



# edotasia

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The Director  
Ecological Communities Section  
Department of Environment and Energy  
GPO Box 787  
Canberra ACT 2601

By email: [epbc.nominations@environment.gov.au](mailto:epbc.nominations@environment.gov.au)

Dear Madam / Sir,

## **Draft Conservation Advice (incorporating listing advice) for the Tasmanian Forests and Woodlands dominated by *E. ovata*/*E. brookeriana***

EDO Tasmania is a non-profit, community legal service specialising in environmental and planning law. We deliver a range of legal services aimed at improving environmental regulation and securing sustainable outcomes. We welcome the opportunity to comment on the Draft Conservation Advice (incorporating listing advice) for the Tasmanian Forests and Woodlands dominated by black gum or Brookers gum (*E. ovata* / *E. brookeriana*).

We strongly support the proposed listing of the ecological community. Our comments are limited to the recommendation that no recovery plan be prepared for the *E. ovata*/*E. brookeriana* forest community (Recommendation 4.2). We consider that, for a critically endangered ecological community, a Recovery Plan is required – reliance on a Conservation Advice is not sufficient, given the significance of the threats facing the community.

We acknowledge the Threatened Species Scientific Committee's rationale for concluding that a Conservation Advice is sufficient. However, we consider that a recovery plan will be a stronger and more effective instrument to ensure that measures are adopted to stop the decline of, or support the recovery of, the ecological community. There are two principal reasons for this:

- A Recovery Plan imposes tougher statutory obligations than a conservation advice
- The Commonwealth Minister has an obligation to seek cooperation from the State government in relation to the implementation of a Recovery Plan. This will be important, as the EPBC Act (and any threatened community listing) will not apply to RFA forestry operations.

### **Statutory obligations**

The *Environment Protection and Biodiversity Conservation Act 1999* (**EPBC Act**) imposes obligations on the Minister to "have regard to" approved conservation advices in making various decisions (for example, ss.34D(1)(ca), 37G(d), 53(1)(ca), 139(2) and 146K(2)). However, in relation to each of those decisions, the Minister must be satisfied that the decision "is not inconsistent with any recovery plan". The statutory obligations and Ministerial accountability attaching to actions outlined in a Recovery Plan are therefore stronger than those imposed in relation to a conservation advice.

Particularly where an ecological community has been recognised as critically endangered, the highest level of protection should be afforded, and the highest level of guidance should be provided to decision makers. A recovery plan provides a more comprehensive and specific

framework for the management of an ecological community than a conservation advice, including provision for ongoing monitoring and evaluation of actions over time.

A more detailed analysis of inadequacies in the current mechanisms for protection of critically endangered species and ecological communities is available in our report, [Critically Endangered, Under-Protected](#).

### **Forestry operations**

Pursuant to s.40 of the EPBC Act, a threatened ecological community listing will not affect proposed RFA forestry operations. The Tasmanian Regional Forest Agreement is due to expire in November 2017, however the Federal and State governments have indicated that the current agreement will be rolled over. As a consequence, it is likely that many areas of Tasmanian Forests and Woodlands dominated by black gum or Brookers gum will be exposed to clearing proposals despite any future threatened ecological community listing.

A detailed analysis of the inadequacy of the RFA and Tasmanian forest practices system in relation to the protection of threatened species and ecological communities is available in our report, [State Forests, National Interests](#).

While neither a conservation advice nor a Recovery Plan will apply to RFA forestry operations, s.269 of the EPBC Act requires the Commonwealth to seek cooperation from the Tasmanian government regarding the implementation of a recovery plan. We consider that the development of a Recovery Plan for the ecological community would provide the best opportunity for the Commonwealth Minister to provide guidance and oversight for the protection of the community across all land tenures and threats.

The development and implementation of a recovery plan will take time to complete, but this need not delay the listing of the ecological community. However, a recommendation from the TSSC that a recovery plan be developed will provide some assurance that a comprehensive plan will be developed for the long-term protection of the community.

We urge the TSSC to reconsider its recommendation that no recovery plan is required.

Thank you for the opportunity to make these comments. Please do not hesitate to contact me if you would like to discuss any issues raised in this submission.

Kind regards,

**EDO Tasmania**



Jess Feehely  
Principal Lawyer