

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

**URGENT: "Pending/taped out" logging coupe 833-510-0011 within rainforest areas and without minimum assessments for rare, threatened or protected species values**

1. The commencement of logging is believed to be imminent or underway within VicForests logging coupe 833-510-0011 off Round Top track in the Purgagoolah Forest Block of East Gippsland (**the Purgagoolah coupe**). This coupe is listed as "harvest pending" on VicForests "timber Harvesting Safety Zone List" (<http://www.vicforests.com.au/timber-harvesting-safety-zones>, accessed 22/11/16) and coupe boundary tapes have been placed within this forest area including at the locations displayed below.
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. As a result, the planned logging within the Purgagoolah coupe is about to occur 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 Purgagoolah coupe.

Summary of observations regarding rare, threatened and/or protected species found within coupe 833-510-0011

4. During a preliminary investigation of conservation values within coupe 833-510-0011 from Sunday 20 to Monday 21 November the biodiversity conservation values listed in Table 1. and shown in Figure 1. (map) below were encountered.

Table 1. Values observed within and adjacent to the Purgagoolah coupe 833-510-0011

Date	Value Location (GDA94 MGA Zone 55)	Value/Species	Common Name	Type of record	Further detail
20/11/16	55 H 662553 5840063	Warm Temperate Rainforest		Seen	Start of observation location (see map for further details)
20/11/16	55 H 662599 5840178	Tmesipteris parva	Small Fork-fern	Seen	
20/11/16	55 H 662633 5840221	Euastacus sp.	Spiny Crayfish	Seen	not identified to species
20/11/16	55 H 662663 5840358	Litoria citropa	Blue Mountains Tree Frog	Heard	Observation location provided (4x individual males heard calling)
21/11/16	55 H 662718 5840521	Euastacus sp.	Spiny Crayfish	Seen	not identified to species
21/11/16	55 H 662575 5840570	Petaurus australis	Yellow-bellied Glider	Seen	Recording location provided (see map for projected animal location)
21/11/16	55 H 662421 5840559	Petaurus australis	Yellow-bellied Glider	Heard	



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

5. VicForests has not undertaken any threatened species surveys in the Purgagoolah coupe, despite this forest been good quality habitat for a number of identified rare, threatened and/or protected species such as Yellow Bellied Gliders, Frog species, Spiny Crayfish species, rainforest and rare rainforest species and likely good quality habitat for other rare, threatened or protected species.
6. Sections of the Victorian Biodiversity Atlas (inc. VBA\_FAUNA25-100, VBA\_FLORA25-100 and VBA\_FAUNA\_GRID\_1M) show that the following 30 rare, threatened and/or protected species have been recorded within approximately 5km of the Purgagoolah coupe:

Table 2. Rare, threatened and/or protected species within ~5km of the Purgagoolah coupe 833-510-0011

<b>Fauna species (VBA_FAUNA25, 100 and GRID_1M )</b>					
<b>SCI_NAME</b>	<b>COMM_NAME</b>	<b>FFG_DESC</b>	<b>VICADV_DES</b>	<b>EPBC_DESC</b>	<b>Code of Practice</b>
Cinclosoma punctatum	Spotted Quail-thrush		Near threatened		
Dasyurus maculatus maculatus	Spot-tailed Quoll	Listed	Endangered	Endangered	YES
Euastacus bidaw alus	East Gippsland Spiny Crayfish		Vulnerable		
fam. Parastacidae gen. Euastacus	Spiny Crayfish				
Galaxias aequipinnis	East Gippsland Galaxias	Listed	Endangered		YES
Heleioporus australiacus	Giant Burrowing Frog	Listed	Critically endangered	Vulnerable	YES
Hirundapus caudacutus	White-throated Needletail		Vulnerable		
Litoria citropa	Blue Mountains Tree Frog				YES
Ninox strenua	Powerful Owl	Listed	Vulnerable		YES
Petauroides volans	Greater Glider		Vulnerable	Vulnerable	YES
Petaurus australis	Yellow-bellied Glider				YES
Potorous longipes	Long-footed Potoroo	Listed	Vulnerable	Endangered	YES
Potorous tridactylus tridactylus	Long-nosed Potoroo	Listed	Near threatened	Vulnerable	
Pseudophryne dendyi	Dendy's Toadlet		Data deficient		
Sminthopsis leucopus	White-footed Dunnart	Listed	Near threatened		
Trichosurus vulpecula	Common Brushtail Possum				YES
Tyto novaehollandiae novaehollandiae	Masked Owl	Listed	Endangered		YES
Tyto tenebricosa tenebricosa	Sooty Owl	Listed	Vulnerable		YES
Varanus varius	Lace Monitor		Endangered		
<b>Flora species (VBA_FAUNA25, 100 and GRID_1M )</b>					
<b>SCI_NAME</b>	<b>COMM_NAME</b>	<b>FFG_DESC</b>	<b>VICADV_DES</b>	<b>EPBC_DESC</b>	<b>Code of Practice</b>
Cephalomanes caudatum	Jungle Bristle-fern		Rare		
Cryptostylis hunteriana	Leafless Tongue-orchid	Listed	Endangered	Vulnerable	
Cyathea cunninghamii	Slender Tree-fern	Listed	Vulnerable		
Cyathea leichhardtiana	Prickly Tree-fern	Listed	Vulnerable		YES
Hibbertia dentata	Trailing Guinea-flow er		Rare		
Lindsaea microphylla	Lacy Wedge-fern		Rare		
Plectorrhiza tridentata	Tangle Orchid		Rare		YES
Poa sp. aff. tenera (Hairy)	Soft Slender Tussock-grass		Rare		YES
Ripogonum album	White Supplejack		Rare		
Tmesipteris ovata	Oval Fork-fern		Rare		
Tmesipteris parva	Small Fork-fern		Rare		

7. Logging in the Purgagoolah coupe (833-510-0011) 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."*

8. *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."*

9. Logging in the Purgagoolah coupe 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 the identified rare, threatened and/or protected species such as Yellow Bellied Gliders, Frog species, Spiny Crayfish species.
10. 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.
11. 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 identified rare, threatened and/or protected species such as Yellow Bellied Gliders, Frog species, Spiny Crayfish species and the other species listed above prior to logging<sup>1</sup>.
12. VicForests failure to conduct pre logging targeted species surveys prior to the commencement of logging in the Purgagoolah coupe will constitute a breach of 2.2.2.2 and 2.2.2.4 of *The Code* and Section 46 of the *Sustainable Forests (Timber) Act 2004 (Vic)* and will be unlawful.
13. 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."*<sup>2</sup>

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

Coupe demarcation tapes indicating imminent logging of rainforest and rainforest buffers

14. Coupe demarcation tapes have been recorded at times within and elsewhere within very close proximity to Warm Temperate Rainforest that is greater than 0.4 hectares in area at the location listed in the table above and shown in the map of Figure 1. below. Logging activities undertaken to the extent of these tapes will breach section 2.2.2.7 *the Code*.
15. Warm Temperate Rainforest communities in East Gippsland "must not be harvested"<sup>3</sup> and rainforest areas greater than 0.4 hectares must be provided a 40m buffer.<sup>4</sup>
16. Additional areas of Warm Temperate Rainforest vegetation observed within and adjacent to the Purgagoolah coupe beyond those shown in the attached map may also have coupe demarcation tapes within the required 40m buffer.

Figure 2. Coupe demarcation tapes placed at edge of Warm Temperate Rainforest (55H 0662553 5840063)



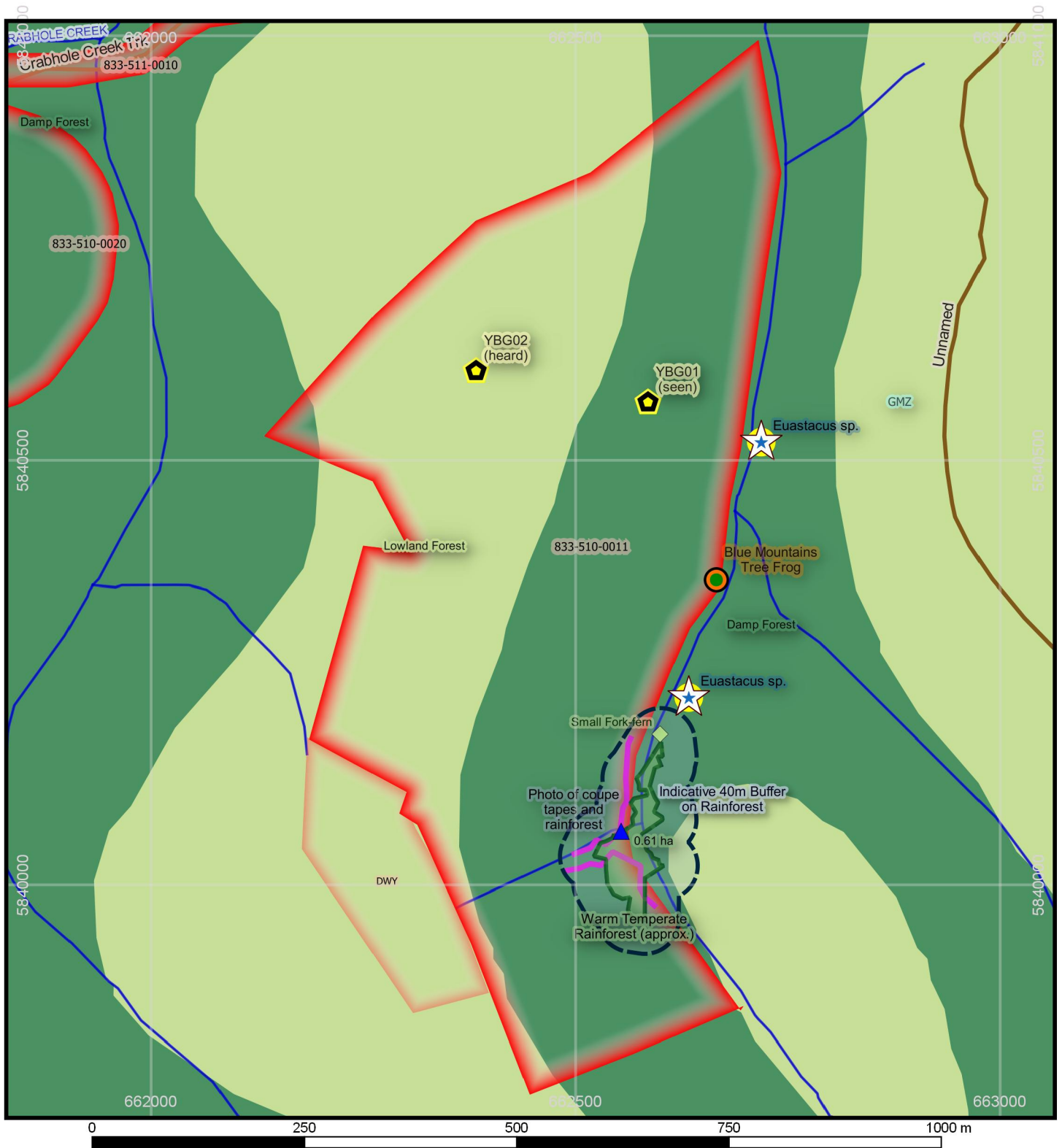
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<sup>2</sup> *Code of Practice for Timber Production 2014*, The State of Victoria, Department of Environment and Primary Industries, 2014, p. 23

<sup>3</sup> *ibid*, p. 34

<sup>4</sup> "Management Standards and Procedures for timber harvesting operations in Victoria's State forests 2014", Department of Environment and Primary Industries, The State of Victoria, 2014, p. 40

Figure 1. Purgagoolah coupe 833-510-0011 Biodiversity Conservation Values Context Map



<b>Legend</b>		<b>GDA94/MGA Zone 55</b>	
<ul style="list-style-type: none"> <li> Yellow-bellied Glider (animal location)</li> <li> Blue Mountains Tree Frog (4 males heard)</li> <li> Euastacus sp.</li> <li> Small Fork-fern</li> </ul>	<ul style="list-style-type: none"> <li> Warm Temperate Rainforest</li> <li> Indicative 40m Rainforest Buffer</li> <li> Coupe demarcation tapes</li> <li> Scheduled Logging Coupes [Approved_TRP_Boundaries_October_2016]</li> </ul>	<ul style="list-style-type: none"> <li> Coupe Driveways [Approved_TRP_Boundaries_October_2016]</li> <li> Forest Management Zones [DELWP, Oct. 2016; FMZ100]</li> <li> General Management Zone</li> </ul>	<ul style="list-style-type: none"> <li> Ecological Vegetation Classes [NV2005_EVCBCS]</li> <li> Damp Forest</li> <li> Lowland Forest</li> <li> Roads</li> <li> Watercourses</li> </ul>
			<b>1:6,500</b>

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

17. DELWP must ensure that VicForests apply the precautionary principle at all times during their operations. This can be achieved in part by DELWP issuing a direction to VicForests to not commence or continue logging in the Purgagoolah coupe unless appropriately designed and undertaken surveys for protected species have been undertaken and all appropriate responsive management actions have been fully implemented at least to the minimum standards required by the regulatory framework.
18. To this end, DELWP should immediately issue a directive to VicForests to not commence or to halt logging in the Purgagoolah coupe until appropriate surveys have been conducted.
19. Logging in the Purgagoolah coupe without conducting appropriately designed and undertaken 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*.
20. DELWP should investigate plans to log and/or the logging of coupe 874-507-0020 for non compliance with *the Code* with regard to the issues outlined above including VicForests plans to log up to and in to a Warm Temperate Rainforest community without providing a mandatory 40m buffer as discussed and shown in the map of Figure 1. above. DELWP must fully investigate, prevent and prosecute VicForests for any and all breaches of the regulatory framework governing logging operations in Victoria's State Forests.
21. Please inform me what steps DELWP will take to prevent unlawful logging in the Purgagoolah coupe. As the Purgagoolah coupe will soon be or is currently been logged this matter requires your urgent attention.
22. 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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