

IN SEARCH OF SUSTAINABILITY: FORESTRY LAW AND POLICY IN WESTERN AUSTRALIA

Michael Barker, QC
Barrister, Francis Burt Chambers

Michael Bennett
Principal Solicitor, Environmental Defender's Office (WA)

The forests of the South West of Western Australia are among the most magnificent and biologically significant forests in the world. The use and management of these forests have been the subject of intense public debate for many years. This debate has been reflected in changes to forestry law and policy. This paper will provide an overview of the recent history of forestry law and policy in Western Australia and consider, from a legal perspective, future directions that might be taken to achieve ecologically sustainable forest management. It is convenient, before looking at future directions, to consider the recent history of Western Australian law and policy in three stages: the situation prior to the Western Australian Regional Forest Agreement ("RFA") from 1992 to 1999, the RFA itself, and the post-RFA landscape.

Before the Regional Forest Agreement

It has always been the case that Western Australia, rather than the Commonwealth, has had primary control over the management of Western Australian forests. This control has been exercised using familiar techniques: the reservation of land for particular purposes, such as national parks and State forest; the creation of management plans to guide the management of that land; and the imposition of conditions on forestry operations following an environmental impact assessment process. Such control as the Commonwealth has exercised over forestry has relied on the Commonwealth Parliament's power to legislate with respect to Australia's external affairs. This power (as interpreted by the High Court in *Murphores v The Commonwealth* (1976) 136 CLR 1) allowed conditions to be placed on export licences for woodchips, such as conditions requiring prior Commonwealth approval before the logging of areas which were listed on the Register of the National Estate.

In the pre-RFA period, the Conservation and Land Management Act 1984 (WA) ("CALM Act") required the Department of Conservation and Land Management ("CALM") to be both the regulator of forest use, and the body responsible for logging public forests. A problem with this approach was that the proceeds of the contracts for the sale of logs were held by CALM, rather than going into consolidated revenue (EPA, 1999, p32). This created a conflict of interest and a perception of a pro-logging bias.

While there was certainly a great deal of public scrutiny of CALM's operations in this period, there were very few avenues to enable effective supervisory control in the public interest. This can be seen in respect of the making and enforcement of management plans. A central feature of the CALM Act is its provision for the creation, by CALM on behalf of other agencies created under the CALM Act, of management plans for land under their control. The

CALM Act sets out a process, including public comment and Ministerial approval, for the making of those plans. However, it does not set out any substantive requirements for management plans, save a general requirement that management plans be designed to achieve a specified purpose. For State forest, the purpose must be one or more of the following: conservation, recreation, timber production on a sustained yield basis and water catchment protection (s 55(1a)). When, in 1995, a management plan was challenged for an alleged failure to take into account certain research data, the Supreme Court held that:

A proposal for land management will be a proper exercise of power if the proposal is made *bona fide* for the management of that land for the purpose set out in section 55 and not for some other purpose. A mere failure to take account of relevant scientific data will not, of itself, amount to an improper exercise of power, although it may affect the quality of the forest planning and the overall merit of a particular plan. Unless a deficiency is so fundamental, as to quantity or quality, as to lead fairly to the conclusion that in reality the proposals do not amount to a *bona fide* attempt to design a management plan for any of the purposes set out in the Act I do not see how the deficiency can be said to make the proposal “invalid”

(South West Forest Defence Foundation (1996) 86 LGERA 365 at 376).

In short, the CALM Act was held to be “agency enabling” rather than “agency forcing”, to adopt an American expression. Under the CALM Act the commercial forestry operator was responsible for making plans governing the management of public forest, and was effectively unconstrained in the way in which it made those plans. Not surprisingly, the plans were drafted in a general rather than a prescriptive manner. This can be seen in the Forest Management Plan 1992-2003 (“FMP”), which is the overarching plan for the management of State forest. The FMP provides, for example, that CALM will “identify, locate and seek to conserve threatened or endangered flora, fauna and [ecological] communities in the forest”, but does not say how this obligation must be implemented. It does not say, for example, whether surveys should be undertaken prior to logging to search for threatened flora, fauna or ecological communities. While the CALM Act provided that CALM “shall” manage land in accordance with an applicable management plan (s 33(1)(a)), the lack of specificity in the plans themselves means that this obligation had little real content.

This problem of vagueness in the FMP was exposed in the case of *Bridgetown/ Greenbushes Friends of the Forest Inc v Executive Director of the Department of Conservation and Land Management* (1997) 94 LGERA 380. In that case, several conservation groups complained, amongst other matters, that CALM had acted contrary to the FMP in failing to do certain things such as conducting adequate pre-logging surveys. In a challenge to the adequacy of the pleadings and the availability of a cause of action, the Full Court of the Supreme Court of Western Australia found on appeal that while CALM and its Executive Director are bound by management plans such as the FMP, “it is a matter for [them] to implement those plans as they think fit, and subject to any direction given by the Minister” (at 428; see also 405-6).

In 1997, an application to the High Court for leave to appeal from this decision was dismissed. In dissent, Kirby J said of the Supreme Court’s ruling on the legal effect of management plans:

Unless corrected, if it be wrong, the holding and approach of the Supreme Court of Western Australia will stand as a serious obstacle to the enforcement of such management plans in that State, and possibly in other parts of Australia as well. It

will encourage the notion that such management plans in environmental matters are mere exhortations and either not justiciable, or ultimately unenforceable rules made under the authority of the Parliament concerned and, thus, not necessarily to be obeyed by the Executive Government and its agencies as Parliament apparently requires. If that is the law it is important that Parliaments throughout this country, those concerned with the environment and indeed everyone else should know what an empty gesture is thereby established. If it is not the law, the Executive Government and its agencies should be held to the obligations ostensibly demanded by Parliament to protect the environment.

It seems to us that due to the way in which it was drafted in the pre-RFA period, the FMP is little more an “empty gesture”, and a good example of “agency enabling” legislation. It does not impose effective legal requirements; it does not really force the agency to achieve any stated standard. In summary, it might be said that in the pre-RFA period, the CALM Act allowed forest management to be carried out with respect to flexible criteria, without prospect of judicial review and subject only to political direction.

Deleted: .

A similar criticism has been made of the Ministerial conditions applying to forest management. In Western Australia under the Environmental Protection Act 1986 (WA), the Environmental Protection Authority (“EPA”) may assess, and the Minister for the Environment can impose legally binding conditions on, any “proposal” which will have a significant environmental impact. “Proposal” is defined in the Act in terms sufficiently wide to encompass a forest management plan. In 1992, the EPA assessed the draft FMP and on 24 December 1992 the then Minister for the Environment imposed a series of conditions on the implementation of the FMP. These conditions were subsequently described by a member of a Parliamentary inquiry into forest management as “so vague and open to interpretation that compliance with them is almost subjective” (Smith, 1999, p.4). This characterisation is borne out in Condition 2-1 relating to managing karri and karri-marri forest in accordance with a “precautionary approach”. That condition requires that:

where there is a significant risk that a particular forest management measure could lead to an irreversible consequence, appropriate monitoring and subsequent adjustments to management within an acceptable time-frame be carried out.

To be fair, other Ministerial conditions are not so vague. However, at least in respect of enforcement by third parties, there is an additional problem. A note at the end of the conditions provided as follows:

The Environmental Protection Authority is responsible for verifying compliance with the conditions contained in this statement, with the exception of conditions stating that the proponent shall meet the requirements of either the Minister for the Environment or any other government agency.

If the Environmental Protection Authority, other government agency or proponent is in dispute concerning compliance with the conditions contained in this statement, that dispute will be determined by the Minister for the Environment...

In the *Bridgetown/Greenbushes* case, this provision was effectively read as an “ouster” clause by a majority of the Full Court. The effect of the majority judgment was that Ministerial conditions could not be enforced until such time as the relevant body specified in the note had decided that there had been non-compliance ((1997) 94 LGERA 380 at 433, 408).

As it happened, after this litigation the EPA conducted a review of compliance with the Ministerial conditions, and found that there had been non-compliance in a number of respects (EPA, 1998). CALM disputed this finding, and pursuant to the note quoted above the Minister for the Environment sought to resolve that dispute. In order to assist her in this task, she appointed a retired public servant, Michael Codd, to report to her on the matters in dispute. After holding discussions with CALM and the EPA, Mr Codd was able to report to the Minister that an agreed outcome had been reached between those two bodies on the matters in dispute (Edwardes, 1999; Codd, 1999; Shea, 1999; Bowen, 1999). This meant that the Minister was not put in the difficult position of having to determine whether her own department, CALM, had been in breach of the law.

In terms of legislative controls at a State level, it only remains to be noted that the Wildlife Conservation Act 1950 (WA), which might have been important in forest management, has had little effect, principally because the provisions in that Act protecting threatened fauna do not bind the Crown (*Bridgetown/Greenbushes Friends of the Forest Inc v Executive Director of the Department of Conservation and Land Management* (1997) 94 LGERA 380 at 394-5, 435-7, 408). This meant that since CALM (an agent of the State) carried out logging operations, relief could not be obtained against it, even if logging operations could be said to amount to an unlawful “taking” of threatened fauna contrary to the Act.

In the pre-RFA era, the Commonwealth had some capacity to exercise control over forest management. Under regulations made pursuant to the Export Control Act 1982 (Cth), the export of woodchips was prohibited unless exporter was the holder of a licence to export those woodchips granted by the Minister for Resources. In practice, such licences required the approval of the Minister for Resources or his Department before the carrying out of logging of timber intended for export as woodchips, where the logging was to take place in an area which was entered on the Register or Interim List of the National Estate. However, this permission was little more than a formality, and it was never refused in relation to a Western Australian operation (pers. comm. Dr Beth Schultz, Vice-President, Conservation Council of WA).

The statutory framework before the Regional Forest Agreement then, was one which was characterised by few effective non-political supervisory controls on logging activities. At the same time, the political picture was one of mounting conflict over forest issues, in particular with respect to the issue of logging in old growth forests. In Western Australia, the prominence of these issues was heightened by the report from the EPA which reported on CALM’s compliance with the Ministerial conditions and provided advice to the Minister for the Environment on the pending RFA. The report identified CALM’s conflict of interest, suggested that there should be greater transparency in CALM’s logging and forest management practices, and recommended that forests regarded by the public as important “icons” or “old growth” should be considered for protection (EPA, 1998). The stage was set for the Regional Forest Agreement.

The Regional Forest Agreement

The origins of the Regional Forest Agreement process can be seen in documents such as the Intergovernmental Agreement on the Environment, the National Strategy for Ecologically Sustainable Development, the National Forest Policy Statement (McDonald, 1999, pp305-308). The objective of the process was, in essence, to assess the economic, environmental and cultural values of forests on a regional basis and to enter into Commonwealth-State

arrangements which would set out the long-term use and management of forests for each region. This would include the creation in each region of a “comprehensive, adequate and representative” (“CAR”) reserve system which would meet targets of protecting 60% or more of each old growth forest vegetation type and, “where possible”, 100% for viable old growth elements which were rare or depleted (JANIS, 1997, para. 6.1.1). It would also ensure the implementation of ecologically sustainable forest management in remaining areas not contained in conservation reserves. By adopting these measures, regional forest agreements would largely remove the need for further involvement by the Commonwealth in State forestry affairs, and take the heat out of forest disputes.

Before considering the terms of the terms of the Western Australian RFA, we should briefly comment on the nature of intergovernmental agreements as legal instruments. The States and the Commonwealth have the power of a natural person to enter into a contract (Hogg, 1989, p164). Where such an agreement is between the Commonwealth and a State and deals with a policy matter, it will ordinarily not be legally enforceable, because it will be taken to lack an intention to create legal relations (Tribe, 1998, p144, citing *South Australia v Commonwealth* (1986) 108 CLR 130 at 154). However, it is possible for the agreement to overcome this by expressly providing that it is intended to be legally binding (Tribe, 1998, p 145 and cases there cited). Of course it is also possible for an intergovernmental agreement to be given legal effect by State and Commonwealth legislation. However, that has not been done with the regional forest agreements, except in a very limited way which we mention below.

The Western Australian RFA (“the RFA”) was signed by Prime Minister John Howard and then Western Australian Premier, Richard Court, on 4 May 1999. The key to the legal effect of the RFA is its structure. It is divided into three parts. Parts 1 and 2 are not intended to create legally binding relations (clause 16). However, Part 3 is intended to create legally enforceable rights and obligations (clause 94). Part 3 of the RFA imposes obligations on both Western Australia and the Commonwealth.

Western Australia’s obligations are:

- € to implement increased conservation reserves, in the form of the CAR reserve system as described in an annexure to the RFA; (RFA, cl 95(a));
- € to make improvements to its forest management system, including independent auditing of compliance with the FMP and “Codes of Practice” (RFA, cl 95(b), “Codes of Practice” being defined to mean “Western Australia’s suite of codes, manuals and guidelines used to practice the principles of Ecologically Sustainable Forest Management as amended periodically by Western Australia” (RFA, cl 2)); and
- € to undertake certain reviews in accordance with the Competitions Principles Agreement between the States and the Commonwealth. (RFA, cl 95(c)).

The Commonwealth’s obligations are:

- € to maintain accreditation of Western Australia’s forest management system, providing changes to the system are consistent with the provisions of the RFA (RFA, cl 96(a));

- € to not prevent enterprises from obtaining, using or exporting timber, woodchips or unprocessed wood products which are sourced from the South-West forest Region of Western Australia in accordance with the RFA (RFA, cl 96(b));
- € to pay compensation to Western Australia in the event that the Commonwealth takes action to protect the environmental and heritage values in native forests, where that action has a foreseeable and probable consequence of preventing or substantially limiting the use of land which is not included within the CAR reserve system (RFA, cl. 97); and
- € to provide (subject to the terms and conditions under any Commonwealth Act which appropriates money) an amount of \$20 million to implement a South-West Forests Industry Structural Adjustment Program (subject to the development of a Memorandum of Understanding which establishes the respective roles and responsibilities of the two Governments in administering the program) and a range of other forest-based industry development initiatives (RFA, cl 98).

The RFA provides that it may be terminated, following a dispute resolution procedure, for failure to comply with the above obligations, but not otherwise (RFA, cl 99).

It can be seen that the above provisions do not prevent Western Australia from creating further conservation reserves over and above the CAR reserve system. It is true that clause 71 of the RFA provided that “The Parties agree that State forest outside the CAR Reserve System is available for timber harvest in accordance with the Forest Management Plan and the undertakings of this agreement.” However, this clause fell within Part 2 of the RFA which, as we have noted, was not intended to be legally binding. A legal opinion for the Conservation Council of Western Australia, given by Malcolm McCusker QC, Michael Barker QC and Dr Hannes Schoombee, considered this point and concluded that it was open to the Western Australian government to increase the amount of forest to be preserved from logging, without penalty under the RFA. The opinion stated in part that:

There is no clause in Part 3 of the RFA that expressly or impliedly seeks to prevent the State from increasing the amount of forest to be preserved from logging, which the State may do in various ways. Indeed, if the RFA tried to do that it would be invalid and of no force and effect, as it would have infringed two fundamental constitutional rules. They are firstly that the Government cannot by agreement constrain the constitutional powers of the State Parliament, and secondly that the State cannot lawfully bind itself, by agreement, not to exercise its statutory powers...If WA were to add forest reserves to the reserve system under the RFA, this would not constitute any breach of the agreement that would give rise to legal liability for the State.

(McCusker, Barker and Schoombee, 1999, paras 7, 11)

After the Regional Forest Agreement

The signing of the RFA marked the attempted withdrawal of the Commonwealth from regulation of forestry in Western Australia. The intention of the Commonwealth to avoid further involvement in this area can be seen in regulations which removed the requirement for

a licence to export woodchips sourced from an RFA region (Export Control (Regional Forest Agreements Regulations) 1997, reg 1; Bartlett, pp 330-331). It was confirmed by the Environment Protection and Biodiversity Conservation Act 1999 (Cth), which seeks to exempt regional forest agreement regions from the operation of that Act (Part 4, Division 4). There may be some doubt as to whether that Act has achieved its aim in this regard, given that it defines “regional forest agreement” by reference to the “Regional Forest Agreement Act 1999”, which in fact was never passed by the Commonwealth Parliament.

In any event, Commonwealth involvement became increasingly irrelevant in Western Australia after the signing of the RFA. By virtue of its constitutional powers, the Commonwealth is better suited to a role as protector of the environment than a role as guarantor of resource security. This is reflected in the RFA: the Commonwealth may threaten to terminate the RFA for a failure to implement its conservation requirements; but it cannot do so if Western Australia goes further and protects additional areas from logging. Indeed, in July 2000, then Premier Court announced the State Coalition Government’s intention remove additional old growth karri forests from log production . There was nothing, under the RFA, that the Commonwealth could do about it.

In addition to announcing increased conservation reserves, the State Coalition Government also sought to meet public discontent concerning CALM’s conflict of interest by passing the Forest Products Act 2000 (WA) and Conservation and Land Management Amendment Act 2000 (WA). These Acts:

- € removed from CALM’s Executive Director the power to enter into contracts for the cutting and sale of logs;
- € created a new statutory corporation, the Forest Products Commission, which can enter into such contracts; and
- € created a new statutory corporation, the Conservation Commission, which is amongst other matters responsible for setting performance criteria for the implementation of management plans made under the CALM Act, and monitoring compliance of CALM and the Forest Products Commission with those performance criteria.

These changes were not enough for the Western Australia public. On 10 February 2001, a new Labor Government swept to power, in large part due to its promise to end logging in Western Australia’s old growth forests.

In search of sustainability: future directions for forestry law and policy in Western Australia

Our brief overview of forestry law and policy over the last 15 years has shown two broad trends. The first is the increasing protection of old growth forests. The reserve system proposed by the RFA had a minimum benchmark of 60% retention of old growth forest, which was an increase on previous conservation reserves. This was not sufficient to satisfy the majority of the Western Australian public. The response by the State Coalition Government was to unilaterally announce the removal of some 9500 hectares of remaining old growth karri and karri-tingle from logging. The Labor party responded by calling for the retention of 99% of remaining old growth forests, and was elected into government. With the

Greens (WA) holding the balance of power in the Legislative Council, the new government should be in a position to implement that promise, notwithstanding the CALM Act requirement that State forest may only be cancelled by an Act of Parliament or a motion from each House of Parliament (CALM Act, s 9).

A second trend which can be discerned from recent history is a move towards a system of forest management which is more transparent, accountable and “agency forcing.” One aspect of this change is the removal of commercial forestry functions from CALM. Another is the move towards independent auditing of forest management, which was required by the RFA and facilitated (to some extent) by the creation of the Conservation Commission in last year’s amendments to the CALM Act.

We consider that the legislative changes do not go far enough in implementing transparency and accountability in forest management in Western Australia, particularly with respect to management of State forest. Additional changes are required. First, the CALM Act should require that State forest should be managed in accordance with the principles of “ecologically sustainable forest management” (“ESFM”). According to the National Forest Policy Statement, ESFM translates to three requirements:

- € maintaining the ecological processes within forests (the formation of soil, energy flows, and the carbon, nutrient and water cycles);
- € maintaining the biological diversity of forests; and
- € optimising the benefits to the community from all uses of forests within ecological constraints.

There appears to be wide acceptance of ESFM principles, but they are not presently reflected in the CALM Act. This should be remedied. The CALM Act should entrench the objective of ESFM and provide that a management plan for State forest must be designed so as to achieve ESFM (ESD Committee, Recommendation 14).

As our overview of forestry law in the pre-RFA period demonstrates, it is not enough to simply require that a management plan be designed to achieve a particular purpose: steps must be taken to ensure that the plan is sufficiently prescriptive. What is “sufficiently prescriptive” will differ depending upon one’s perspective. Legislators concerned to ensure clear forest outcomes will tend to opt for more substantive obligations. The management body that is to be constrained by a plan will tend to champion flexibility over prescription. A balance must be struck. A management plan must give sufficient flexibility while still imposing clear, verifiable obligations. An independent supervisory body that is familiar with forestry and environmental management will be in the best position to strike that balance. The new Conservation Commission, if it is properly resourced, should be able to fulfil that role.

Secondly, it may be of some assistance to provide, as has been done in recent amendments to the Rights in Water and Irrigation Act 1914 (WA) with respect to management plans under that Act, that a forest management plan must specify the monitoring and reporting which is to be carried out in order to ensure that the objects of the management plan are being put into effect (s 26GW(3)). A practical challenge would be to establish appropriate criteria and indicators to be applied in such monitoring (Calver et al, p 259). We note that at an

international level, a number of countries including Australia are working together to develop criteria and indicators for ESFM through what is known as the Montreal Process (Montreal Process Working Group, 2000). This work could be used to assist in the development of forest management plans.

Thirdly, a reform which should be considered is a change to the current process of making forest management plans. As amended last year, the CALM Act effectively provides that the Minister for the Environment and the Minister for Forest Products must agree on the form of a draft management plan insofar as it relates to a forestry issue, or in the event that they do not agree the Governor (effectively Cabinet) must resolve the dispute (CALM Act, s 60(2c)). This has been justified on the basis that balance is required between the competing interests of log production and environmental protection. Such a justification is flawed, if ESFM is to be our objective. ESFM requires that ecological constraints be observed. This is not a matter of balance, but of observing ecological bottom lines. The Minister for Forest Products should have input into the management plan, but should not have any form of veto over the content of that plan (see Labor, 2000, p 12). Similarly, it is not appropriate (as is currently the case) for the Conservation Commission to prepare forest management plans jointly with the Forest Products Commission (CALM Act, s54(3)(a)(ii)). This not only has the potential to cause delays where the two bodies cannot agree on the content of a draft plan, but may prevent appropriate ecological bottom lines from being included in a forest management plan.

Finally, the Wildlife Conservation Act should be replaced by a more modern Biodiversity Conservation Act which binds the Crown and requires a licence to be granted for actions which may have a significant impact on a threatened species or ecological community, including forestry actions. At present, it is unclear whether the Forest Products Commission can take advantage of the Crown immunity conferred by the Wildlife Conservation Act (Forest Products Act 2000, ss 5, 9, 10(5), (6)), although it appears that it was the Government's intention to retain that immunity, at least to the extent that logging operations are in accordance with a forest management plan (Explanatory Memorandum, clause 10(6)). It is clearly untenable that the Commission should be exempt from wildlife conservation laws simply by virtue of its status as an agent of the Crown. It is more strongly arguable that individual licences concerning impacts on species and ecological communities should not be required where a forest management plan has made a holistic assessment of forest biota and the impact of logging operations (Bartlett, 1999, p 336). However, a holistic assessment is unlikely to be an adequate substitute for individual, pre-logging surveys given the highly heterogeneous nature of the South West forests (Wardell-Johnson and Horwitz, 2000). For this reason, the Forest Products Commission should be required to obtain a licence where its actions may have a significant impact on a threatened species. Its application for such a licence should be supported by an "impact statement", prepared with the benefit of a pre-logging survey (see Threatened Species Conservation Act 1995 (NSW), Part 6, Division 2).

Bibliography

- Australian Conservation Foundation et al. *The Conservation and Land Management Amendment Bill 1999 and the Forest Products Bill 1999: Position Statement*. 14 March 2000.
- Bartlett, Tony. "Regional Forest Agreements – a Policy, Legislative and Planning Framework to achieve Sustainable Forest Management in Australia" (1999) 16 EPLJ 328.
- Bowen, Bernard. *Letter to the Minister for the Environment*. 13 January 1999.
- Calver et al. "Towards resolving conflict between forestry and conservation in Western Australia". *Australian Forestry* 61(4) 258-266.
- Codd, Michael. *Letter to the Minister for the Environment*. 13 January 1999.
- Edwardes, Cheryl. *Media Release*, 25 January 1999.
- EPA. *Advice in Relation to the Development of the Regional Forest Agreement in Western Australia and Progress Report on Environmental Performance and mid-term Report on Compliance: Forest Management Plans 1994-2003*. November 1998. EPA, Perth.
- ESD Committee: *Report of the Standing Committee on Ecologically Sustainable Development in Relation to the Management of and Planning for the Use of State Forests in Western Australia: The Regional Forest Agreement Process*. August 1998. Parliamentary Printer, Perth.
- ESD Committee: *Report of the Standing Committee on Ecologically Sustainable Development in Relation to the Management of and Planning for the Use of State Forests in Western Australia – The Sustainability of Current Logging Practices*. Undated. Parliamentary Printer, Perth.
- Coalition Government of WA, *Explanatory Memorandum to Forest Products Bill 1999*.
- Hogg, *Liability of the Crown*, 2nd ed. 1989. The Law Book Co., Sydney.
- Joint ANZECC / MCFFA National Forest Policy Statement Implementation Sub-committee (JANIS). *Nationally Agreed Criteria for the Establishment of a Comprehensive, Adequate and Representative Reserve System for Forests in Australia*, 1997
<http://www.rfa.gov.au/rfa/national/janis/index.html>
- Labor Party. *Protecting Our Old-Growth Forest*, February 2001.
- McCusker, M, Barker, M and Schoombee, J. *The Regional Forest Agreement for the South-West Forest Region of WA: Legal Opinion*, 25 June 1999.
- McDonald, Jan. "Regional Forest (Dis)Agreements: The RFA Process and Sustainable Forest Management" (1999) 11 Bond LR 295.
- Montreal Process Working Group. *The Montreal Process*, http://www.mpci.org/home_e.html

Shea, Syd, *Letter from the Department of Conservation and Land Management to the Minister for the Environment*, 13 January 1999.

Smith, Greg, *Minority Report to the Report of the Standing Committee on Ecologically Sustainable Development in relation to Management of and Planning for the Use of State Forests in Western Australia – the Sustainability of Current Logging Practices*, Report 4, undated.

Tribe, Jane. “The Law of the Jungles: Regional Forest Agreements” (1998) 15 EPLJ 136.

Wardell-Johnson, G and Horwitz, P. “The recognition of heterogeneity and restricted endemism in the management of forested ecosystems in south-western Australia” (2000) 63 *Australian Forestry* 218.