

Independent Complaints Review Panel REPORT

Review of Complaint concerning

STATELINE (WA) 4 AUGUST 2006

"Quokkas under threat from logging in the southwest"

On 8 December 2006, the Complainant sought review by the ABC's Independent Complaints Review Panel (the Panel) of a complaint made by him to the ABC's Audience and Consumer Affairs branch (ACA), in respect of a *Stateline* WA program segment, broadcast on 4 August 2006 and repeated on 5 August 2006. The segment was entitled "*Quokkas under threat from logging in the southwest*" (the Program). As referred to later, it was a short and light treatment of the subject and only a small part of the *Stateline* broadcast.

The Complainant's original complaint was made on 8 August 2006. His complaint was rejected by ACA. He was dissatisfied with this rejection and also with the results of ensuing steps taken in the ABC's normal complaints handling procedures. Accordingly, he sought independent review of his complaint by the Panel. The Panel, having duly considered whether it had appropriate jurisdiction under Section 12.6 of the ABC's Editorial Policies 2002 (the Policies), decided that the Complainant's complaint should be accepted for review. It notified him to this effect, on 10 January 2007.

Thereafter, the Panel sought the written comments of the broadcaster on the complaint (Section 12.6.9 of the Policies) and, on 22 April 2007, wrote again in relation to aspects of the complaint. On 9 May 2007, the ABC's response was received by the Panel. This was detailed and contained a number of attachments. The response has been considered and it has been decided that the Panel can conclude its preliminary report (Section 12.6.13 of the Policies) without seeking further information or comments from either the Complainant or the ABC.

The Role of the Panel

The Panel's role is prescribed by Section 12.6.1 of the Policies in the following terms;

"The ABC Board has established an Independent Complaints Review Panel (ICRP) to review written complaints relating to allegations of serious cases of factual inaccuracy, bias, lack of balance or unfair treatment arising from and ABC broadcast or broadcasts, or publication of material on ABC Online."

Its role is further defined by Section 12.6.12 of the Policies which (relevantly) provides that it "will restrict the review to an investigation of the alleged factual inaccuracy, bias, lack of balance or unfair treatment in the broadcast or published matter which is the subject of complaint. The panellist(s) will have regard to relevant sections of the ABC Editorial Policies".

Accordingly, the Panel does not have a generalised jurisdiction for complaint resolution. In particular, it does not have any supervisory or appellate role in respect of ABC employees who have dealt with a complaint in the earlier stages of the ABC's complaint handling procedures. Consequently, it cannot deal with the Complainant's concerns as to the manner in which his initial complaints were dealt with by ACA, including the alleged failure to make investigations which he deemed to be appropriate.

The Complaint

The Complainant complained to the Panel that the program was "misleading and unbalanced" and that "it failed to deal with the subject in a professional way and contained misrepresentations, false statements and untrue assertions". He listed eleven heads of complaint, which corresponded to those in his original complaint to ACA. These will be considered later in these reasons.

In his application to the Panel, the Complainant provided the following information as to his own background;

"I have been involved in forest management and wildlife conservation in WA for over 40 years and I am well-informed and up-to-date in my understanding of quokkas and their conservation. I have been the Superintendent of Forest Research in WA, and Chairman of the Threatened Special and Communities Committee in WA. I am a Fellow of the Institute of Foresters of Australia and was for nine years a senior administrator in the Department of Conservation and Land Management or CALM (now the Dept of Environment and Conservation, or DEC)."

It is clear, of course, that the Complainant has viewed and evaluated the program with the eyes and mind of one with specialised knowledge of the matters raised in it and with firm opinions about the subject matter. In these circumstances it is understandable that he could take issue with aspects of the program that would pass unnoticed by an ordinary intelligent viewer. However, as he correctly states, the program must be assessed as to its compliance with the requirements imposed upon it by the Policies.

The Policy Requirements

It is not disputed by the ABC that the program falls within the category of News and Current Affairs. As such, it is subject to the following provisions of Section 5.1 of the Policies, "The Charter of Editorial Practice";

5.1.3 "Every reasonable effort must be made to ensure that the factual content of news and current affairs programs is accurate and in context. Demonstrable errors will be corrected in a timely manner and in a form most suited to the circumstances."

5.1.4 "Balance will be sought through the presentation, as far as possible, of principal relevant viewpoints on matters of importance. This requirement may not always be reached within a single program or news bulletin but will be achieved as soon as possible."

5.1.5 *"The commitment to balance and impartiality requires editorial staff to present a wide range of perspectives and not unduly favour one over the others. But it does not require them to be unquestioning, nor to give all sides of an issue the same amount of time. News values and news judgements are a material consideration in reaching decisions, consistent with these standards."*

Background to the Program

The Panel sought information from the ABC as to the planning and formulation of the program. It was given the following information, which it accepts.

"This story was covered because it was judged by Stateline to be a newsworthy issue. Prior to this story, Stateline has advised that other relevant stories had been presented numerous times on ABC outlets, including coverage on ABC radio (Bunbury office) and ABC Television and ABC Online. This included, in March 2006, coverage of Dutch researchers who toured the area to study the impact of logging and fire on native forests. There was also coverage of efforts to stop the proposed logging, including petitions and meetings between environmentalists and Members of Parliament. Stateline advises that the issue was also covered extensively in local Western Australian press. Stateline chose to cover the story at this time because logging was to commence in two months and opposition to the logging appeared to be escalating."

The Panel also asked how the interviewees were selected for the Program. It was provided with the following information, which it also accepts.

"Peter Murphy was interviewed because he was the person leading the fight to stop the logging. Kevin Haylock was interviewed because he works for the Forest Products Commission and they would be doing the logging. They were the main players and were interviewed in every other piece of media I found on the issue. A search of the internet revealed Paul de Tores had done the most extensive research on quokkas and that's why I wanted to interview him. After making contact with him I learned that he had new research in press. Mr de Tores did all his research with Matt Hayward but he was in Africa at the time and not available for interview. I spoke with Giz Watson from the Greens because she had lobbied heavily for tougher biodiversity laws in WA and for CALM to carry out fauna surveys in sensitive areas before logging is allowed. Given the quokkas status as a vulnerable species, I felt this was an important issue to highlight."

It is clear that the proposed logging operations did not involve clear felling or clearing but envisaged the selective taking of timber logs from a forest area, known as the Arcadia Forest, which consisted of approximately 4000 hectares of trees and undergrowth. It had been previously logged on two occasions and had, in the normal course of nature, regenerated.

For this reason, it did not qualify for classification as old growth forest, which would have rendered it immune to logging operations. The proposal to log it again was, nevertheless, opposed by conservationist groups, including persons such as Mr Peter Murphy.

It would appear that this opposition had been based on the general grounds of the desirability of preserving intact significant forest areas and assuring the safety of their wildlife inhabitants. It appears to have been accepted that the Arcadia Forest provided a habitat to a small population of native Western Australian marsupials called quokkas, which normally inhabited vegetated areas around streams and swamps. It also appeared that no survey had been conducted on the ground to determine the existence, size or exact location, in the Arcadia Forest, of this assumed quokka population.

There is no dispute that quokka populations are fragile, being especially vulnerable to predators such as foxes and also to wildfire. The proposed logging operation involved the retention, untouched, of two buffer zones of approximately 400 hectares each around established streams, to provide a protected habitat for quokkas.

As referred to in the quotation above, the potentiality of threats to quokkas from the proposed logging had "news value", i.e. it was worthy of investigation and discussion in a current affairs program.

The Program

The Program, although entitled "*Quokkas under threat from logging in the southwest*" clearly did not purport to be other than a brief exposure of the logging-quokka issues in the Arcadia Forest. The broadcast lasted about five minutes and was only a relatively small segment of the overall *Stateline* evening program. It was not, and could not reasonably be regarded as, an in-depth scientific examination of the issues presented. Indeed, it could reasonably be described as short and essentially superficial. The Panel is satisfied that most viewers would have seen it as such.

Nevertheless, it provoked the Complainant into making 11 separate heads of complaint, involving assertions of factual inaccuracy, including misleading statements and visual images, and lack of balance. The Panel will consider each head but, as a matter of convenience, not in the same order in which they appear in the complaint.

Consideration of Heads of Complaint

Third head of complaint

The Complainant's third head of complaint is that "the pictures of quokkas shown on the program, in conjunction with an unbalanced statement by Peter Murphy were misleading".

The statement made in the program by Mr Murphy was "surveys confirmed quokkas live in Arcadia Forest. There is no doubt that quokkas are here". He was filmed in the Arcadia Forest as he made this statement. He also pointed out an area as being "quokka habitat". The quokka pictures were, in fact, copies taken from photos on Rottnest Island and not in the Arcadia Forest.

The Complainant does not appear to claim that there are no quokkas in the Arcadia Forest. The Panel agrees with the ABC's submission that the issue of their presence does not seem to be seriously in dispute but, indeed, Kevin Haylock, who appears in the program in support of the timber harvesting proposal, comments that "numbers (of quokkas) are actually increasing in Arcadia". Mr Haylock was described as an officer of the Forest Products Commission, which was the body charged with the performing of the proposed logging.

In these circumstances, the Panel, whilst agreeing that the program could have indicated that the quokka photos were taken on Rottnest Island and not in Arcadia, does not find that the absence of this statement rendered misleading their use in the program. It was reasonable to show viewers pictures of quokkas, as they were a significant feature of the program and many viewers would have been unfamiliar with their appearance.

The Panel, in respect of this head, finds no breach of the Policies established.

Fourth head of complaint

The Complainant's fourth head of complaint is that "the journalist refers to timber harvesting as 'clearing' and the program accompanied its discussion on this issue with footage of a recently clear felled area in the karri forest, hundreds of kilometres away".

He made the point that "a selective logging operation followed by regeneration is not clearing" and is, indeed, "quite the opposite of clearing". He complained that the journalist "used the word 'clearing' deliberately, as it is a perjorative term which would have shown the proposed logging operation in the worst possible light" and further that "she was endeavouring to show that the proposed logging operation conducted would destroy the forest".

The Panel has viewed the Program closely. The vision of clear felled forest was shown close to the commencement of the program, when the statement was made that "the battle over old growth logging was fought and won in the West years ago". In the Panel's view this photograph was illustrative of that statement. It did not purport to be relevant to the proposed logging in the Arcadia Forest. There was reference in the program to the proposed logging involving "harvesting" of trees and the retention of buffer zones and reserves. It was not stated, at any stage, that Arcadia was to be clear felled. The Panel is satisfied that the use of the word "clearing" was not perjorative; nor was it used with the motivation ascribed to the journalist in the complaint. It was not misleading.

This head of complaint is not upheld.

Fifth head of complaint

The Complainant's fifth head of complaint was that "the journalist adopted a different stance in interviewing people on opposing sides of the issue. Neither the environmental activist nor the politician was asked hard questions, taken to task for unsupported assertions or challenged".

In his complaint, he contrasted the alleged treatment of Peter Murphy, anti-logging activist, and Giz Watson, Greens politician, with that of Kevin Haylock, the forester who was to oversee the logging program.

The former were allowed “considerable time and freedom”; the latter was introduced “with a heavily loaded question, which clearly took him aback” and was given “only a few seconds” which did not give him “a reasonable go”.

These matters are very much “in the eye of the beholder”. The Panel finds itself unable to agree with the asserted effect of the question upon Mr Haylock, who, in its view, gave a balanced and effective answer. It does not find any significant lack of balance in this question. It also notes that Section 5.1.5 of the Policies does not require that all sides of an issue be given the same amount of time.

This head of complaint is not upheld.

Sixth head of complaint

The Complainant’s sixth head of complaint was that “the program had selective interviewing: the most important people in the issue were not interviewed at all”.

The appropriate basis for review of this complaint by the Panel would appear to be alleged lack of balance in the broadcast (Editorial Policies Section 12.6.1). It is necessary, also, that this be demonstrated “in the broadcast” (Section 12.6.12). The selection or otherwise of appropriate interviewees is not an issue which is, as such, within the jurisdiction of the Panel. In any event, those who appeared in this short broadcast as interviewees, appear to have put forward the “principal relevant viewpoints” in relation to the effect on quokkas of the proposed logging.

This complaint cannot be upheld.

Seventh head of complaint

The Complainant’s seventh head of complaint is that “False assertions were made on a matter of verifiable fact based on inadequate research or uncritical acceptance of assertions by others which were then unverified by consultation with an expert”.

This relates to the statement in the program, by Ms Nuic, the reporter, that quokkas “were thought to be extinct on the mainland until the 1950s”. The Complainant said that this was incorrect and that “there were numerous occurrences recorded before the 1950s, in fact going back to the early years of the 20th Century”. It appears that the Complainant originally thought that Ms Nuic had said “until 15 years ago” and not “until the 1950s”. He said that it was “not a very important issue”. The Panel agrees. This short program did not purport to be a scientific treatise on the quokka. This falls well short of being a serious case of factual inaccuracy, warranting review (Section 12.6.1).

This head of complaint is not upheld.

Eighth head of complaint

The Complainant's eighth head of complaint is that "The status and reputation and credibility of an interviewee was misrepresented".

The Complainant explained this by stating that, in the program, Ms Nuic "referred to Peter Murphy as a man who 'runs eco-tours in the Southwest' but that she did not say that he was 'one of the most well known anti-logging environmental activists in WA'". He was unable to find any listing of the eco-tourism business in tourism literature and stated "I have been unable to find anyone who has heard of him in any capacity other than as an environmental and political activist who is frequently in disagreement with the authorities about forest management". He asserted that "Ms Nuic had misrepresented him to the viewers as a "good guy" as opposed to the logging operations "bad guys". She, thus, inappropriately "took sides".

The Panel, in the absence of compelling information that Mr Murphy was falsely described, regards this head of complaint as amounting to one of bias towards the anti-logging supporters. The ABC submits that, as Mr Murphy was described on screen as a representative of the group "Save Arcadia Forest Eco System" and was clearly anti-logging and pro-quokka in his approach in the program, viewers would readily have understood him to be an "environmental activist". The Panel agrees with this submission and finds that no relevant bias has been established in this regard.

This head of complaint is not upheld.

Ninth head of complaint

The Complainant's ninth complaint is that "the journalist attempted to construct a non-existent issue from non-existent research and uses terminology loosely in an unprofessional way".

This head relates to Ms Nuic's statement, early in the program, "Now new research has raised concern about the impact of forest management on quokkas".

The Complainant's concern about this issue of "new research" arises under other heads and will be considered later. However, under this head he also asserts factual inaccuracy in that "'forest management' is not a synonym for timber harvesting or logging" and there has been no research "new or otherwise" relating to the impact of "forest management" on quokkas.

The ABC has pointed out that the reporter did not, in fact, state that new research had been conducted "on the impact of 'forest management' on quokkas". She said that "new research has raised concern" about such impact. Nor was it asserted that "forest management" was synonymous with timber harvesting or logging. This appears from the following excerpt from the paragraph in the program in which she makes reference to "new research" and the work of Paul de Tores, which will be referred to later. She says, in relation to that work, "It goes on to say that as a matter of urgency, a more rigorous approach is needed to assess the impact of logging and forest management". It appears that Ms Nuic, in fact, made the appropriate distinction in the terminology that she used.

This head of complaint is not upheld.

Tenth head of complaint

The tenth head of complaint is that "the journalist has misquoted from a report, thus misrepresenting its contents and conclusions". This refers to a report of the CALM/DEC officer, Paul de Tores, which is the subject of much discussion in the detail of the Complainant's first and second heads of complaint. The Panel has decided that it is convenient to consider the first, second and tenth heads together.

First head of complaint

The first head relates to the program's title "*Quokkas under threat from logging in the southwest*", which the Complainant asserted was "untrue and misleading".

He said "there is no evidence to support this assertion in any journal or scientific paper, nor has any research work ever been carried out which supports the assertion. The assertion is false and could have been found to be false had *Stateline* made every effort to check the facts".

Second head of complaint

The second head of complaint is that "The introductory statement at the outset of the program by the presenter is unqualified and unsupported by fact or science and was not balanced by an alternative view, nor was it acknowledged that there was an alternative view".

The introductory statement was as follows:

"It's been five and a half years since old growth logging ended in Western Australia, much to the delight of conservationists. But now, they're gearing up for a new battle in the south west. In two months the Forest Products Commission will begin logging the Arcadia Forest near Collie. Under the government's Forest Management Plan, which conservation groups supported, the area was never earmarked for protection because it wasn't considered old growth. But there are now calls for an urgent rethink with new research showing logging could destroy a fragile quokka population."

It is the last sentence, which is reflected in the program title, that is the main subject of the Complainant's attack. He said of it, "this statement is untrue". In particular, he asserted that there had been no "new research" on this issue and, in fact, no research at all into the impact of "selective logging in the jarrah forest on quokkas".

The argument on this subject which has arisen between the Complainant and the ABC has centred upon the work and opinions of Mr de Tores, the acknowledged expert on quokkas, in the employ of DEC. Before turning to this question, however, it is convenient to deal with certain other complaints raised by the Complainant in relation to the program title and introduction.

As to the title, the Panel accepts the ABC's submission that it is no more than "a 'teaser' designed to give a broad indication of the content of the report that is to come". Whilst it refers to "logging in the southwest", the introductory statement, which follows immediately, makes it clear that it is logging only in the Arcadia Forest, which is shortly thereafter described as occupying less than 4000 hectares, which is under consideration.

Accordingly, the concerns which the Complainant has expressed as to the other forest areas do not arise. Also, the words "under threat" receive some elaboration in the introductory statement, where the presenter says "logging *could* destroy ..." (emphasis added). It may be noted that the Complainant, in his complaint, contended that "the program asserted that a proposed logging operation in the WA jarrah forest *would* threaten the existence of quokkas" (emphasis added). This is, in the Panel's view, a misreading of the title and the introduction, which, taken together, falls short of claiming that the proposed logging did any more than pose a potential risk to the quokkas.

Also, the Complainant criticised the presenter for not indicating "who was making 'calls' for an 'urgent rethink'". He stated "I have determined that they were not made by the Conservation Commission by DEC, by the Director of Research or of Nature Conservation in DEC or even by Mr de Tores himself. In other words they were not made by anyone who is responsible for quokka conservation or research. I cannot escape the conclusion that the calls were made by agenda-driven environmental or political activists". He continued by saying "the ABC is at fault in treating political and environmental activists as a reliable source of scientific information".

As to these criticisms, the Panel is of the view that it would be obvious to any ordinary viewer, from the contents of this segment, that the "calls" referred to were being put as emanating from "conservation groups" referred to, whether these were agenda-driven or not. Nor can the Panel find any indication in the program that the ABC was treating these groups as a source of scientific information, reliable or otherwise.

That said, the Panel notes that the program, short as it is, is deficient in not clearly indicating whether the conservation groups' "calls for an urgent rethink" were based upon the "new research" referred to; "with" does not necessarily equate with "because of". However, the Panel considers that the general thrust of the program is to this effect, although the conservationist, Mr Murphy, does not mention the "new research" when giving his view of the threat to the quokkas from the timber harvesting process.

In all the circumstances, the Panel feels that the assertion in the introductory statement that "new research" showed that "logging could destroy a fragile quokka population" was a central theme in the program. Accordingly, the Complainant's complaint that there was no new (or, indeed, any) research to this effect, raises squarely the question of "factual inaccuracy" and breach of the ABC Editorial Policy 5.1.3. As already indicated, the enquiries that have been made by the Complainant, and also by the ABC, from Mr de Tores, are very important in the determination of this issue.

Before going to these, it is necessary to set out, in their context, the further references to Mr de Tores and his work which appear in the program. They are as follows:

Kevin Haylock (Forest Products Commission): You'd really have to refer to CALM for the specific documents but what I can say is that the guidelines that are implemented during the forest harvesting process take into account all the research that's been done over the last 50 years on wildlife management.

Elvira Nuic (Reporter): That includes increased fox baiting, logging buffer zones around waterways and creating wildlife reserves, in this case two pockets of land totalling 400 hectares. Once logged the area will then be burnt to encourage rejuvenation. But conservationists aren't convinced the quokkas will be spared.

Peter Murphy (Save Arcadia Forest Ecosystem): Because of all the debris in the forest here the fire is so intense that these stream reserves actually get burnt out. So all of these informal conservation reserves are of no use to the quokka. Once this area is actually burnt then the foxes move in.

Elvira Nuic (Reporter): Now new research has raised concern about the impact of forest management on quokkas. The study was carried out by Paul de Tores, a scientist with the Department of Environment and Conservation. He found fox baiting has done little to boost quokka numbers in the past decade and habitat destruction and fire regimes are contributing to their decline. It goes on to say that as a matter of urgency, a more rigorous approach is needed to assess the impact of logging and forest management. The Greens say that wasn't done before the OK was given to log Arcadia.

Giz Watson (Greens WA): We've had some very vigorous debates with the government about this. How can you say that you're not endangering animal populations when you haven't even been in there and taken that evidence on the ground?

Elvira Nuic (Reporter): The Department wouldn't allow Mr de Tores to speak with Stateline. Back in 2001 this is what he had to say about the issue.

Paul de Tores (Department of Environment and Conservation): We've recently done an extensive program in the Northern Jarrah Forest and we've found that populations are very small and we believe they're going to extinction.

Elvira Nuic (Reporter): But the Forest Products Commission has dismissed the research saying few in the scientific community would agree with its findings.

Although Mr de Tores could not appear in the program, he has spoken to the Complainant and also to Ms Nuic. Also, the contents of a relevant draft paper, of which he is the author, have been made available. It is convenient to commence with the Complainant's contention, in his complaint, as to his communications with Mr de Tores.

The Complainant says that Mr de Tores has briefed him on his research and publications and considers that he was misrepresented on *Stateline* and "is adamant that he has never conducted any research into the impact of logging on quokkas", although he "believes that such research should be done".

He says that he received a signed statement of Mr de Tores from the Minister for the Environment, in which Mr de Tores says "I have not conducted any recent research (or other) research into logging and quokkas" and also "I have not examined the effect (on quokkas) of timber harvesting".

The Complainant also received emails from Mr de Tores in which he affirmed that he had not conducted any research into the impact of logging on quokkas in the Northern Jarrah Forest nor published any papers reporting on such impact.

The Complainant also asserted that the draft paper by Mr de Tores, frequently referred to, was only a review of existing knowledge about quokkas and could not "be truthfully described as new material". Mr de Tores also answered in the negative an enquiry from the Complainant as to whether he was aware of any recent research on the topic by any other scientist.

As opposed to the above, the ABC has informed the Panel that Mr de Tores has confirmed that the *Stateline* report accurately reflected his views, which were that he believed "logging in Arcadia has the potential to threaten the local quokka populations". The Panel has been supplied by the ABC with material provided to it by Mr de Tores. Mr de Tores' opinion of the threat to quokkas from logging was explained by him in a long email to his superior, Neil Burrows, on 27 October 2006, which was supplied in response to questions from the Complainant. The email refers to a list of learned papers on quokkas, their life and habitats in which he was the leading author with Mr Matt Hayward. One of these was entitled "*Review of the Distribution, Causes for the Decline and Recommendations for Management of the Quokka*" and was described as being "in press". It is, apparently, the "draft paper" referred to above.

In this email Mr de Tores says

"I have spoken to [the Complainant] and am happy to do so again, but can only reiterate that my/Matt Hayward's research was deliberately confined to the northern jarrah forest (njf) where, prior to commencing the research, I felt quokkas were likely to be at most risk from a suite of factors. I have not examined the effect of timber harvesting. However, the njf research quite clearly showed quokkas have not responded to six years (now considerably longer) of fox baiting. Populations were all low in number. The work concluded populations are declining and the decline would continue unless intervention was initiated.

We recommended the intervention required is adoption of a different approach to use of fire for management of the remaining quokka swamps. This intervention was recommended to reduce the distances between patches of suitable creekline habitat, enlarge the size of each patch and to create the preferred habitat mosaic (the combination of post burn successional stages) within each patch".

Mr de Tores also referred to the "major paper in press" saying "I believe the value of the paper lies in its synthesis of the huge amount of previously unpublished and grey literature and should be kept together. It has now been accepted by the DEC journal, *Conservation Science*".

He also answered a number of questions, the substance of which appears from the answers in the following passages of the email, as follows:

(i) No, I had not conducted any recent (or other) research into logging and quokkas. Nonetheless, I believe the ABC quoted me accurately. The quote (or at least the text from the manuscript, which I believe is what the ABC quoted) highlighted the need to assess the effects of logging.

(ii) Yes, I do "consider" logging in Arcadia has the potential to threaten the local quokka population(s). My belief is based on the findings from the njf. Importantly, Arcadia falls within the somewhat arbitrary boundary of the njf (north of the Preston River) and the quokka population at Gervasse, immediately to the NNW of Arcadia, which has been trapped for the past 11 or so years, has shown a decline. The logging operation, although leaving streamside retention areas, is likely to result in dispersal of the local quokka population. I therefore expect this logging operation will contribute to the localised decline. This opinion is not supported by data, but is my expectation of what will occur post logging – i.e. I believe the local population will be compromised, will be fragmented and many individuals will disperse. I have also qualified my comments on the effect of logging by stating I do not think this is the case for all logging operations carried out where quokkas are present.

I believe timber harvesting and persistence of quokka populations are not mutually exclusive. It may well be possible to harvest some areas and end in an outcome with localised extinction without this having any long term negative effect on the local, regional or global conservation status of the quokka. Conversely, there are likely to be areas where logging will have adverse effects. The issue is we don't know which quokka sites (if any) are providing a source to recolonise or re-stock those which become locally extinct. Until this is resolved, and we have a better understanding of how quokkas move across the landscape and how different populations mix and recolonise sites, we will not know which logging operations are likely to be benign and which are likely to result in significant impact.

Over the past 30 years the Department (DEC/CALM) and the Forests Department prior to CALM/DEC, has collected lots of valuable data on the presence of quokkas, particularly from the southern forests. This has been through opportunistic trapping programs, more formalised trapping programs, one-off surveys and incidental sightings. These data provide a good baseline of where quokkas have previously been recorded, but are not sufficiently robust to allow estimates of population size, nor do they enable us to determine which populations are source populations.

(iii) Yes, I am aware of several areas in the south west which have previously been logged and now support quokka populations. However, as previously noted in internal Departmental correspondence, the presence of a population post harvesting does not equate with harvesting not being detrimental. In the cases where quokkas have been confirmed as present post harvesting, it is unclear if these populations persisted as a result of a remnant population surviving when the area was logged, or if these areas have been re-colonised as a result of dispersal from neighbouring populations, or both. I see it as imperative (as noted in the manuscript now in press) to assess the mechanisms by which quokkas do become re-established post logging. If this work was carried out it would enable DEC to identify which populations are deemed important in a demographic and genetic sense, and would also enable DEC to better advise the FPC which proposed logging operations are of concern to quokka populations and which are benign. I believe using the argument that quokkas are now in an area which has been previously logged to claim logging doesn't affect quokkas is analogous to claiming that smoking won't hurt you because you have been smoking for 40 years and don't have lung cancer.

*(iv) I believe most quokka populations within conservation reserves are more secure and less likely to be threatened by logging operations from outside these reserves. However, this is still contingent upon effective habitat management (through the use of fire) and effective predator control. I believe populations within streamside reserves are less secure when these reserves are within areas subject to other disturbances, such as logging, roading, mining etc. The published work on home range and movement (Hayward, M.W., de Tores, P.J., Augee, M.L., Fox, B.J and Banks, P.B. (2004). Home range and movements of the quokka *Setonix brachyurus* (Macropodidae: Marsupialia), and its impact on the viability of the metapopulation on Australian mainland. *Journal of Zoology*, 263: 210-228 – above) demonstrated quokkas show a seasonal pattern of staying closer to the creeklines (and the thicker habitat providing better protection from predation) in summer, and moved further away from the creeklines in winter. So, streamside buffer zones alone are not adequate protection for quokkas."*

Also, in an email sent to the Complainant and Mr Burrows on 5 December 2006, he answered a number of questions from the Complainant, the more important of which are now set out:

1. Have you conducted any research into the impact of logging on quokkas in the northern jarrah forest?

No, but I have made recommendations re timber harvesting based on the research I have been involved in the northern Jarrah forest.

2. Have you published any papers which report on the impact of logging on quokkas in the northern jarrah forest?

No – but as above

3. Do you have any papers which might be described as being “in press” which demonstrate the impact of logging on quokkas in the northern jarrah forest?

No – but again, the recommendations referred to above are in the paper currently “in press” – see also answer below.

3. a Are you aware of any recent research by any other scientist into the impact of logging on quokkas in the northern jarrah forest?

No, but again, refer you to the comments and equivocal anecdotal information from Nairn Forest Block (southern forest) (page 38 of the extract I left with you from the paper in press) and the comments made by other researchers, e.g. Calver and Dell (1998) cited in the same section.

4. Do you believe that timber production and quokka conservation are compatible in the northern jarrah forest?

We didn't really discuss this re the northern jarrah forest on Monday, but I am happy for you to quote me as saying “I believe timber harvesting and quokkas conservation in the ‘southern forest’ are highly likely to be compatible”. This has always been my position, but still needs to be demonstrated. I don't have the same confidence for the northern jarrah forest where populations are low in abundance and distances between populations are greater than in the southern forest.

5. What in your opinion are the most important factors threatening quokkas in the northern jarrah forest?

Fire, introduced predators, lack of sufficient areas with suitable habitat and existing areas of suitable habitat are too widely separated.

6. Are you aware of any forests in WA which were logged in the past and which today contain quokkas?

Yes – but again, I am aware of areas which previously supported quokkas, have been harvested and no longer support quokkas. The same argument applies to both – presence of quokkas post harvesting doesn't mean harvesting has no effect, and conversely, lack of presence doesn't mean harvesting is the reason for a lack of presence.

An extract from Mr de Tores' paper (in press) has also been supplied to the Panel. It had, apparently, previously been supplied to *Stateline* and to the Complainant. It surveys existing data on the distribution and habitat of mainline quokka populations. It states that "predation by the induced fox, vulpes, is implicated as a major cause of the quokkas decline, while ongoing predation, habitat destruction and modification through altered fire regimes have contributed to the continued decline". It also notes that "despite the presence of fox baiting (the northern jarrah forest populations) have not responded and predation is still potentially limiting population response". Existing fire management practices are also criticised. The recommendation is also made that "as a matter of urgency ... a more rigorous and strategic approach be implemented to assess the potential effects from forestry and other operational activities. Assessment should identify the extent of quokka habitat to be modified, destroyed or retained by each proposed operation, the size of the populations affected by the proposed operations, the conservation significance of the population, the potential for dispersal, numbers likely to disperse and dispersal patterns, availability of suitable habitats within dispersal distances, population size within areas of suitable habitats within dispersal distance and the potential effect on these populations".

Mr de Tores has affirmed to the reporter that the paper contained new research on the size of the quokka populations in the Northern Jarrah Forest, as well as previously unpublished research on their distribution and occurrence.

Discussion

What light does this plethora of material cast on the question whether the program exhibited factual inaccuracy, when it spoke of "new research", being a "study carried out by Paul de Tores", showing "logging could destroy a fragile quokka population" and also that it "has raised concern about the impact of forest management on the quokkas"?

In the first place, in the Panel's view, "logging" is not the subject of close definition in either the program or in the other materials considered, except in so far as selective logging or timber harvesting is distinguished from the clear felling of forests. It seems clear, however, that logging involves more than the mere cutting down and extraction from the forest of selected individual trees.

It appears that planning is involved, the area is chosen and particular trees selected for removal. Buffer zones around waterways and also wildlife reserves are created as part of the overall plan. Also, the logged areas are then burnt to encourage regeneration. Obviously, it is the whole spectrum of these activities which falls for consideration when determining whether "logging" can adversely affect quokka population in the area logged.

Again, when Mr de Tores says in his qualified answers to the Complainant's questions, that he had not "examined the effect of timber harvesting" and has "not conducted any recent (or other) research into logging and quokkas", these statements must be read with the other opinions he expresses, which

are clearly based upon his accumulated expert knowledge on the subject of quokkas.

It may be assumed that a possible line of research into quokkas and timber harvesting would be to ascertain the numbers and habitat of a quokka population in an area to be logged, conduct the logging and then make on-ground observations of its effect on this population. This could, no doubt, take the form of a controlled experiment, which could be dangerous for the quokkas and difficult to set up in a meaningful way. How many trees would be taken and in what proximity to the quokka habitat? How many buffer areas would be left and of what size? What distance would be left between these areas, and so on? A consideration of these problems leads, in the Panel's view, to the acceptance that "research" into the effect of timber harvesting on quokkas can be conducted in less direct ways and still qualify for that description.

Can the work involved in the production of the paper of Messrs de Tores and Hayward, which was "in press", qualify, in ordinary parlance, for the description "new research"? The Panel considers that it can. Even if it involved the reconsideration of past research without the addition of any new investigative work "on the ground", this could lead to new and important perceptions and the creation of new hypotheses for exploration.

This could not unreasonably lead to it being described as "new research" for the purpose of a short television segment which did not, in any way, purport to be a scientific investigation. Mr de Tores' discussion of the fragmentation and dispersal of quokka populations through logging activities and the occasional subsequent recolonising from other sources, appears to have provided new ideas on the effect of logging. It also contradicted the theory referred to by the Complainant that the presence of quokkas in Arcadia, after it had been previously logged, necessarily proved that logging was not harmful to them.

The Panel is satisfied that there was no relevant factual inaccuracy involved in the references, in the program, to Mr de Tores' paper "in press" as being "new research".

The other issue involved in these heads of complaint is whether the program evinced bias or lack of balance, in not expounding the alternative viewpoint that logging could be conducted without harm to the quokkas.

Section 5.1.5 of the Policies does not require that each viewpoint should be given equal time. Mr Haylock made it quite clear, as the person to be in control of the logging, that, in his opinion, the logging could be undertaken without harming the quokkas. The reporter also stated, in the program, that "the Forest Products Commission has dismissed this research saying few in the scientific community would agree with its finding". Indeed, Mr Haylock was given the last word in the program. He said "Arcadia has been harvested and regenerated twice before. The fact that the forest still is quokka ready is heartening for us in that we want to protect the quokkas and have the harvesting". The Panel is satisfied that there was no lack of balance in the program in breach of Section 5.1.5, in this regard.

The Panel has also considered, although the question does not strictly arise, whether the program makers had complied with Section 5.1.3 of the Policies in making "every reasonable effort" to ensure factual accuracy. It is suggested by the Complainant that Mr Jones of DEC should have been interviewed. The Panel is satisfied that the reporter spoke with Mr Jones. It was he who, in fact, provided the information that no-one from DEC had made an on-ground survey of the quokka population in Arcadia. Mr Jones, in relation to other questions asked of him, had said that Mr de Tores, the department's "quokka expert", was the appropriate person to answer them. As already indicated Mr de Tores supplied information for the program but was not available for an on-camera interview. The reporter also sought to interview the Environment Minister, Mr McGowan, but he was unavailable. The Panel is satisfied that Section 5.1.5 was complied with.

Accordingly, all issues raised by the first, second and tenth heads of complaint have been resolved in favour of the ABC.

Consequently, those heads of complaint are not upheld.

Eleventh head of complaint

This leaves, finally, the eleventh head of complaint, which is "the journalist has presented anecdotal evidence to support a position and did not attempt to give the other side of the story".

The complaint refers to a short portion of the program presented towards its end. It showed a number of dead quokkas on and on the side of what appeared to be a bitumen surfaced road and also other quokka corpses on what seemed to be a rough dirt road in a forest setting. Ms Nuic's voice-over and accompanying parts of the program were as follows:

Elvira Nuic (Reporter): But whether the science is right or wrong, past experience shows when quokka habitats are disturbed some don't survive. During logging in Northcliffe in 2003, 22 quokkas were killed on the roads alone. Later this month conservationists will meet the Environment Minister, Mark McGowan, to air their concerns.

Peter Murphy (Save Arcadia Forest Ecosystem): I mean he has a responsibility. The fact is that extinction is forever.

Elvira Nuic (Reporter): Meanwhile planning for the first stage of the Arcadia logging will continue.

This sequence provided an emotive end piece to the program. It bore no apparent relevance to the proposed logging in Arcadia. It had not been suggested that the threat to quokkas from Arcadia timber harvesting would arise from road deaths. Mr Murphy had suggested that fox predation would be the cause of destruction. He said in the program: "Because of all the debris in the forest here the fire is so intense that these stream reserves actually get burnt out. So all of these informal conservation reserves are of

no use to the quokka. Once this area is actually burnt then the foxes move in."

The photos related to "logging in Northcliffe in 2003". Nothing was provided, by way of background, to suggest any relevantly similar circumstances between that logging program and what was proposed for Arcadia, which could point to the possibility of "extinction" of quokkas on the roads.

As it stood, this sequence appeared to be irrelevant to the main elements of the program and unnecessarily manipulative of viewers' emotions, a jarring note in a discussion which had been conducted at a different level. This, however, is a matter of taste, not within the Panel's jurisdiction.

The Complainant, however, complained that this part of the program was factually inaccurate, biased and lacking in balance, matters within the Panel's remit. He expounded his complaint as follows:

"The clear implication is that logging and quokka killing are linked. There are three aspects of this statement which concern me:

- (i) Ms Nuic gives no source for the assertion. Where did she get this information from? It cannot have been Mr de Tores because his report does not mention 22 quokkas killed "during logging". She must therefore have had some other source of information. As the source of this information is neither provided or supported by reputable data, it must be regarded as "anecdotal".*
- (ii) I have determined that logging had not commenced in the area where it was alleged by protesters that quokkas had been "killed by logging". It is therefore wrong to use the expression "during logging" as she did.*
- (iii) In fact, it was never established how quokka corpses suddenly appeared on a forest road at that time (a time when there were a great many anti-logging activists camped nearby) when none have ever done so before or since. (There has been at least one other instance in WA of animals being "used" in a dishonest way to stop development).*

There were two very different sides to this story, but only one was presented on the program. The "logging kills quokkas" story was strongly disputed by foresters, researchers and timber people at the time. Despite this Stateline chose only to present the story in its most negative way, thus demonstrating the lack of balance in the program.

The response from the ABC was as follows:

"The reporter has advised that she was told about the deaths of the 22 quokkas by Greens MP Giz Watson, Peter Murphy and John Austin, who provided the photographs of the dead quokkas. These three sources had advised the reporter that the quokkas had been found dead on nearby roads after logging operations commenced. In hindsight, given there is dispute over the issue, the reporter has acknowledged that she should have attributed the statement to the three sources. Prior to receiving [the Complainant's] complaint, she was not aware that the

issue was disputed and says that the idea the conservationists had killed the quokkas themselves in order to further their cause had not occurred to her."

This section of the program was presented as established fact. It is clear from the Complainant's complaint that the facts were in serious dispute at the time the photos were taken, in that it was alleged that no logging was taking place in the areas where the 22 quokkas had been killed; also there were claims that the dead quokkas had been placed on the road by anti-logging activists, for propaganda purposes. The reporter has sought, in a handful of words, to present a history of prior events, the truthfulness of which was far from established. She obtained her information from persons who were clearly of the anti-logging persuasion, accepted it without reservation and without checking to see whether there was another side to the story.

It is not reasonably possible for the Panel to establish whether or not this part of the program was factually accurate. However, as it is plain that there were two sides to the story, the failure of the program to present the second side or even acknowledge that it existed, produced a serious case of lack of balance in this part of the broadcast, within the meaning of Section 12.6.1 of the Policies.

Accordingly, the Complainant's eleventh head of complaint is upheld.

In the result, the Complainant's complaint is upheld in part.

Michael L Foster QC
Convenor
Independent Complaints Review Panel

1 June 2007