



# ***SOUTH EAST FOREST RESCUE***

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Crown Forestry Policy & Regulation Section  
Office of Environment & Heritage  
Enviroline

19 August 2011

Dear OEH,

## **RE: FNSW breaches of S. 118A-118D of the NPW Act 1974. Bago Plateau Yellow bellied Glider Population**

### **Yellow-bellied Glider population on the Bago Plateau - Murray: Distribution and vegetation associations in the Murray**

**Scientific name:** *Petaurus australis* - endangered population  
**Conservation status in NSW:** [Endangered Population](#)

#### **Distribution of the species within this region**

The Yellow-bellied Glider population on the Bago Plateau is known or predicted to occur in the following sub-regions of the Murray Catchment Management Region:

CMA sub-region	Known or predicted to occur	Geographic restrictions within region
Bondo	Known	None
New South Wales Alps	Known	None

#### **Important habitat requirements within region**

Below is a list of the key habitat features for this species in this CMA:

Habitat	Details
<b>Breeding habitat</b>	Trees with hollows >10 cm diameter in eucalypt forest
<b>Foraging habitat</b>	Tall, typically mature, eucalypt forest, generally in areas with high rainfall and nutrient rich soils. Moist gullies or creek flats to montane forests.
<b>Shelter/roosting/refuge habitat</b>	Large trees with hollows greater than 10cm diameter
<b>Time of year species identifiable (if flora) or best detected (if fauna)</b>	All year

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Yellow-bellied Gliders *Petaurus australis* (Shaw 1791) on the Bago Plateau were listed as an Endangered Population in Part 2 of Schedule 1 of the Act in 2008. The Bago Plateau is a westward extension of the Kosciuszko highlands in southern New South Wales, and the listed yellow-bellied glider population is distributed over Bago and Maragle State Forests, a small area of Kosciuszko National Park, and some freehold land.<sup>3</sup> Proposed Gazettal date: 21/11/08.

<sup>1</sup> See OEH website at: [http://www.threatenedspecies.environment.nsw.gov.au/tsprofile/profile\\_data.aspx?id=20102&cma=Murray](http://www.threatenedspecies.environment.nsw.gov.au/tsprofile/profile_data.aspx?id=20102&cma=Murray)

<sup>2</sup> See OEH website at:

[http://www.threatenedspecies.environment.nsw.gov.au/tsprofile/pas\\_speciestype\\_details.aspx?type=Endangered+Populations&kingdom=Animal](http://www.threatenedspecies.environment.nsw.gov.au/tsprofile/pas_speciestype_details.aspx?type=Endangered+Populations&kingdom=Animal)

<sup>3</sup> NSW Forest Agreements Implementation Report 2008–2009: Upper North East, Lower North East, Eden and Southern regions. A report prepared by the Minister for Climate Change and the Environment as part of the implementation of the NSW forest agreements and integrated forestry operations approvals. Forest Policy and Regulation Section, Department of Environment, Climate Change and Water NSW, Sydney.

The following table sets out to the best of our knowledge the forestry operations that have been conducted since the proposed gazettal date, with also compartments that are flagged on the Plan Of Operations for this financial year.

**Bago/ Maragle State Forests RFA relevant logging history and threatened logging**

<b>cpt</b>	<b>operation dates</b>	<b>comments</b>
3		POO11-12 contingency
4		POO11-12 contingency
6	30.12.08 - 30.06.09	POO11-12 July - September
17		POO11-12 contingency
18		
20		POO11-12 contingency
21		
23	18.04.08 - 08.12.08	
26	27.02.08 - 30.12.08	
29		POO11-12 contingency
30		POO11-12 contingency
33	14.03.07 - 08.03.08	POO11-12 October - December and contingency
34	22.12.06 - 09.06.10	POO11-12 October - December and contingency
37		POO11-12 contingency
38		POO11-12 January - March12
43		POO11-12 April - June12
45	27.11.08 - 21.05.09	POO11-12 October - December
49	18.02.08 - 31.05.09	
76	03.06.09 - 29.06.09	POO11-12 January - March12
77	03.12.07 - 01.07.08	POO11-12 January - March12
81		POO11-12 October - December
84		POO11-12 April - June12
114		POO11-12 January - March12
115	06.02.06 - 30.06.06	POO11-12 contingency

As per the Tumut Sub-region Threatened Species Licence:

This licence is issued to the Forestry Commission of New South Wales and any person carrying out forestry operations defined in the Integrated Forestry Operation Approval (IFOA) under Part 4 of the *Forestry and National Parks Estate Act 1998* of which this licence is Annexure B.

This licence commences on the day on which the IFOA is granted by the Ministers in accordance with Part 4 of the *Forestry and National Parks Estate Act 1998* and is to apply to the conduct of the forestry operations covered by the IFOA within the Tumut Sub-region.

This licence does not authorise the carrying out of an activity that is likely to:

1. Harm an endangered population or an endangered ecological community (as far as animals are concerned);
2. Result in the picking of a plant that is part of an endangered population or endangered community;
3. Damage critical habitat; or
4. Damage the habitat of an endangered population or endangered community.

This licence is issued subject to the licence holder complying with the conditions and requirements set out in the licence. A contravention of the terms of this licence makes the person carrying out the forestry operations liable for an offence under the *National Parks and Wildlife Act 1974* for e.g. harming a threatened species under Section 118A of the *National Parks and Wildlife Act 1974*.

As per section 118A of the *National Parks and Wildlife Act 1974*:

**118A Harming or picking threatened species, endangered populations or endangered ecological communities**

- (1) A person must not:

- (a) harm any animal that is of, or is part of, a threatened species, an endangered population or an endangered ecological community, or
- (b) use any substance, animal, firearm, explosive, net, trap, hunting device or instrument or means whatever for the purpose of harming any such animal.

Penalty:

- (a) in respect of any endangered species, population or ecological community—2,000 penalty units or imprisonment for 2 years or both, and, in a case where an animal of any endangered species, population or ecological community is harmed, an additional 100 penalty units in respect of each animal that is harmed,
- (b) in respect of any vulnerable species—500 penalty units or imprisonment for 1 year or both, and, in a case where an animal of any vulnerable species is harmed, an additional 50 penalty units in respect of each animal that is harmed.

(2) A person must not pick any plant that is of, or is part of, a threatened species, an endangered population or an endangered ecological community.

Penalty:

- (a) in respect of any endangered species, population or ecological community—2,000 penalty units or imprisonment for 2 years or both, and an additional 100 penalty units in respect of each whole plant that was affected by or concerned in the action that constituted the offence,
- (b) in respect of any vulnerable species—500 penalty units or imprisonment for 1 year or both, and an additional 50 penalty units in respect of each whole plant that was affected by or concerned in the action that constituted the offence.

As per section 118D of the *National Parks and Wildlife Act 1974*:

**118D Damage to habitat of threatened species, endangered populations or endangered ecological communities**

(1) A person must not, by an act or an omission, do anything that causes damage to any habitat (other than a critical habitat) of a threatened species, an endangered population or an endangered ecological community if the person knows that the land concerned is habitat of that kind.

Penalty: 1,000 penalty units or imprisonment for 1 year or both.

We contend that the forestry operations listed in the above table have been, or intend to be, conducted in contravention of the IFOA. Would you please inform us of any regulatory action that has been taken in this regard? Would you please inform us of how it is possible that FNSW can propose to resume forestry operations in Bago/Maragle State Forests without being guilty of damaging the habitat of this endangered population?

## Food resources issue

As per the Tumut TSL:

**6.8. Yellow-bellied Glider *Petaurus australis***

- a) A 50 metre radius exclusion zone must be implemented around Yellow-bellied Glider dens.
- b) All Yellow-bellied Glider sap feed trees must be retained. All Yellow-bellied Glider sap feed trees must be marked for retention.
- c) Within a 100 metre radius of each retained Yellow-bellied Glider sap feed tree, 15 feed trees must be retained. Yellow-bellied Glider sap feed trees must not be counted towards these 15 feed trees. Retained feed trees must have good crown development, should have minimal butt damage and should not be suppressed. Retained feed trees must have a dbhob greater than 30 centimetres.
- d) The feed trees retained in condition 6.8 c) should be of the same species as the identified sap feed tree, or be a tree species recognised as a sap feed tree in the area (*E. viminalis*, *E. fastigata*, *E. ovata*, *E. dalrympleana*).

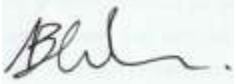
We have been reliably informed that condition 6.8.d does not cover the full spectrum of food resource trees that the endangered population are observed to be utilising. We have been told that it is regularly found that there are Yellow-bellied Glider feed scars on other Eucalypt tree species including *E. rubida* (Candle Bark), *E. delegatensis* (Alpine Ash), *E. stellulata* (Black Sallee), and *E. pauciflora* (Snow Gum). Would you please

inform us of whether or not this condition will be updated to include these species as part of the current review? It seems to us that this would be a useful amendment to condition 6.8.d should any further forestry operations proceed.

A more useful option we feel would be to completely disallow and further forestry operations in this endangered population's habitat area. Would you please inform us of any efforts by the OEH to effect this protective measure?

Kind Regards,

*L Stone*

A handwritten signature in blue ink, appearing to read "B. Daines", is shown on a light blue rectangular background.

*B. Daines*