

12 March 2021

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AFPA submission on the Australian Charities and Not-for-profits Commission Amendment (2021 Measures No. 2) Regulations 2021 Exposure Draft

About AFPA

AFPA is the peak national advocacy organisation representing the Australian forest, wood and paper products industry's interests to governments, the general public and other stakeholders on matters relating to the sustainable development and use of Australia's forests and associated manufacturing and marketing of wood and paper products in Australia.

The forest, wood and paper products sector is one of Australia's largest manufacturing industries with an annual turnover of approximately \$24 billion. Around 120,000 people are directly employed along the industry value chain with a further 180,000 jobs supported through flow-on economic activity. It contributes around 0.6% to Australia's gross domestic product and 6.7% of manufacturing output.

AFPA respects the right of any individual to engage in lawful, peaceful protests and make their views known. However, this activity should not disrupt another Australian's legitimate work, which is being carried out in a sustainable and legal manner. All Australians have the right to go to work without fear of being intimidated, harassed, or have their safety compromised, and forestry workers deserve to have this right protected under law.

Overview

AFPA supports the Federal Government's proposed reforms to the *Australian Charities and Not-for-profits Commission* regulations that are aimed at deterring extremist activist groups that receive the benefits of being a registered charity from conducting and/or inciting criminal activities.

Forestry operations are regular targets for such illegal activities that cost the industry millions of dollars a year in disruptions to operations, and cause considerable distress to forestry workers who are often intimidated, threatened and harassed by protestors in the

course of their jobs. Such aggressive conduct would not be tolerated in any other workplace, and forestry workers should be protected by law from such predatory conduct. AFPA commends the Federal Government for recognising that this conduct is unacceptable and a fundamental breach of the privileges that are rightly afforded to genuine charities that do essential work in our community.

AFPA agrees with Assistant Treasurer Michael Sukkar who said that the promotion and condoning of illegal activity diminishes Australians' trust in the charities sector and puts workers' jobs at risk.

"There is nothing charitable about assault, late night break ins, threatening behaviour and illegal blockades.

"Australians subsidise charities through tax concessions, with the expectation that donated money goes to charitable works, not the promotion of and participation in criminal activities."¹

Furthermore, the sorts of illegal protests that these activist groups incite and facilitate also pose a considerable occupational health and safety risk to themselves and forestry workers, who are often operating hazardous machinery.

Proposed reforms could curb illegal anti-forestry protests by extremist activists

Australia's sustainably-managed native forestry sector has been a longstanding target for environmental activists.

In the past two years, we have seen the prevalence and brazenness of these illegal protests intensify, as the attached case studies demonstrate. In one particularly disturbing example, large metal bolts were embedded and concealed in trees planned for harvest, with the intention of breaking the machinery of the timber mill the logs were destined for. This posed a significant risk for the lives of mill workers, though fortunately the bolts were discovered before the logs went through the mill.

In another example, at the height of Victoria's COVID-19 lockdown last year, protestors flouted travel restrictions to trespass on to planned timber harvesting sites yet faced no legal sanctions.

These illegal activities are often coordinated or encouraged by organisations registered with the Commission but whose activities fall well short of the community expectations for a charity. AFPA notes that Assistant Minister for Forestry and Fisheries Jonathon Duniam, in supporting these amendments, cited the Bob Brown Foundation as an example of an organisation whose illegal activities could be captured by the proposed reforms.²

¹ Assistant Treasurer Michael Sukkar and Member for Barndon Gavin Pearce MP media release, 9 March 2021

² The Examiner, 5 March 2021 <https://www.examiner.com.au/story/7155178/mp-backs-changes-to-governance-standards-for-charities/?cs=95>

As shown in the attached case studies, Bob Brown Foundation is a serial and serious offender, though by no means alone in the extremist environment movement.

Furthermore, it is evident that while the conduct of BBF activists (including the organisation's namesake) is already prohibited by Tasmania's criminal laws, these are not a sufficient deterrent. In December, Bob Brown was arrested twice in two days yet seemingly has avoided prosecution, and his organisation's illegal conduct continues unabated.

AFPA believes that the threat of de-registration of the organisation would add a significant deterrent, as these organisations derive considerable financial and regulatory benefits by being registered as a charity. According to the BBF's latest financial statement lodged with the ACNC, it reported an annual income of almost \$1.8 million in 2019-20³, most of which was from donations that are tax deductible as a result of their charitable status. Similarly, The Wilderness Society, another registered charity that condones and arguably incites illegal protests, reported an annual income of over \$12 million last year, 93 per cent of which came from donations and bequests.⁴

Extending governance standard three to include certain summary offences

For the reasons outlined above, AFPA supports this provision. It is evident that under the current ACNC framework there is a range of illegal activities engaged in by these organisations that are not indictable offences and thus avoid scrutiny under the existing ACNC regulations.

Importantly, the Explanatory Statement makes it very clear that this provision does not apply to minor summary offences by an individual – such as a traffic infringement – that do not reflect on the charity's conduct. Rather, the Explanatory Statement provides reasonable examples (malicious damage, unlawful gathering, common assault or threatening violence) which would be regarded by the community as serious offences that charities should not be condoning or engaging in. This is a common-sense reform that is appropriately targeted at systemic, serious misconduct by organisations.

Extending governance standard three to include promoting unlawful activities

AFPA believes this is an important reform that addresses a gap in the existing framework governing ACNC-registered charities. The organisational structure of many activist groups is that they are largely volunteer-based and rely on a handful of paid employees to mobilise volunteers to engage in protest activity.

In some (or most) cases, none of the people involved in the illegal activities are officially engaged by the organisation, and despite inciting and facilitating illegal activity (the BBF, for example, provides training for its volunteers on various aspects of protesting, including illegal activities such as trespassing)⁵ the organisation itself is never held accountable.

³ <https://www.acnc.gov.au/charity/da29d1f3aaf18e80e82aa896241b6fd6#financials-documents>

⁴ <https://www.acnc.gov.au/charity/b2a7000c44bb9c2aea42f87ec166be8a>

⁵ <https://www.bobbrown.org.au/calendar>

By extending the operation of this section to include the promotion or supporting of acts or omissions by its entities (including volunteers), these reforms have the potential to curtail the sorts of activities outlined above and in the attached examples.

Existing legal framework is inadequate

AFPA supports state and federal action to review and strengthen trespass laws and procedures for enforcement. Legislative frameworks should protect primary industries from the unacceptable trespass of property, intimidation and harassment by activists. There must be real consequences for these actions, to reflect the seriousness of the crime and provide a genuine deterrent.

The ongoing disruptions to forestry operations highlights the inadequacy of existing laws and their interpretation by law enforcement agencies and the courts. It is clear they are not an effective deterrent to unlawful protests. While state and territory governments have laws in place to render trespassing of forestry operations unlawful, they are often not enforced in a timely way, and do not result in prosecutions.

By introducing serious consequences for organisations that misuse their charity status, these reforms send a strong message to those who would seek to incite or engage in illegal conduct.

In addition to the deterrent factor, we hope these reforms will create increased awareness amongst law enforcement agencies and the court system of the growing and serious impact of these incidents on our primary industries.

AFPA urges the Government to implement these reforms as a priority, and to investigate further reforms that will provide similar protections from non-charity organisations and individuals who engage in this conduct.

If you require any further information please contact AFPA Deputy CEO Victor Violante at victor.violante@ausfpa.com.au

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ross Hampton', with a long horizontal flourish extending to the right.

Mr Ross Hampton
Chief Executive Officer

The Sydney Morning Herald

ENVIRONMENT CONSERVATION BIODIVERSITY

Protesters halt logging across the state

By [Miki Perkins](#)

June 9, 2020 – 5.53pm



9 [View all comments](#)

Protesters shut down seven logging coupes across Victoria on Tuesday as environmentalists and community members called for an end to native-forest logging.

Protesters used tactics including tree-sits, locking onto machinery and walking into logging coupes to halt logging at Mount Cole, Baw Baw, Toolangi, Big Pats Creek, Camberville, Lakes Entrance and Noojee.

State government logging agency VicForests said it respected the right to protest but was concerned for the safety of its staff and contractors.



Protesters at Big Pats coupe near Warburton.

Protesters stopped a total of 41 contractors from working, at a loss of \$8000 a day per coupe, a spokesperson said.

"We ask that protesters do not enter active coupes where heavy machinery operates and put themselves and our workers in harm's way."

The forest protests place increasing pressure on VicForests, which lost a landmark court case last month when the Federal Court found it had unlawfully logged areas of critically endangered possum habitat.

The decision sets a legal precedent in applying federal threatened species protection laws to the logging industry in Victoria, which for more than 20 years has operated under a special exemption. And it is expected to prompt similar court challenges from environmental groups.

Some logging at Big Pats Creek, near Warburton, east of Melbourne, is now halted after a Supreme Court challenge on Tuesday afternoon granted environment group Warburton Environment, represented by barrister Jonathan Korman, a temporary two-week injunction.

The injunction orders a 20-metre border be left along a road, and around a stand of rare trees.

Spokesperson Nic Fox said local environmentalists had been protesting at the coupe for five weeks to highlight native forest logging.

"In a climate emergency, we feel it's time to transition [into plantation logging] and protect what native forests we have left," he said.



A protester sits in a tree at Noojee.

Two nearby coupes that were earmarked for logging are already temporarily protected by a Supreme Court injunction granted to the volunteer organisation Wildlife of the Central Highlands.

Last November Premier Daniel Andrews announced the logging of old-growth forest would end immediately, and native-timber harvesting would be "phased down" before ending completely in a decade.

Protester Sarah Day walked into a logging coupe at Mount Cole, in Victoria's west near Ararat. She said the forested mountain was an important refuge for over 20 species of threatened flora and fauna in a heavily cleared region of the state.

The state government's own environment assessment council has called for some sections of Mount Cole State Park to be reclassified as a national park. The government was due to make a decision in February but is yet to respond to the recommendation.

A government spokesperson said it would do so later in the year as a result of delays caused by the coronavirus and the bushfires.

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Miki Perkins



Miki Perkins is a senior journalist and Environment Reporter at The Age.

Bob Brown arrested twice in Tas protests

Ethan James  Published: Wednesday, 16 December 2020 1:08 PM



Former Greens leader Bob Brown has again been arrested at a logging protest in northeast Tasmania. Credit: AAP

Former Greens leader Bob Brown has been arrested for the second time in two days while protesting against logging in northeast Tasmania.

The former senator and two other activists were taken into custody by police on Wednesday, the Bob Brown Foundation said in a statement.

The Eastern Tiers forest is home to the critically endangered swift parrot, with fewer than 300 remaining in Australia, according to a recent study.

Dr Brown was arrested on Tuesday in the same area and accused of trespassing.

He has been granted bail and will appear in Hobart Magistrates Court in March, the foundation says.

"I slept out last night under a logging bulldozer which had invaded the Lost Falls forest," the 75-year-old said.

"We saw owls and I heard one of the 300 remaining swift parrots.

"It was rainy with temperatures down towards zero, but we were content just to know the swift parrot habitat destruction was slowed by us being there."

Dr Brown has taken state-owned logging group Sustainable Timber Tasmania, and the state and federal governments, to the Federal Court over forestry agreements his foundation claims are unlawful.

The full Federal Court hearing in Melbourne is examining whether Tasmania's 20-year regional forest agreement, renewed in 2017, is invalid.

The judges have reserved their decision.

Three years ago, Dr. Brown won a High Court bid to overturn Tasmania's anti-protest laws he labelled as draconian.

9 Discounts Seniors Get Only If They Know

Three to face court after protest at controversial mine site

HELEN KEMPTON and JACK EVANS

TWO people have been arrested and a third will face court after a protest at the Riley Creek Mine near Tullah on Tuesday morning.

According to Tasmania Police, 12 protesters were on scene and the majority followed a police direction to move on.

Police allege two men locked themselves on to a gate and a loader

and were removed by police Search and Rescue.

The Bob Brown Foundation organised the protest at the Riley Creek mine lease, saying takayna/Tarkine needs to be handed back to the Aboriginal community rather than given to miners and loggers.

Venture Minerals recently announced that it was seeking finance for wet screening operations at the site and CEO Andrew Radonjic re-

cently expressed his frustration at the protest activities.

Mr Radonjic said the development of the mine had a low environmental impact, would create 100 jobs and inject about \$100m into the Tasmanian economy in the next two years.

But BBF campaigner Scott Jordan said anyone considering financing the mine should back away.

"Members of the community will

continue to stand up in defence of the natural and heritage values of the area," Mr Jordan said.

A 30-year-old Glen Huon man and 19-year-old Tinderbox woman were arrested and charged on trespass-related matters. Both will appear in the Hobart Magistrates Court at a later date. A 26-year-old Blackstone Heights man arrested and charged with trespass will appear Launceston Magistrates Court.



**A protester at the Riley Mine.
Picture: Bob Brown Foundation**

VICTORIA


Protesters scour forests for possums to lock out loggers

Timber workers are being locked out of logging coupes on the back of possum sightings by activists who are illegally scouring the bush. *The Weekly Times* has photographic evidence of unlawful campsites.

PETER HUNT, The Weekly Times

 Subscriber only | April 29, 2020 12:00am



 Protest camp: Logging protesters camping at Mt Beenak despite the coronavirus ban.

VICTORIAN Government bureaucrats are locking timber workers out of logging coupes on the back of Leadbeater's possum sightings by green activists illegally scouring the bush in search of the endangered species in the midst of coronavirus lockdowns.

Loggers say protesters are flouting restrictions by driving through the bush in the middle of the night in a bid to identify possums on coupes, photograph their finds and email the images with GPS locations to the Department of Environment, Land, Water and Planning.

ANC Forestry SAID it was locked out of a coupe it was about to harvest on Monday April 19, after DELWP bureaucrats notified VicForests it had just received a possum sighting the previous night.

ANC managing director Daryl Hutton said he was puzzled to learn that while the Timber Harvest Release Plan, identifying his and many other coupes, had been made public, the date on which he was about to log the site was not.

"DELWP notified VicForests (of the sighting) the next morning and we were stood down instantly," Mr Hutton said. "We waited while they measured (in a radius of) 200m from the tree – and just like that 12ha was gone."

When a possum is sighted DELWP places a 200m logging exclusion zone around what it assumes is a colony.

ANC was forced to abandon the Upper Thomson coupe as the exclusion zone took in the landing the firm had built at a cost of \$15,000 to load logs.

"Our crews have only been able to work two weeks out of the last six, because of sightings and court injunctions," Mr Hutton said. "It's starting to affect our mental health."

"They (activists) should be prosecuted because they have no right to be there, in someone else's workplace. They are a law unto themselves."



Cartoon: Chris Rule



Is the Leadbeater's possum sighting process fair?

Yes

No

Cast your vote

Environment Minister Lily D'Ambrosio appears to have ignored the illegality of the protesters sighting in the midst of coronavirus lockdowns telling *The Weekly Times*: “The critically endangered Leadbeater’s possum is a protected species and therefore any sighting in a logging coupe or otherwise must be investigated and acted upon if verified”.

Last week logging protesters were found camping in the bush near Powelltown, but were let off with a warning by police after claiming they were homeless.

Timber contractor Brett Robin said he was furious the core group of seven protesters, who had been invading his and other coupes, could talk their way out of a fine for breaching Victoria’s coronavirus ban on camping.

“One of the blokes, who was doing some felling for us, saw them and took some photos for us on Monday morning, when they were still asleep in their camp,” Mr Robin said. “So we put the cops onto them, who went up there (Mt Beenak), that afternoon.

“The cops told us they’d (the protesters) claimed they were homeless, (yet) they had registered cars and two had addresses in Melbourne. Some were from overseas, backpackers.

“To tell the police they were homeless was disgusting. “Why can’t they fine them, especially when they (recently) fined a couple of hunting parties about \$27,000, who were doing the wrong thing.”

Mr Robin said the protesters were well known by local loggers in the area.

While the protesters had recently stopped coming on to work sites and disrupting logging, Mr Robin said they were now trying to spot Leadbeater’s possums at night.

“How is it they can drive around at night like this?” Mr Robin said. “It’s not essential work.”

Fellow logger Brad Myer said he’d had lost four days of work, due to protesters invading his coupes over two weeks earlier this month.

“It was a coupe at Narbethong and was quite intimidating when they came in wearing masks and dressed up in army greens,” Mr Myer said.


MORE

[PROTESTERS PSYCHOLOGICAL GAMES DEVASTATE WORKERS](#)

[VICFORESTS PLAYING POSSUM AS MORE COLONIES FOUND](#)

[BLEAK FUTURE FOR FORKERS WITH NATIVE LOGGING TO END IN 2030](#)



 Logging protesters camping at Mt Beenak despite the coronavirus ban.



📷 Logging protesters camping at Mt Beenak despite the coronavirus ban.

NEWS

Bolt driven into log discovered in Tasmanian mill

A potentially fatal logging sabotage has angered a Tasmanian mill, with environmentalists denying any wrongdoing and calling for a police investigation. SEE THE PHOTOS

NAVARONE FARRELL, Mercury

 Subscriber only | May 20, 2020 9:25pm

A TASMANIAN environmental foundation is denying any wrongdoing after potentially fatal bolts were allegedly discovered driven into logs at two Tasmanian logging mills.

Karanja Timbers has alleged two bolts were driven into logs from the Wentworth coupe, where environmentalists protested earlier this year.

The company said the bolts broke a saw which will cost \$3000 to replace, and said it could have been fatal to the three workers nearby.

“Must give them credit though after hammering the bolt in they plugged the hole with silicone (keep the bugs out),” the post reads.

“Doing the right thing I rang another mill (McKay Sawmill, Bridgewater) that received the load before me to warn them only to be told that they had just hit the second one for the day and still had half a load left which they like us refused to cut any more.”

Karanja Timber then took aim at the Greens and the Bob Brown Foundation, asking if they “condone this sort of action”.



MORE NEWS:

• • • Labor has also weighed in, saying the discovery was a concerning development that must be condemned by activists and the Greens.

Labor's resources spokesman Shane Broad said while police investigations must not be pre-empted, there was no place for such dangerous tactics in Tasmania.

“The spikes discovered at these two mills not only destroyed the saws and impacted production, but they could have resulted in a worker being injured or even killed. It’s just extremely fortunate that no one was hurt,” he said.

“While there is always a place for political dissent, there is never a place for putting lives at risk, and forest industry workers must be free to go about their lawful work safely.”



A bolt that had allegedly been hammered into a log that was sent to a sawmill. Picture: Facebook/Karanja timbers

 **Karanja timbers** on Tuesday 

For many years now more or less stayed out of the forest wars don't get me wrong I don't agree with the green agenda but I do respect people's right to peacefully protest But today I think the green movement has finally hit lowest of lows this morning we received a load of logs from the the Wentworth coupe the site of recent protests the first cut of the first log we hit a bolt that had been hammered into it (destroying a \$3000 dollar saw) must give them credit though a... [See more](#)



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Terry Edwards, chief executive of the Forrest Industries Association of Tasmania, told ABC Radio this morning the “extremely dangerous” practice has been part of the environmental activists’ handbook “for a long, long time”.

“It really, really is dangerous and could quite easily kill someone,” he said.

Mr Edwards said the bolts halt production and could damage the tips of the saws, causing them to fly off and “rip through” a human body.

He also said the bolts were not there by accident and had been placed recently.

Australian Forest Products Association chief executive Ross Hampton has also forgone a police investigation, blaming Tasmanian “eco-warriors” for the potentially deadly sabotage.

He claims protesters routinely invade timber harvesting sites in Tasmania, Victoria and New South Wales, in breach of COVID-19 restrictions and trespassing laws.

“While the rest of the country heeds the COVID-19 advice and stays home – at enormous social and economic cost to themselves and their community – activists are flouting the law by trespassing in forestry work sites, and

threatening to undo the efforts of millions of Australians and endangering the lives of workers and themselves,” he said.

“We all should be outraged by this selfish conduct.”



Jenny Weber from The Bob Brown foundation speaking at a Tarkine protest. Picture: RICHARD JUPE


The Bob Brown Foundation has called for a police investigation, with campaign manager Jenny Weber saying they were set up.


“Our Foundation has no knowledge of or involvement in this alleged incident. We are always non-violent in our defence of the forests and have been all our lives,” she said.

“We are calling for a full and thorough police inquiry, including into the logging companies and any workers that may have been involved in this incident. This is a set-up.

“There have been similar previous claims but all turned out to be hoaxes.

“The most recent was when premier [Lara] Giddings had to apologise to me and fellow forest defenders in 2012 after accusing us of using tree spiking as a tactic in our campaign against native forest logging.”

 **Bob Brown Foundation**
21 hours ago



Bob Brown Foundation has called for a police investigation into the bolt allegedly found in a log at a Tasmanian logging mill.

“Our Foundation has no knowledge of or involvement in this alleged incident. We are always non-violent in our defence of the forests and have been all our lives,” Bob Brown Foundation’s Campaign Manager Jenny Weber said.

“We are calling for a full and thorough police enquiry, including into the logging companies and any workers that may have been invo... [See more](#)

255 25 62

Greens leader Cassy O’Connor has backed the Bob Brown Foundation and said the last time tree spiking occurred in Tasmania, the culprit was a disgruntled logging worker.

“The Tasmanian conservation movement has a long and proud history of peaceful protest. It has never resorted to tree spiking,” Ms O’Connor said.

“We are highly suspicious that this is another attempt to blame and demonise people who are standing against forest destruction.

“The last time tree spiking was alleged, in 2012, it was found to be the work of a disgruntled industry worker.

“Then premier, Lara Giddings, who jumped readily on the blame bandwagon was subsequently forced to apologise to conservationists.”