

Monday 7 July 11.30am to 1.00pm

The EPBC Act's Exemptions For Forestry: Time for Change

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Abstract

The theme for the 2008 ALTA Conference, 'The Law, the Environment, Indigenous Peoples: Climate for Change?' is timely indeed. Twenty five years ago, in July 1983, the High Court handed down its landmark judgment in the *Tasmanian Dam* case. Consequently, the Franklin River continues to flow free and its Aboriginal caves are not submerged. When inscribed on the World Heritage List in 1982, the Tasmanian Wilderness World Heritage Area (TWWHA) met all four of the (then) criteria for natural heritage and three of the six criteria for cultural heritage. This represents the greatest number of World Heritage criteria satisfied by any listed property.

Following the *Lemonthyme and Southern Forests (Commission of Inquiry) Act 1987* (Cth) and the High Court's ruling in the *Tasmanian Forests* case, the TWWHA was expanded in 1989.

The *Environment Protection and Biodiversity Conservation Act 1999* (Cth) rewrote Federal environmental law but the *Regional Forest Agreements Act 2002* (Cth) regime is now a major concern.

Forestry operations adjacent to the TWWHA boundary now threaten natural and cultural heritage outside, and arguably even within, the TWWHA. They do so under exemptions in the EPBC Act allowing regional forest agreement (RFA) forestry operations undertaken in accordance with an RFA. The RFA forestry exemptions, as applied in recent Federal Court decisions, effectively exempt RFA forestry operations from the EPBC Act. This is particularly problematic in a place like Tasmania where an RFA applies across the State.

This paper examines the RFA forestry exemptions in the EPBC Act and argues that they prevent proper protection for World Heritage, National Heritage, and nationally-listed threatened species. Arguably, the exemptions are inconsistent with Australia's international obligations. It is time for change. Law reform is needed now to properly protect from forestry impacts Australia's environment and heritage of national and international significance.

Warts and All – Laws, Policies and Practice for the Management of Unpopular Species

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Abstract

Flying foxes (*Pteropus spp.*) which are native Australian species and cane toads (*Bufo marinus*) which were introduced in 1935 share an image problem. While flying foxes are currently protected under both state and federal legislation, thousands continue to be killed each year, legally and illegally, for crop protection. Attempts to eradicate toads have increased in the last few decades. Methods employed range from the scientific (manipulation reproduction at the molecular level) to the fanatical (encouragement of community based trapping).

All have been unsuccessful. In both examples, control activities have benefited at times from the support of government agencies, even where such activities are blatantly inconsistent with the law. This article considers the regulatory framework for control of flying-foxes and cane toads, including provisions relevant to conservation, 'pest' control and animal welfare considerations.

It will consider the challenges of enforcing the laws with regard to unpopular species, particularly in situations where members of the public are keen to take the law into their own hands and where the media encourages such behaviour in the name of environmental responsibility or public health. It concludes that government agencies' pandering to negative community attitudes towards unpopular species fosters further intolerance and prejudice. This in turn drives the political process to the extent that fashion dictates both management strategy and the administration of the law.
