

Dear Department of Environment, Land, Water and Planning Staff (DELWP),

URGENT: VicForests logging in Drummer Creek headwaters coupes and other forest areas without undertaking minimum assessments for rare and threatened species values

Lack of a "modelled old growth forest trigger" for VicForests pre-Logging Threatened Species surveys in 24 Forest Management Blocks including for coupes 874-507-0020, 874-507-0021 and 874-507-0022

1. Logging is currently occurring in VicForests coupe 874-507-0020.
2. This coupe has not been subject to any pre-logging threatened species surveys according to analysis of VicForests' published contracted survey results published at <http://www.vicforests.com.au/planning-1/protecting-biodiversity/targeted-species-surveys>.
3. According to VicForests' website, their "process used for selecting coupes for a targeted species survey and what species are to be targeted, is described in VicForests Instruction - Pre-harvest Surveys which can be viewed at [VicForests Policies, Procedures and Instructions](#)" and then by following another [link](#) to VicForests' "[Pre-Harvest Biodiversity Survey Instruction](#)"¹
4. According to this document VicForests contracts targeted species surveys in East Gippsland for logging coupes that meet the following arbitrary criterion:

"Criterion 1

*Coupes located in East Gippsland, Tambo or North East FMAs that contain >1 hectare of Modelled Old Growth Forest mapped within the Gross Coupe Boundary (according to Government Spatial Dataset MOG2009)."*²

5. However, there are 24 "Forest Management Blocks" (FMB's) in the East Gippsland Forest Management Area (FMA) that have no MOG2009 spatial data originating from within them.
6. These FMB's are:

850 - Genoa	857 - Surprise	862 - Thurra	880 - Wb	886 - Quadra
853 - Stony Peak	858 - West Wingan	873 - Reedy	881 - Coopracambra	887 - Sisters
854 - East Wingan	859 - Cicada	874 - Drummer	882 - Kaye	888 - Buldah
855 - Benedore	860 - Everard	875 - Cooaggalah	883 - Weeragua	889 - Tennyson
856 - Gale	861 - Clinton	876 - Buckland	884 - Lock Up	

7. As "modelled old growth" (MOG2009) forest has not been spatially delineated within the "Drummer" forest block (been one of the FMB's listed above) within which coupes 874-507-0020, 874-507-0021 and 874-507-0022 (the **Drummer coupes**) are located, it is impossible for "Criterion 1" described above to be triggered.
8. However, extensive areas of the 24 FMB's without MOG2009 listed above, including forest areas in close proximity to the Drummer coupes, did however contain "Modelled Old Growth" forest as defined in the similar preceding spatial data-set MOG2003.
9. As a result, active, planned and recently completed logging within the Drummer coupes and the other FMB's listed above is occurring (or has) without any pre-logging targeted threatened species surveys having been undertaken to determine the extent of the threat of serious and/or irreversible damage posed by VicForests logging operations in the above FMB's and the Drummer coupes specifically.
10. This information is demonstrated in the map of Figure 1. below.

1 "Pre-Harvest Biodiversity Survey Instruction", VicForests, <http://www.vicforests.com.au/static/uploads/files/vicforests-instruction-pre-harvest-biodiversity-surveys-wfmhwjehlcvx.pdf>, Accessed 10/11/2016

2 *ibid*, p. 7

Summary of observations regarding "old-growth forest", and rare, threatened and/or protected species found within coupes 874-507-0020, 874-507-0021 and 874-507-0022

11. On 10 October 2016 an area of "old growth forest" greater than 1.0 hectare, in line with the definition in the current *Management Standards and Procedures for timber harvesting operations in Victoria's State forests 2014*³ was identified and delineated within coupe 874-507-0020 following the construction of a coupe access road within the coupe.
12. On the evening of Sunday 6th November during the course of a nocturnal fauna call-play back survey broadcasting large forest owl vocalisations, two Yellow-bellied Gliders were heard and recorded from within active logging coupe 874-507-0020.
13. Also during and after the call-play back survey a Sooty Owl was heard and recorded vocalising territorial and trilling calls from within and adjacent to coupe 874-507-0020 and 874-507-0021.
14. On Monday 08 November 2016 mammal diggings indicating the presence of a *Potorous sp.* were observed on the border of coupes 874-507-0021 and 874-507-0022.
15. Also on Monday 08 November 2016 Warm Temperate Rainforest coinciding with a "Linear Reserve" (FMZ100, DELWP, October 2016) was observed on the western borders and tributaries between each of the Drummer coupes.
16. Also on Monday 08 November 2016 rare rainforest species (including Oval Fork-fern and Small Fork-fern, Jungle Bristle-fern as well as an epiphytic orchid from the *Sarchochillia* genus) were observed within the Warm Temperate rainforest stands described above.
17. A summary of this information is provided in Table 1. below.

Table 1. Values observed within and adjacent to coupes 874-507-0020, 874-507-0021 and 874-507-0022

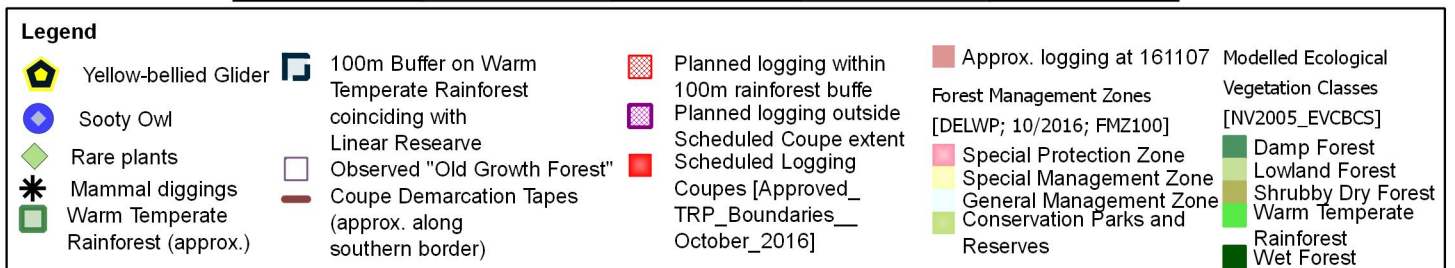
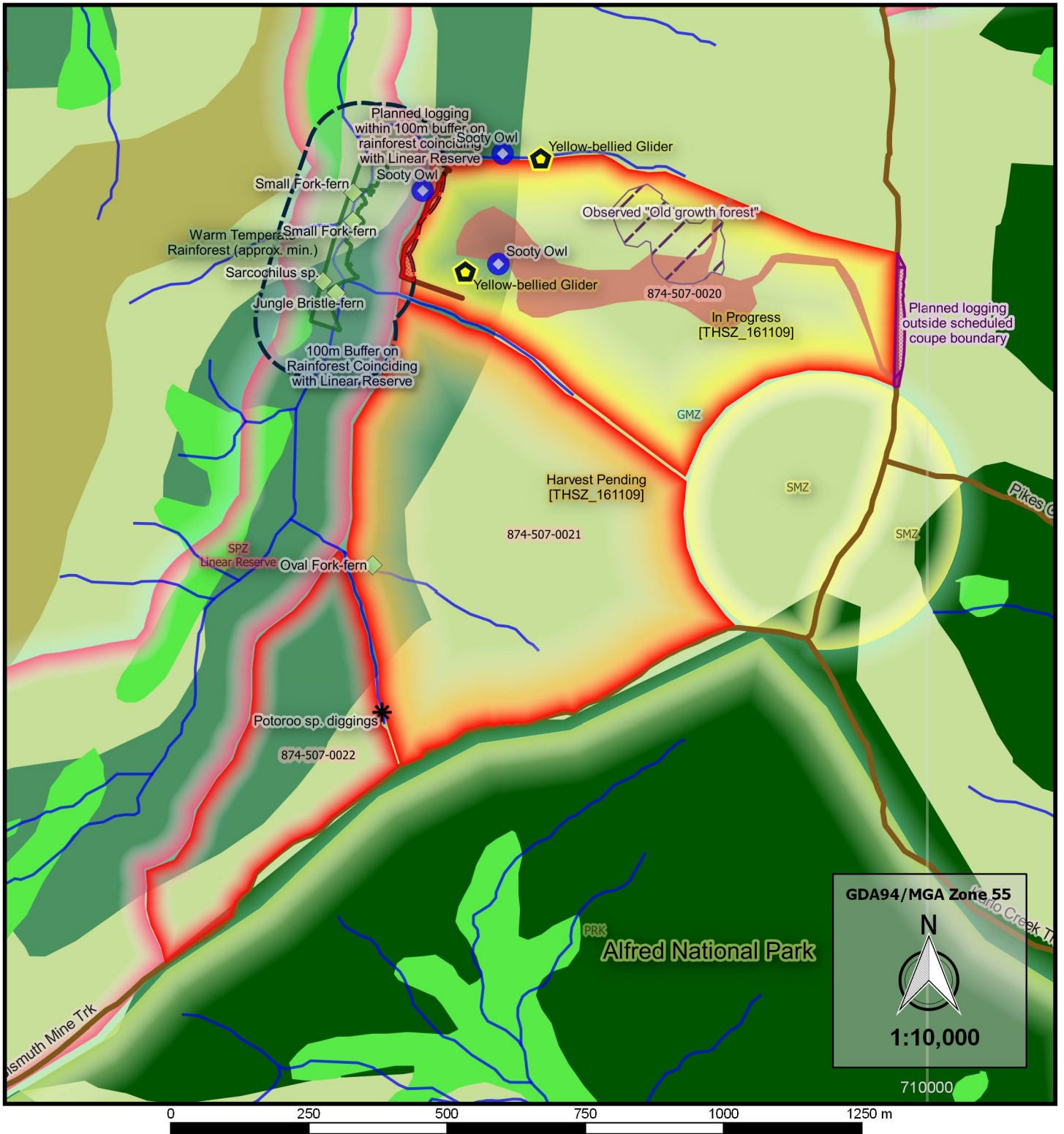
Date	Value Location	Value/Species	Common Name	Type of record	Further detail	Figure no. in Appendix
17/10/16	55 H 709540 5846079	Old Growth Forest		Observation	> 2.0 ha; Central location provided in table only	Figure 1.
06/11/16	55 H 709164 5846016	<i>Petaurus australis</i>	Yellow-bellied Glider	Aural	Central location of multiple records of same individual provided in table only	
06/11/16	55 H 709301 5846221	<i>Petaurus australis</i>	Yellow-bellied Glider	Aural	Separate individual to record above	
06/11/16	55 H 709232 5846231	<i>Tyto tenebricosa</i>	Sooty Owl	Aural	Sooty Owl also observed from additional locations within/adjacent to the Drummer coupes	
06/11/16	55 H 709087 5846164	<i>Tyto tenebricosa</i>	Sooty Owl	Aural		
06/11/16	55 H 709224 5846031	<i>Tyto tenebricosa</i>	Sooty Owl	Aural		
07/11/16	55 H 709014 5845221	Potorous sp. Diggings		Observation		Figure 2.
07/11/16	Various – see map	Warm Temperate Rainforest		Observation		Figures 3-4.
07/11/16	55 H 708997 5845487	<i>Tmesipteris ovata</i>		Observation	Extensive throughout rainforest stand (additional locations not recorded)	Figure 5.
07/11/16	55 H 708931 5845979	<i>Cephalomanes caudatum</i>	Jungle Bristle-fern	Observation		Figure 6.
07/11/16	55 H 708962 5846109	<i>Tmesipteris parva</i>	Small Fork-fern	Observation	Extensive throughout rainforest stand (additional locations not recorded)	Figure 6.
07/11/16	55 H 708961 5846161	<i>Tmesipteris parva</i>	Small Fork-fern	Observation		
07/11/16	874-507-0021	Hollow-bearing Trees		Observation		Figures 7-8.

Coupe demarcation tapes and logging disturbance outside the scheduled "Timber Release Plan" (TRP) coupe extent of coupe 874-507-0020

18. Further to the above, coupe demarcation tapes and part of a "snig track" have been observed outside of the scheduled coupe extent of coupe 874-507-0020 as outlined in VicForests current Timber Release Plan "Approved_TRP_Boundaries__October_2016".
19. This information is displayed in the map of Figure 2. below.

³ *Management Standards and Procedures for timber harvesting operations in Victoria's State forests 2014*, The State of Victoria Department of Environment and Primary Industries, Melbourne, 2014, p. 15

Figure 2. Drummer Creek Headwaters Context Map



VicForests Failure to apply the Precautionary Principle in breach of 2.2.2.2 of the Code

20. VicForests has not undertaken any threatened species surveys in the Drummer coupes, despite the presence of >1.0 ha of "old growth forest" (in line with VicForests own arbitrarily defined targeted survey selection criteria) observable from a coupe access road prior to logging commencing as well as in the context of the recent surveys detailing the presence of rare, threatened and/or protected species within and adjacent to these coupes.
21. The forest in the Drummer coupes is good quality habitat for a number of rare, threatened and/or protected species such as Potoroo species, Yellow Bellied Gliders, Sooty and other Large Forest Owls and rare rainforest species.
22. Sections of the Victorian Biodiversity Atlas (inc. VBA_FAUNA25 and VBA_FLORA25) show that the following rare, threatened and/or protected species are known to be present within 5km of the Drummer Coupes:

Fauna species (VBA_FAUNA25)				
SCI_NAME	COMM_NAME	FFG_DESC	VICADV_DES	EPBC_DESC
Isodon obesulus obesulus	Southern Brown Bandicoot	Listed	Near threatened	Endangered
Litoria littlejohni	Large Brown Tree Frog	Listed	Endangered	Vulnerable
Ninox strenua	Pow erful Owl	Listed	Vulnerable	
Petauroides volans	Greater Glider		Vulnerable	
Potorous tridactylus tridactylus	Long-nosed Potoroo	Listed	Near threatened	Vulnerable
Pseudophryne dendyi	Dendy's Toadlet		Data deficient	
Tyto tenebricosa tenebricosa	Sooty Owl	Listed	Vulnerable	

Flora species (VBA_FLORA25)				
SCI_NAME	COMM_NAME	FFG_DESC	VICADV_DES	EPBC_DESC
Brachyscome salkiniae	Elegant Daisy		Rare	
Cephalomanes caudatum	Jungle Bristle-fern		Rare	
Convolvulus angustissimus subsp. omnigracilis	Slender Bindweed		Poorly known	
Cyathea cunninghamii	Slender Tree-fern	Listed	Vulnerable	
Cyathea leichhardtiana	Prickly Tree-fern	Listed	Vulnerable	
Eupomatia laurina	Bolw arra		Rare	
Hibbertia dentata	Trailing Guinea-flower		Rare	
Korthalsella rubra subsp. rubra	Jointed Mistletoe		Vulnerable	
Lastreopsis microsora subsp. microsora	Creeping Shield-fern		Rare	
Lindsaea microphylla	Lacy Wedge-fern		Rare	
Persoonia levis	Smooth Geebung		Rare	
Plectorrhiza tridentata	Tangle Orchid		Rare	
Poa sp. aff. tenera (Hairy)	Soft Slender Tussock-grass		Rare	
Podolobium ilicifolium	Prickly Podolobium		Rare	
Pterostylis grandiflora	Cobra Greenhood		Rare	
Schelhammera undulata	Lilac Lily		Rare	
Solanum silvestre	Violet Nightshade		Endangered	
Tmesipteris ovata	Oval Fork-fern		Rare	
Tmesipteris parva	Small Fork-fern		Rare	
Uncinia nemoralis	River Hook-sedge		Rare	

23. Logging in coupe 891-512-0004 without undertaking threatened species surveys breaches VicForests legal obligations to comply with the precautionary principle including sections 2.2.2.2 and 2.2.2.4 of the *Code of Practice for Timber Production 2014 (the Code)*.

*"2.2.2.2 The **precautionary principle** must be applied to the conservation of biodiversity values. The application of the precautionary principle will be consistent with relevant monitoring and research that has improved the understanding of the effects of forest management on forest ecology and conservation values. ...*

*2.2.2.4 During planning identify biodiversity values listed in the Management Standards and Procedures prior to roading, harvesting, **tending and regeneration**. Address risks to these values through management actions consistent with the Management Standards and Procedures such as appropriate location of **coupe infrastructure, buffers, exclusion areas**, modified harvest timing, modified silvicultural techniques or retention of specific structural attributes."*

24. *The Code* defines the precautionary principle as:

*"**'precautionary principle'** means when contemplating decisions that will affect the environment, careful evaluation of management options be undertaken to wherever practical avoid serious or irreversible damage to the environment; and to properly assess the risk-weighted consequences of various options. When dealing with threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation."*

25. Logging in the Drummer coupes without conducting pre logging threatened species surveys constitutes a threat of serious or irreversible environmental damage and there is a lack of full scientific certainty relating to that damage. Specifically, it is probable that there is a significant threat to threatened and protected species, including the Yellow-bellied Glider, Potoroo sp., and the Sooty Owl.
26. The observed and likely presence of protected species such as those listed above and the threat of serious or irreversible damage and the lack of scientific certainty relating to that damage trigger the pre-conditions for the application of the precautionary principle.
27. The principles upheld in the *Brown Mountain (EEG v VicForests)* Victorian Supreme Court judgement (VSC 8547) similarly apply to the circumstances discussed within this letter such that application of the precautionary principle requires the completion of targeted species surveys, including for the Yellow-bellied Glider, Potoroo sp., Sooty Owls and the other species listed above prior to logging⁴.
28. VicForests failure to conduct pre logging targeted species surveys prior to the commencement of logging in the Drummer coupes constitutes a breach of 2.2.2.2 of *The Code* and Section 46 of the *Sustainable Forests (Timber) Act 2004* (Vic) and is and will continue to be unlawful.
29. As DELWP are responsible for enforcing VicForests compliance with *the Code*, as stated in 1.2.6 of *the Code* (reproduced below), action must be taken immediately to prevent the breaches of *the Code* detailed above from occurring.

"1.2.6 Compliance on State forest

*The Code is a prescribed legislative instrument made and enforced under relevant law listed in the Conservation, Forests and Lands Act 1987. For the purposes of each relevant law the **Secretary** is an **authorised officer** and is therefore responsible for ensuring compliance with the Code on State forest. Compliance is also monitored by other authorised officers appointed by the Secretary pursuant to the Conservation, Forests and Lands Act 1987."*⁵

4 EEG Vs VicForests (2009) VSC 8547 at [633]

5 *Code of Practice for Timber Production 2014*, The State of Victoria, Department of Environment and Primary Industries, 2014, p. 23

Actions required to be taken by DELWP to prevent further breaches of the Code

30. DELWP must ensure that VicForests apply the precautionary principle to conservation of biodiversity in its operations. This can be achieved in part by DELWP issuing a direction to VicForests to not commence or continue logging in any of the coupes discussed in this letter unless thorough and comprehensive surveys for protected species in and adjacent to all those coupes in the 24 FMB's without a trigger for a VicForests survey have been undertaken and all appropriate responsive management actions have been fully implemented at least to the minimum standards required by the regulatory framework.
31. To this end, DELWP should immediately issue a directive to VicForests to halt logging in the Drummer coupes as well as active/pending logging coupes 888-502-0001 and 888-505-0001 in the Buldah FMB (the **Buldah coupes**) until appropriate surveys have been conducted.
32. Logging in any of the Drummer or the Buldah coupes without conducting thorough and repeated comprehensive targeted species surveys for threatened and protected species is or will be undertaken in breach of sections 2.2.2.2 to 2.2.2.4 of *the Code*.
33. DELWP should investigate logging of coupe 874-507-0020 (and all VicForests logging coupes in the 24 FMB's not subject to appropriate surveys) for non compliance with *the Code* with regard to the issues outlined above. If breaches are found DELWP should take regulatory action and prosecute VicForests.
34. Please inform me what steps DELWP will take to prevent unlawful logging in the Drummer and Buldah coupes, as well as those coupes within the 24 FMB's without targeted threatened species surveys.
35. As many of the coupes discussed within this letter are currently been or will soon to be logged this matter requires your urgent attention.
36. Thank you, I look forward to your response as soon as possible and to hearing that DELWP will restrain VicForests from logging in any coupes that have not been subject to appropriate threatened species surveys and where appropriate responsive management actions meeting at least the minimum standards required by the regulatory framework have not been implemented.

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APPENDIX A (Photos of values described in the letter above)

Figure 1. Hollow Bearing Trees in identified "old-growth forest" area



Figure 2. Potoroo sp. diggings



Figure 3. Warm Temperate Rainforest



Figure 4. Warm Temperate Rainforest

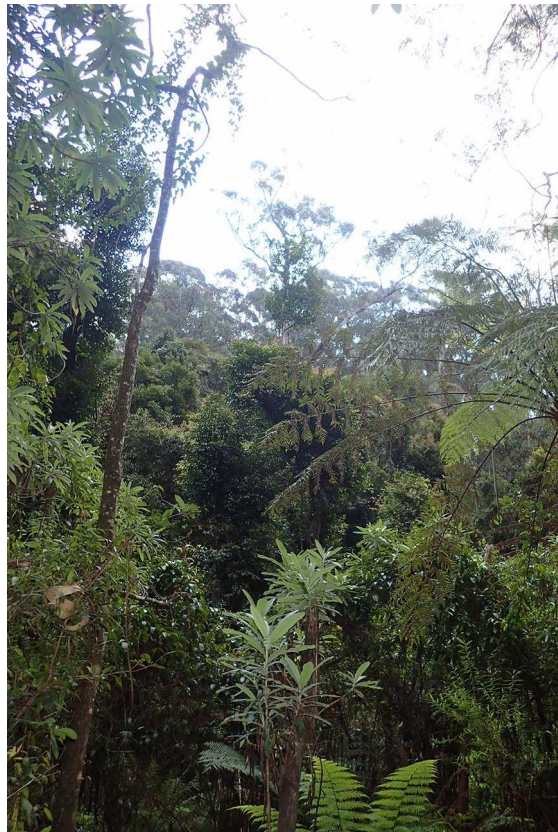


Figure 5. *Tmesipteris ovata* (Oval Fork-fern)



Figure 6. *Cephalomanes caudatum* (Jungle Bristle-fern) and *Tmesipteris parva* (Small Fork-fern)



Figure 7. Forest within coupe 874-507-0021 supporting Hollow-bearing Trees



Figure 8. Forest within coupe 874-507-0021 supporting Hollow-bearing Trees

