

Landmark forestry conflict playing out in court

There are potential ramifications for the national *Environment Protection and Biodiversity Conservation Act* from an important court case which is currently under way after Greens leader Senator Bob Brown sought a Federal Court injunction against Forestry Tasmania to stop logging in the island's Wielangta Forest, east of Hobart, a key area for endangered species. Both the Tasmanian and Commonwealth governments are intervening in support of Forestry Tasmania.

At stake is the presumption that when listed endangered species occur in logging coupes they are no longer protected by the national *Environment Protection and Biodiversity Conservation Act* (EPBC Act) because, it is claimed, the Tasmanian Regional Forest Agreement (RFA) exempts logging operations. The RFA currently overrides the protective federal legislation and this is what Senator Brown and his legal team are challenging.

Taking centre-stage are three Wielangta Forest inhabitants: a shy log-dwelling stag beetle of ancient lineage; the spectacular Swift Parrot, which migrates from the mainland to Tasmania each spring to breed, but now numbers less than 1300 breeding pairs; and the Tasmanian Wedge-tailed Eagle, which is a distinct subspecies, larger than the mainland form, with a total population of less than 1500 birds.

'There is a direct conflict between laws meant to protect such nationally listed creatures and the Regional Forest Agreement which implies it will protect them, but which destroys the very forests on which they depend,' Brown told *Ecos*. 'A Forestry Tasmania and Melbourne University study of north-eastern Tasmania, for



Wildflowers carpet the floor of the Wielangta Forest, home to the log-dwelling stag beetle (centre of page), one of three nationally listed species at the centre of the legal trial. Rob Blakers; Luise Romeo

example, indicates that logging will raise the chance of extinction of the Tasmanian Wedge-tailed Eagle to 99 per cent.'

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'My action is not just for Tasmania's fauna. We should apply the same argument to protect all of Australia's native forests and woodlands that harbour rare wildlife,' he said.

'If my bid is successful, Commonwealth and state governments face being forced to re-evaluate logging practices and their impact on threatened species. Logging operations which impact on threatened species may lose their automatic exemption from federal scrutiny and the Commonwealth Minister for the Environment would have to assess proposed logging operations,' Brown said.

Although approached for interview, Forestry Tasmania's Public Affairs division in Hobart said they would not be commenting on the case while legal proceedings were under way. However, in a December 2005 media release statement, Managing Director Evan Rolley said 'It is a matter of fact that neither Forestry Tasmania nor any other forest owner is exempt from protecting endangered species as Senator Brown claims.'

'Forestry Tasmania treats the protection of threatened species very seriously and operates within the stringent guidelines laid-down by the independent Forest Practices Authority.'

The court case has already prompted new scientific scrutiny of the three species. According to Brown, it will also help to clarify interpretation of the EPBC Act and whether it is capable of meeting its stated objectives of preventing the extinction of threatened wildlife and promoting its recovery.

One of the two coupes for which Senator Brown sought an

injunction was permitted by the court to be logged, but Forestry Tasmania has undertaken not to conduct any further forestry operations in the Wielangta Forest until the court case is completed.

Win or lose, the trial will subject Forestry Tasmania to some pressure since its practices will come under considerable public scrutiny in court as its witnesses undergo cross-examination. Proceedings began last December and are expected to wind up in June.

Forestry researcher, Professor David Lindenmayer, of the Australian National University, says that a major problem, relevant to the case, is the yawning gaps in our knowledge of the impacts of forestry practices on biodiversity, including threatened species, and how best to mitigate those impacts.

'Since World War II, more than 75 enquiries have highlighted the need to address this problem, yet the underlying work to fill these critical knowledge gaps is simply never done or not done properly,' he said.

Senator Brown argues that his landmark court case is the most substantial trial of the Federal Government's EPBC Act since it came into effect in the year 2000. It could revolutionise the protection of endangered species, not just in Tasmania and not just in other forests covered by Regional Forest Agreements, but across the landscape. But first he needs to win the case.

● Steve Davidson



More information:
Senator Bob Brown's trial information site: www.on-trial.info
Forestry Tasmania: www.forestrytas.com.au