



CHALLENGING LOGGING OPERATIONS IN NSW


Environmental Defender's Office NSW

The EDO

- Community Legal Centre specialising in public interest environmental law.
- Mission: To empower the community to protect the environment through law
- Multi-disciplinary office:
 - Legal advice and representation
 - Policy development and law reform
 - Scientific and technical advice
 - Community programs (education, indigenous engagement and international outreach)

EPBC Act- RFA issues

- In light of Full Federal Courts findings in *Brown v Forestry Tasmania*, the Regional Forestry Agreement makes it very difficult to litigate
- EPBC –Hawke Review findings important
- Recommended strengthen RFA supervision and auditing



The Forestry and National Park Estate Act 1998

- Third parties have no standing to bring an action to court
- If the IFOA is being breached, members of the community have no right to bring an action to restrain that breach.
- The only person who can bring such an action is the Attorney-General of NSW.
 - ▣ One government department suing another- very unlikely
 - ▣ The Attorney-General may authorise third party enforcement action

Remedies for breaches?

- A Policy approach
 - ▣ A Forestry Agreement or IFOA can be amended or terminated at any time by agreement of the Ministers who made it
 - ▣ Documenting breaches of IFOA to give to DECCW



Can anything legal be done?

Sometimes other legislation may be breached

- Mumbulla Mountain- Logging of Aboriginal place breach of National Parks and Wildlife Act 1974
- Water pollution- *Protection of the Environment Operations Act 1999*
- Breaches of other legislation such as *Threatened Species Conservation Act*



Other options?

- A common law approach
 - Bring legal proceedings using the common judicial review provisions –now entrenched in *Kirk*
 - Private or public nuisance actions



Other assistance

- Can help with offences for forestry protest activities



Ways to help legal options

- Collection of Evidence
- Vital role of conservation groups in obtaining evidence
- Before and after photographs and videos
- Affidavit evidence- Diaries of logging activities, protests, conversations
- Keeping all written documentation about dispute
- Contacts with appropriate experts