division to consider when assessing Australia's National Report;

b. prepare a report on Australia's compliance with its obligations under the Convention, specifically with respect to Article 8 (k) and (d);

c. provide this report to the 5th meeting of the Working Group on Review of Implementation in June 2014 and to the 12th Conference of Parties in October 2014;

d. request the Australian government to carry out a detailed audit of its compliance with the Convention through the Australian National Audit Office before taking any action to renew Regional Forest Agreements or to give states the power to approve actions under the Environment Protection and Biodiversity Conservation Act 1999.



AUSTRALIAN CONSERVATION FOUNDATION

ACF stands for ecological sustainability. We work for lasting social and economic change so all Australians can enjoy a healthy environment.

Environment East Gippsland Inc

Environment East Gippsland is a community group working solely for the protection of Victoria's last and largest area of ancient forest, surrounding natural environment and wildlife.

gji

The Green Institute is a green-minded think tank.

PROTECT THE LAWS THAT PROTECT THE PLACES YOU LOVE

Places You Love is an alliance of 42 environment organisations and groups dedicated to protecting the laws that protect nature.

Environmental Justice Australia

Environmental Justice Australia are nature's lawyers, using the law to protect and restore Australia's environment.

LAWYERS for FORESTS

Lawyers for Forests are legal professionals working to protect and conserve Australia's remaining native forests.

WAFA
WESTERN AUSTRALIAN FOREST ALLIANCE

The Western Australian Forest Alliance is an alliance of 20 groups dedicated to the protection of Western Australia's native forests and woodlands.

myenvironment

My Environment brings people and ideas together for the conservation of Australia's natural places through science, law, design and the community



Leadbeater's Possum

(Gymnobelideus leadbeateri)

Petition

1. Australia signed the Convention on Biological Diversity (CBD) on 5 June 1992 and ratified it on 18 June 1993.

2. The over-arching objective of the Convention is the conservation of biological diversity and the sustainable use of its components. In other words, the key objective of the Convention is to protect ecosystems and the biodiversity of ecosystems from decline over the long term.

Legal regimes in Australia

3. Regulation and management of Australia's environment occurs within a federal political structure where matters for which Australia has obligations under international law, known as 'matters of national environmental significance', are the responsibility of the Australian government. These matters of national environmental significance are regulated through the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). The EPBC Act applies to all actions that have a significant impact on biodiversity, so that, theoretically, the Australian government can ensure that it acts consistently with its obligations under the CBD. Australia's eight States and Territories have responsibility for all remaining aspects of environmental law and regulation.

4. Native forest logging is effectively exempted from the EPBC Act and is instead governed by separate, purpose-built provisions that accredit State forest management and decision-making processes for the purposes of the EPBC Act. These Regional Forest Agreements (RFAs) remove the power of the Australian government to protect biodiversity in native forests subject to logging. The accreditation is based on environmental impact assessments done when RFAs were first agreed between 1997 and 2001. There is no requirement to update the RFAs on the basis of new information, even if there is evidence of serious decline in the health of a species. The RFAs have been in place for 15 years.

5. There is strong evidence that the level of protection for forest biodiversity delivered under the purpose-built RFA forestry regime is of a lower standard than if the EPBC Act applied directly. This evidence comes from detailed examination of court cases, annual reports, audits and reviews presented in the One Stop Chop report (attached). The report attributes the failure of the RFA regimes to protect biodiversity to States' refusal to properly implement and ensure compliance with biodiversity protection measures.

6. The One Stop Chop report shows that the failure to meet standards is intrinsic to the devolution of control over matters of national environmental significance, including biodiversity, from the Australian government to the States. It cannot be addressed by differently wording the RFAs or strengthening the States' obligations.

7. There is evidence that, as a result of the RFAs, native forest logging is having an unacceptable impact on biodiversity in Australia's native forests, and that biodiversity within native forests is in decline. Some examples are given in the attached statements by scientists.

8. The EPBC Act itself has also failed to halt serious biodiversity decline since its inception in 2000. This failure is detailed in successive National Reports under the CBD. Australia's recently submitted 5th National Report says: "in general, population size, geographic range and genetic diversity are decreasing in a wide range of species across all groups of plants, animals and other forms of life". (p.2)

9. The Australian government is implementing a new One Stop Shop system under the EPBC Act to 'streamline' environmental assessment and approvals. It is intended to apply to the widest possible range of ecosystem types and activities. It would operate in a similar way to the RFA regime which governs native forest logging by accrediting State and Territory processes for environmental decision-making and removing the requirement for Australian government approval. Additional proposed amendments, currently before the parliament, would allow the States and Territories in turn to delegate their decision-making power to any authorised person or organisation.

10. The Australian government plans to implement the One Stop Shop system by the end of 2014. If this happens, it will further weaken Australia's biodiversity protection and cause irreversible damage to Australia's iconic wildlife and environments. A letter signed by 29 legal professionals strongly supports this conclusion (attached).

Our Submission

11. We submit that Australia, through the RFA regime and the proposal to devolve almost all powers and accountabilities under the EPBC Act to the States and Territories, is acting contrary to the CBD. Specifically, Australia is acting inconsistently with the following provisions of the CBD:

    a. (Article 8(k) of the CBD, by not maintaining necessary legislation and other regulatory provisions for the protection of threatened species in forests specifically, and potentially in the country as a whole.

    b. As a direct consequence of acting inconsistently with Article 8(k), ecosystems are being destroyed and species placed at risk of extinction. This is contrary to Article 8(d) and to the over-arching objective of the Convention (Article 1) and makes it highly unlikely that Australia can meet the Aichi targets to which it has committed.

    c. Article 10 (b), because the RFAs and the proposal to devolve powers to the states do not genuinely constitute measures relating to the use of biological resources that avoid or minimize adverse impacts on biological diversity;

    d. Article 14 (a), because the environmental impact assessment under the RFAs is not appropriate, in that the significant impacts of native forest logging are not properly assessed on an ongoing basis and consideration of new information and public participation only meaningfully occurs once every 20 years.

    e. In addition, the RFA regime and the proposal to devolve powers to the states are inconsistent with the overall objectives of the CBD, discussed in paragraph 2, above.

12. In addition, and perhaps most crucially, the Australian government is effectively giving away its powers to ensure that its obligations under the CBD are complied with. States and Territories have no obligations under international law. The proposal to devolve the powers and responsibilities under the EPBC Act makes it legally and politically difficult for the Australian Government to reclaim its powers from the States, in the event that the states are not implementing Australia's CBD obligations. This offends reaffirmations about responsibility made by Australia when the CBD was signed.

13. Australia hosts between 7 and 10% of all species on Earth. If, as a developed country party to the CBD, it can ignore its obligations under the Convention, the Convention itself is brought into disrepute.

14. Australia submitted its 5th National Report on 9 May 2014, four days before a new budget was announced that made substantial cuts to biodiversity funding. Contrary to the Guidelines, there was no broad-based consultation with stakeholders and the community in preparing the Report (brief Comments on the Report are attached).

Mechanisms for reviewing implementation of the Convention

15. The Secretariat supports the implementation of the Convention, including by compiling national reports on compliance by domestic authorities. Such reports and information are transmitted to the Conference of Parties.

16. In 2004, recognising the need for a mechanism to review implementation of the Convention, the Conference of Parties established the Ad Hoc Open-ended Working Group on Review of Implementation of the Convention (WGRI). The WGRI will hold its 5th meeting in June 2014 in Montreal.

17. The need for stronger auditing of compliance with multilateral environmental agreements has been recognised. In September 2013, UNEP and the International Organisation of Supreme Audit Institutions (INTOSAI) Working Group on Environmental Auditing (WGEA) signed an MOU to track progress in implementing multilateral environmental agreements covering issues including biodiversity.

18. Australia's Supreme Audit Institution, the Australian National Audit Office, has never explicitly audited Australia's compliance with the Biodiversity Convention.

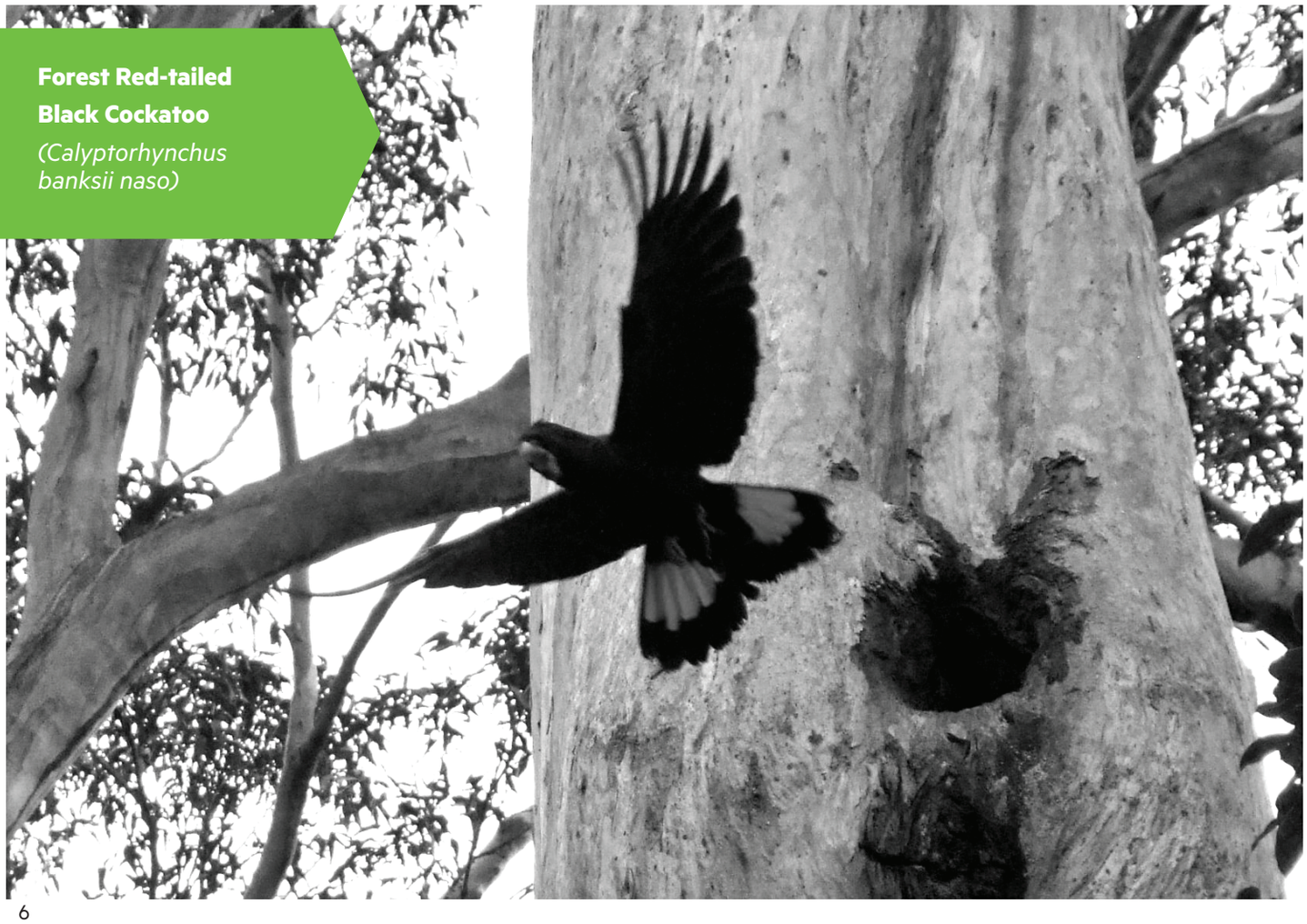


Spotted Tree Frog
(Litoria spenceri)

Numbat
(Myrmecobius fasciatus)



Forest Red-tailed Black Cockatoo
(Calyptorhynchus banksii naso)



Urgency

19. Regional Forest Agreements are reaching the end of their 20-year life with the first due for renewal in 2017.
20. The One Stop Shop system is planned to take effect in some States from as early as June 2014.
21. By the end of 2014, the States and Territories will be responsible, under Australia's national environment law, for almost all assessments and approvals of projects and activities likely to have a significant impact on biodiversity including nationally listed threatened species, migratory species, Ramsar-listed wetlands and World Heritage.
22. Through these measures Australia has failed to meet its obligations under the Biodiversity Convention and is deliberately weakening the already inadequate protection provided by its national biodiversity law.

More information:

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The full text of the petition is available at: http://envirojustice.org.au/

Toorongo River,
Toorongo River Reserve



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Forest Red-tailed Black Cockatoo
(Calyptorhynchus banksii naso)
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(Myrmecobius fasciatus)
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(Varanus varius)
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Spot-tailed Quoll with pup
(Setonix brachyurus)
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Leadbeater's Possum
(Gymnobelideus leadbeateri)
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Spotted tree frog
(Litoria spenceri)
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(Calyptorhynchus banksii naso)
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Dandenong Ranges National Park
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Spot-tailed Quoll

(Setonix brachyurus)



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