

The case for cancelling the ‘zombie’ West Regional Forest Agreement

Set to formally expire on the 31st March 2020

Otways Ranges Environment Network (OREN)



Introduction

Between 1999 and 2002, a bitter campaign of opposition was waged by local community and environmental groups based in South Western Victorian in opposition to clearfell logging of bio-diverse native forests for woodchips and sawlogs on public land in Otway Ranges. During this time the State and Federal Government signed the West Regional Forest Agreement (West RFA) that sought to legitimatise on-going clearfell logging of bio-diverse Otway native forest on public land for woodchips and sawlogs until the years 2020.

On the 6th November 2002 during the 2002 Victorian State election campaign the then Premier of Victoria Steve Bracks travelled to Triplet Falls in the Otway Ranges and announced that if the ALP Government was re-elected they would effectively cancel the West RFA it had signed less than three years earlier. Instead, in its place, new environmental policies were announced to create the Great Otway National Park and make clearfell logging for woodchips on public land in the Otway Ranges illegal by 2008. The West RFA was effectively killed off on the 30th November 2002 when these new Otway environmental policies were emphatically democratically endorsed through the re- election off Premier Bracks who achieved a historic landslide win.

The following briefing paper puts the case that the “zombie” West RFA must not be renewed on the 31st March 2020 when it formally expires. For good reason, most community and environmental groups in South Western Victoria believed this West RFA had already been cancelled; the banning of logging in the Otways frustrated the agreement meaning that the West RFA was incapable of being performed.

This submission is divided into four sections:

Part 1: The West RFA 5 yearly reviews have acknowledged that the West RFA failed to meet its objectives and cancellation of the West RFA should be seriously considered.

Part 2: Background to the development of RFA(s) and why the community of South Western Victoria overwhelmingly opposed it.

Part 3: How after the West RFA was signed in 2000, subsequent policy, legislation and bi-partisan political support made it redundant.

Part 4: Native forest logging industry groups has fully acknowledged that the West RFA was cancelled by the Bracks Government.

PART 1: The West RFA five yearly reviews have acknowledged that the West RFA failed to meet its objectives and that cancellation of the West RFA should be seriously considered.

There are five RFAs in Victorian, East Gippsland, Central Highlands, West Victoria, North East, and Gippsland that are all due to expire at the same time. The State and Federal governments are required to conduct 5 yearly reviews of progress to implement the West RFA. Since 2000 these reviews have acknowledged that the West RFA totally failed to meet its objectives (see December 2009 report) and cancellation of the West RFA is an option (May 2010 Report). See two reports below.

December 2009 report:

The *Draft Report on Progress with Implementation of the Victorian Regional Forest Agreements (RFAs)* states:

From page 11:

In the West Victoria RFA region, Victoria expanded the CAR reserve system by converting the Otway State Forest to the Great Otway National Park and Otway Forest Park. This tenure change saw timber harvesting in the Otways phased out by 30 June 2008. The creation of the Great Otway National Park was not in accordance with the West Victoria RFA. This was acknowledged by the Premier of Victoria in the Victorian Parliament on 5 October 2004. Victoria created the Great Otway National Park and Otway Forest Park in recognition of the considerable biodiversity value of these forests, and the substantial area of hardwood plantation that would become available over the next decade and potentially provide a viable long-term alternative supply of timber to the native forest. In considering obligations under Clauses 65 and 69 of the West Victorian RFA, the creation of the Great Otway National Park did not lead to a net deterioration in the protection of identified CAR values, but did lead to a net deterioration in the timber production capacity of the forest in the West Victoria RFA region. The Victorian Government worked closely with the timber industry and local community during the phase-out of timber harvesting in the Otways (refer Section 5.11).

From page 43:

West Victoria

In the West Victoria RFA region, Victoria expanded the CAR reserve system by converting the Otway State Forest to the Great Otway National Park and Forest Park. This tenure change resulted in sawlog and pulpwood harvesting in the Otways being phased out by June 2008. Victoria created the Great Otway National Park and Forest Park in recognition of the considerable biodiversity value of these forests, and the substantial area of hardwood plantation that would become available over the next decade and potentially provide a viable long-term alternative supply of timber to the native forest. The Victorian Government worked closely with the timber industry and local community during the phase-out of timber harvesting in the Otways. Further information on this transition is outlined below. In 2008, the Cobboboonee National Park and Forest Park were established in the West Victoria RFA region, replacing the former Cobboboonee State Forest. Timber harvesting did

not occur within the Cobboboonee State Forest after 2002 when the licence for timber harvesting in the forest was voluntarily surrendered under Our Forests, Our Future. Creation of the Great Otway National Park and Forest Park and Cobboboonee National Park and Forest Park led to a net deterioration in the timber production capacity of those areas available for harvesting in terms of volume, species and quality in the West Victoria RFA region.

December 2009: https://www2.delwp.vic.gov.au/_data/assets/pdf_file/0025/412378/Victorian-RFAs-period-1-2-Draft-Report-on-implementation-progress.pdf

May 2010 report:

Independent Review on Progress with Implementation of the Victorian Regional Forest Agreements (RFAs) FINAL REPORT: (May 2010)

From page 15:

Recommendation C4: That the Parties consider cancelling the West Victoria Regional Forest Agreement or substantially amending the RFA given the significant additions to reserves and reduction in timber availability made since the agreement was signed.

From page 25:

I have considered the substantial number of comments about the decisions made on new national parks in the West Victoria RFA region that were not in accordance with the RFA. The new national parks combined with a reduction in the availability of native forests for harvesting has obviously significantly impacted on the viability of the timber industry in the region.

There are also a number of other milestones and obligations from the West Victoria RFA that have not been met. They include completion of a review of sustainable yield levels, implementation of the Integrated Forest Planning Systems and the Statewide Forest Resource Inventory and production of a Forest Management Plan for the Portland and Horsham FMAs.

Some submissions argued for continuation of the West Victorian RFA as it provides a strong framework for the protection and management of public forested lands. These submissions do acknowledge that the RFA must be substantially amended.

May 2010 Report: https://www2.delwp.vic.gov.au/_data/assets/pdf_file/0018/412380/Victorian-RFAs-period-1-2-Independent-Review-of-progress.pdf

Part 2: Background to the development of RFA(s) and why the community of South Western Victoria overwhelmingly opposed it.

Prime Minister Paul Keating developed the RFA process

The development of the native forest woodchipping industry entrenched the practice of clearfell logging in native forests on public land across Victoria, Southern NSW, the South West Corner of Western Australia and Tasmania. In response, by the early 1990's most established environment groups including the Wilderness Society, Australian Conservation Foundation and Environment Victoria developed the view that the clearfell logging of native forests to feed the woodchipping industry needed to be rapidly phased out. From 1991 these environmental groups embarked on a campaign that sought to halt clearfell logging in those forest areas that had become economically dependent on the export woodchip industry.

Given the power to issue export woodchip licenses rested with the Commonwealth Government, these peak conservation groups with the support from thousands of grassroots forest activists across Australia made the woodchipping of native forests an election issue in the lead up to the 1996 Federal Government election. To try to resolve this debate, on 22 December 1994 the then Prime Minister Paul Keating made a strong policy statement that he described as throwing a "grenade" into the forest debate. The new policy was to develop Regional Forest Agreements (RFA) across Australia and Keating offered this process as a means to develop a compromise between protecting high conservation value forests while meeting a commitment to support regional community that were economically dependent on on-going native forest logging.

In simple terms the Federal Government insisted that the relevant State Governments, who are responsible for their own land management, participate in the RFA process and that if they refused then export woodchip licences would be "ratcheted down" in those areas where an RFA was not in place. In this regard Keating used a big stick to threaten the cancellation of export woodchip license as well as incentives; the Federal government would drop the need for an annual export woodchip licence for public land covered by an RFA. All the State Governments eventually agreed to participate in the ten RFA processes that later played out across Australia with half of these, five, within Victoria.

The election of Prime Minister John Howard Government in 1996 with a conservative Victorian State Government under Premier Jeff Kennett was politically very supportive of on-going native forest logging. This contributed to the RFA process developing a pro-logging bias. This was compounded by the fact that established environment groups maintained an ongoing boycott of most of the Victorian RFA processes. This left the native forest logging industry with a free hand to shape the RFA outcomes weighted towards their own self interest. As a result, little in the way of significant gains for nature conservation was achieved although there were a few notable exceptions driven largely by the efforts of grassroots environmental groups. During the East Gippsland RFA the Ellery catchment old growth forests were added to the Errinundra National Park and during the North East RFA process the Wongungarra catchment added to the Alpine National Park.

West RFA pro-logging bias challenged by community groups based in Geelong

In early 1999 the West RFA process began to assess logging in the Otway Ranges. OREN along with other regional conservation and community groups developed the attitude that its pro-logging bias could be used strategically to undermine the legitimacy of any agreement eventually signed. OREN, Geelong Community Forum (GCF) and Geelong Environment Council (GEC) worked closely together using the West RFA process to publicise the impacts of clearfell logging on Otway non-timber forest values such as domestic water supply catchments, forest based tourism industry and nature conservation values.

The West RFA pro-logging bias was most evident in the way the process totally neglected to consider the detriment impact of clearfell logging on Otway domestic water supply catchments. OREN had become aware of scientific hydrology research conducted in the Melbourne domestic water supply catchments that demonstrated a relationship between clearfell logging of tall high rainfall wet forests and a reduction in water yield from domestic water supply catchments. The Otways had similar sort of high rainforest wet forests subjected to clearfell logging in domestic water supply catchments. Yet, despite the Otway forested water supply catchments supplying least 300,000 people with domestic water supply in South West Victoria, the West RFA had no intention of addressing the critical issue of logging affecting water supply.

This pro-logging bias was exposed with reference to maps that indicated the boundary of the West RFA study area. Close inspection of the RFA boundary makes clear that the Geelong was then, and still is today, formally excluded from the consultation process despite the Midway export woodchip mill being within the Geelong metropolitan area, and despite Geelong relying on 70% of its water supply from forested catchments in the Otways subject to ongoing clearfell logging. If left unchallenged the West RFA process would not regard urban water users as stakeholders and excluded them from the consultation processes despite the agreement seeking to guarantee ongoing clearfell logging in the Geelong water supply catchment for the life of the 20 year logging agreement.

In defiance, and campaigning under the banner of “Our Water, Our Forests, Our Future”, Geelong-based community groups forced the State and Federal bureaucracies into holding several large public consultation forums in Geelong. This included the Commonwealth and State governments that were embarrassed into having to host several public meetings in Geelong West Town Hall under the banner 'Our Water Our Forests Our Future'. Critically, the West RFA process created an opportunity to lobby the Surf Coast Shire, Geelong and Warrnambool City Councils to participate and criticise the West RFA process. All these Councils passed resolutions announcing that they supported a logging ban in Otway domestic water supply catchments. They were joined by business groups such as the Apollo Bay Chamber of Commerce and Lorne Business and Tourism Associations who were concerned about the damage clearfell logging could do to forest based tourism.

The governments maintained their- pro-logging position and signed the West RFA on the 31 March 2000, providing policy support for ongoing Otway clearfell logging for the next 20 years with no requirement to create any new formal nature conservation reserves. However, pressure over logging in water catchments did contributed to *Clause 61* being added to the West RFA which make the commitment to investigate the impact logging has on Otway water supply catchments. This created a further process for which a formal Otway Hydrology Reference Group was subsequently established to oversee Otway hydrology research.

Part 3: After the West RFA was signed subsequent policy, legislation and bipartisan political support made it redundant.

The signing of the West RFA in March 2000 only served to escalate the level of conflict over Otway clearfell logging. Ironically the bias built into process helped make Otway clearfell logging an election issue for the October 2001 Federal election in the Seat of Corangamite. Eight months later in the Victorian State Parliament, on 12 June 2002, the Liberal-dominated Victorian Upper House tabled and passed a bill that sought to legislate all five Victorian RFAs. The ALP dominated lower house refused to even debate the bill and it never became legislation. MP Gavin Jennings speech in Parliament on behalf of the Government expressed a total lack of confidence in the RFA process as the reason they should not be legislated:

“Despite what perhaps may have been a laudable intent of trying to reach longstanding agreements about access to forestry activity, RFAs have not been successful, by and large, in providing certainty and long-term protection to either the forests or their habitat or to workers and operators in the timber industry” (Victorian Parliament Hansard, 12 June 2002).

The missing complementary legislation in Victoria fundamentally undermines the intent of the RFA process to ‘lock up’ forests for logging.

Then, on the 6th November 2002, during the 2002 Victorian State election campaign, then Premier of Victoria Steve Bracks travelled to Triplet Falls in the Otway Ranges and announced a range of new environmental policies. It was announced that if the ALP Government was re-elected they would effectively cancel the West RFA it had signed less than three years earlier between the State and Federal Government. In its place new environmental policies were announced to create the Great Otway National Park and make clearfell logging for woodchips on public land in the Otway Ranges illegal by 2008. The West RFA was effectively killed off on the 30th November 2002 when these new Otway environmental policies were emphatically democratically endorsed through the 2002 Victorian State election that resulted in the then Premier Bracks achieving a historic landslide win.

On the 5th of October 2004 former Premier of Victoria, Steve Bracks acknowledged in State Parliament that as a consequence of this popular political mandate the West RFA, had effectively been cancelled:

"Mr BRACKS (Premier) -- We took action to cancel one of our regional forest agreements here in Victoria, which I committed to at the last election when I committed to creating a new national park in the Otway Ranges (Victorian Parliament Hansard, 5 October 2004).

Former Premier Bracks is the only State Premier to ever have ever announced the cancellation of a Regional Forest Agreement in its entirety anywhere in Australia after it was signed. This very significant acknowledgment put a halt to the native forest woodchip industries strategy to obtain Victorian State legislated 'resource security' through the Regional Forest Agreement process.

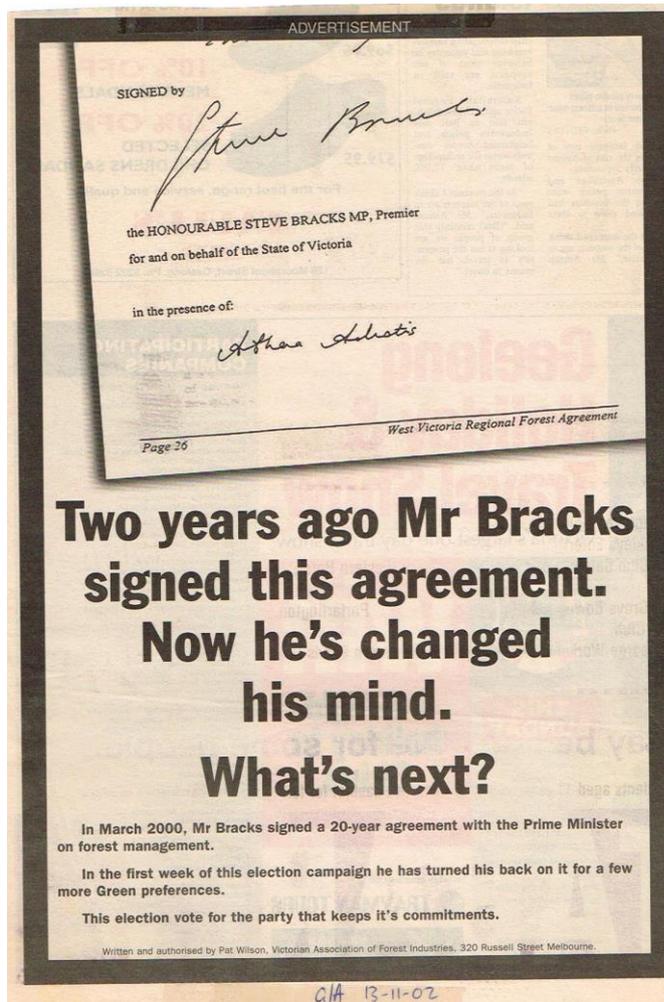
In September 2005 the *National Parks (Otways and other amendments) Bill* was introduced into Victorian State Parliament by the Bracks government to legislate its Otways policy commitments to make clearfell logging in the Otways illegal and created a Great Otway National Park. During Parliamentary debate the Liberal opposition acknowledged that the Bracks Government had won a

popular mandate from the community for its Otways policies and voted in favour of the *National Parks (Otways and other amendments) Bill*. The passage of this *National Parks (Otways and other amendments) Bill* effectively and formally has overridden most of the clauses within the West RFA that endorsed ongoing Otway logging. On behalf of the Liberal Party, Philip Davis, then Upper House Liberal Member for Gippsland acknowledged the mandate to override the West RFA:

Members of Parliament contest elections based around a policy debate. When a government wins a clear mandate for its policy positions there is an obligation under our democratic process to respect that mandate. I have to say that on this issue I respect the mandate the Bracks government won because it was so emphatic in terms of a policy position and it was one of the central planks in the return of the Bracks government (Victorian Parliament Hansard, 14th September 2005).

Part 4: Native forest logging industry groups has fully acknowledged that the West RFA was cancelled by the Bracks Government.

During the November 2002 Victorian State election logging industry groups strongly argued that policies to ban clearfell logging and create a Great Otway National Park meant the West RFA would effectively be cancelled. For example the following large advertisement appeared in the Geelong Advertiser on the 13th November 2002.



In the years after the Bracks' Otway policies were announced and implemented, logging industry reports and media coverage consistently reported that it was the industry's view that the West RFA had been fundamentally breached:

- Victorian Association of Forest Industries (VAFI) 2003 Annual Report.¹
- Victorian Association of Forest Industries (VAFI) commissioned Allen Consulting Group report titled *Victoria's Forest Industries - An Economic Impact*. In Section 5.2, titled 'Resource Security', it claims the RFA process in Victoria has been undermined.²

¹ Available at: <http://www.oren.org.au/logging/who/vafi.htm>

² See <http://www.vafi.org.au/documents/AllenReportMarch06.pdf>
<http://www.oren.org.au/reports/AllenReportMarch06.pdf>

- Editorial comment in leading newspapers:
 - ‘Timber industry calls for sustainable access’ by Phillip Hopkins. *The Age*. 23rd June 2008;
 - ‘Victoria plans new strategy on timber’ by Phillip Hopkins. *The Age*. 4th August 2008
 - ‘Timber industry steps up campaign for native forest’ by Phillip Hopkins. *The Age*. 7th June August 2006.

- Extract from Federal Forestry Minister address to the Victorian Association of Forest Industries Dinner Melbourne, Australia, 22 November, 2002:

“In March 2000 Mr Bracks personally signed the Western Victorian RFA with Prime Minister John Howard. Now this agreement, as you all know, placed around 63 per cent of the west Victorian public forests in conservation reserves but it did ensure that around 37 per cent of those forests were to be available for sustainable harvesting. And not three years later Mr Bracks has announced a forest policy, which if implemented, will fundamentally breach that solemn agreement made between the State and Federal Governments that he personally signed with the leader of our nation.”

Therefore, by the logging industry’s own admission, the agreement has been frustrated by the State government’s action, is therefore incapable of being performed and has, in effect, been cancelled.