

Victorian Regional Forest Agreements

Scoping agreement for the review of progress with implementation of the Victorian Regional Forest Agreements

**The Commonwealth of Australia
and
The State of Victoria**

August 2009

1. Preamble

The purpose of this Scoping Agreement is to confirm the arrangements agreed by the Victorian and Commonwealth Governments (the Parties) to undertake the first review of performance against the specified milestones and obligations of the five Victorian Regional Forest Agreements (RFAs) in accordance with the provisions of Clauses 30, 31 and 32 of the East Gippsland RFA, Clauses 36, 37 and 38 of the Central Highlands and North East RFAs, and Clauses 37, 38 and 39 of the West Victoria and Gippsland RFAs.

The provisions of this Agreement are not intended to give rise to legally enforceable rights or obligations between the Parties.

The Parties agree that this Scoping Agreement will be consistent (including with respect to the definition of terms) with the RFAs, the *National Forest Policy Statement* (NFPS), and other relevant agreements and policies. The Parties recognise that this Agreement cannot impose on a party any obligation that is inconsistent with a law of the State of Victoria or the Commonwealth of Australia where that law is binding on that party.

2. Background

The State of Victoria and the Commonwealth of Australia entered into the RFAs as follows:

RFA Region	Date of agreement
East Gippsland	3 February 1997
Central Highlands	27 March 1998
North East	9 August 1999
West Victoria	31 March 2000
Gippsland	31 March 2000

The RFAs are twenty-year agreements. They establish the framework for the management of forests within the Victorian RFA regions. The Victorian and Commonwealth Governments committed to ensuring the RFAs are durable and that the obligations and commitments that they contain are delivered to ensure effective conservation, forest management and forest industry outcomes.

The duration of the RFAs is twenty years, which can be extended with the agreement of both Parties as part of the third five yearly review.

The five Victorian RFAs were developed as part of a series of RFAs between the Commonwealth Government and the Governments of Victoria, New South Wales, Western Australia and Tasmania. Whilst all the RFAs have their own unique elements they have all been drawn up under the aegis of the National Forest Policy Statement and all have a requirement for reviews.

An important element of each of the Victorian RFAs is the requirement for a five yearly review of the performance of the RFAs.

3. The requirement for a five yearly review

Clauses 30, 31 and 32 of the East Gippsland RFA, Clauses 36, 37 and 38 of the Central Highlands and North East RFAs, and Clauses 37, 38 and 39 of the

West Victoria and Gippsland RFAs require a review of the performance of the RFAs be undertaken within each five year period.

The purpose of the review is to assess and report on progress made against the milestones specified in the RFAs, and will include:

- The extent to which milestones and obligations have been met, including the management of the National Estate;
- The results of monitoring of sustainability indicators; and
- Invited public comment on the performance of the Agreement.

4. Principles for the conduct of the review

The Parties agree that:

- (a) The review will assess and report on progress made against the milestones specified in the RFAs. The milestones and obligations that subject to the review are listed in Attachment 1 of this Agreement.
- (b) The review will cover two periods: the first from the date the RFAs were signed to 30 June 2004 and the second from 1 July 2004 to 30 June 2009.
- (c) The review will satisfy the requirement to undertake a review of the performance of the RFAs for the first two five year periods.
- (d) The five Victorian RFAs will be reviewed simultaneously and a single report on the outcomes of the review prepared.
- (e) The review does not open up the RFAs to re-negotiation.
- (f) Following the completion of the review, the Parties may agree minor modifications to the RFAs to incorporate the outcomes of the review.
- (g) Victoria's State of the Forests Reports, released in 2005 and 2009 fulfils the requirement in the RFAs to report on the results of monitoring sustainability indicators.
- (h) The review will be completed in accordance with the process described in item 6 of this Agreement.
- (i) The review will be conducted in a manner that is open and transparent and public comment will be invited.
- (j) The outcomes of the review will be made publicly available.

5. Governance

(a) Steering Committee

The Parties agree to the formation of a joint Commonwealth and Victorian Steering Committee (the Steering Committee).

The Steering Committee will comprise two representatives of the Commonwealth Department of Agriculture, Fisheries and Forestry and two representatives of the Victorian Department of Sustainability and Environment. It will be jointly chaired by the Commonwealth Department of Agriculture, Fisheries and Forestry and the Victorian Department of Sustainability and Environment.

The Steering Committee is responsible for:

- Implementing this Agreement.
- Appointing the Independent Reviewer.
- Allocating resources to undertake the review, including provision of administrative support to the Independent Reviewer.
- Preparing and publishing the draft Report on Progress with Implementation of the RFAs to inform the review.
- Inviting public comment on the draft Report on Progress with Implementation of the RFAs.
- Supporting the Independent Reviewer to review public submissions on the draft Report on Progress with Implementation of the RFAs, in accordance with the Terms of Reference for the Independent Reviewer included as Attachment 2 of this Agreement.
- Preparing and publishing the joint Government response to the report by the Independent Reviewer.
- Finalising the review and publishing the final Report on Progress with Implementation of the RFAs.

(b) Ministerial

The Parties to the Agreement are represented by:

Victoria:

The Hon. Gavin Jennings MLC
Minister for the Environment and Climate Change

Commonwealth:

The Hon. Tony Burke MP
Minister for Agriculture, Fisheries and Forestry

The Ministers shall:

- Approve the appointment of the Independent Reviewer.
- Approve the joint Government response to the report by the Independent Reviewer.

6. Process for conducting the Review

The review will be conducted in accordance with the following process:

(a) Preparation

- The draft Report on Progress with Implementation of the Victorian RFAs, that addresses the milestones and obligations outlined in Attachment 1 will be prepared.
- The Independent Reviewer is appointed.

(b) Public submissions

- The draft Report on Progress with Implementation of the Victorian RFAs is published and released for a period of public submissions of not less than eight weeks.
- The Independent Reviewer reviews public submissions received on the draft Report on Progress with Implementation of the Victorian RFAs, undertaking further targeted consultation as required.
- The Independent Reviewer provides a report on the draft Report on Progress with Implementation of the Victorian RFAs to the Steering Committee, including issues raised in the public submissions.

(c) Government response

- The Victorian and Commonwealth Governments jointly respond to the report prepared by the Independent Reviewer.

(d) Finalisation of the review

- The Steering Committee prepares a final Report on Progress with Implementation of the Victorian RFAs.

7. Reporting protocols

The Steering Committee shall, where appropriate, report to the responsible Ministers on an as needs basis through the Chairs.

8. Financial issues

The State and the Commonwealth are responsible for all their own costs incurred in the implementation of this Agreement. The Parties will share evenly the agreed additional costs of the review, including the Independent Reviewer and associated costs; and the preparation, publication and distribution of reports.

Signing page

IN WITNESS WHEREOF this Agreement has been signed for and on behalf of the

Parties on the 23 day of September in the year

Signed for and on behalf of the
Commonwealth of Australia by the Hon.
Tony Burke MP, Minister for Agriculture
Fisheries and Forestry

[signed]

[signed]

Signature of witness

Signature of representative

SKYE LARIS

TONY BURKE

Name of witness (print)

Name of representative (print)

Signed for and on behalf of the
Victorian Government by the Hon.
Gavin Jennings MLC, Minister for the
Environment and Climate Change

[signed]

[signed]

Signature of witness

Signature of representative

PRUDENTIA STEWART

GAVIN JENNINGS

Name of witness (print)

Name of representative (print)

Attachment 1: Items for the Review

Milestones and obligations contained in the following clauses of the Victorian RFAs.

RFA	East Gippsland	Central Highlands	North East	West Victoria	Gippsland
	Clause number				
Relationship to statutory obligations	12, 15-18, 20-21, 23	21, 25-30, 32-33	21, 25-30, 32-33	21, 25-31, 33-34	21, 25-31, 33-34
Milestones	25	35	35	36	36
Five yearly review	30-32	36-38	36-38	37-39	37-39
Ecologically sustainable forest management	34		39-40		
Monitoring, reporting and consultative mechanisms	26-29	41-45	41-45	42-46	42-46
Sustainability indicators	37-40	48-50	48-50	49-51	49-51
Private land	42	52	52	53	53
Threatened flora and fauna	43-46	55-59	55-59	55-60	55-60
Water				61	61
The CAR reserve system	49-51	62-65	62-65	64-67	64-67
Industry development	53	67-73	66-72	68-77	68-77
Indigenous heritage	54	74	73	78	78
Plantations	56				
Other forest uses	57, 59, 60	77-81	76-79	83-87	83-87
Competition principles	61	82	80	88	88
Research	62-64	83-85	81-83	89-91	89-91
Funding	65, 66				
Data agreement	67	86	84	92	92
Forest management		88-89	86-87	94-95	94-95
Compensation		90	88	96	96
Industry development funding		91	89	97	97
	Attachment number				
CAR reserve system	1	1	1	1	1
Threatened flora, fauna and communities	4	2	2	2	2
Listing, protection and management of national estate values in the Gippsland Region	2	3	3	3	3
Milestones	3	4	4	4	4
Indigenous heritage				8	8
Forest management				9	9
Program for completion of SFRI and sustainable yield forecasts for RFAs in Victoria				10	10
Industry adjustment and development				11	11

Attachment 2: Terms of Reference for the Independent Reviewer

Background

The Australian and Victorian Governments signed five Regional Forest Agreements (RFAs) between February 1997 and March 2000.

The RFAs establish the framework for the management of forests within the Victorian RFA regions. The duration of the RFAs is twenty years.

The five Victorian RFAs were developed as part of a series of RFAs between the Commonwealth Government and the Governments of Victoria, New South Wales, Western Australia and Tasmania.

An important element of each of the Victorian RFAs is the requirement to review the performance of the RFAs. A review is an assessment of progress made against the milestones and obligations specified in the RFAs.

Clauses 30, 31 and 32 of the East Gippsland RFA, Clauses 36, 37 and 38 of the Central Highlands and North East RFAs, and Clauses 37, 38 and 39 of the West Victoria and Gippsland RFAs require that:

Within each five year period, a review of the performance of the Agreement will be undertaken. The purpose of the five yearly review is to provide an assessment of progress of the Agreement against the established milestones, and will include:

- *The extent to which milestones and obligations have been met, including the management of the National Estate;*
- *The results of monitoring of sustainability indicators; and*
- *Invited public comment on the performance of the Agreement.*

While the review process will not open up the Agreement to re-negotiation, both Parties may agree to some minor modifications to incorporate the results of the review.

The outcomes of the review will be made public. Both Parties will determine the mechanism for the review before the end of the five year period and the review will be completed within three months.

Terms of Reference

The role of the Independent Reviewer will be to review the draft *Report on Progress with Implementation of the Victorian RFAs* and associated public comment, and report to the Steering Committee. The review will cover two periods: the first from the date the RFAs were signed to 30 June 2004 and the second from 1 July 2004 to 30 June 2009.

The Independent Reviewer is required to:

1. Receive written submissions from the public on the draft *Report on Progress with Implementation of the Victorian RFAs*.
2. Review written submissions and undertake further targeted consultation with organisations or individuals as required, to clarify any issues raised.

3. Provide a written report to the Steering Committee, which:
 - provides comment and recommendations on the draft *Report on Progress with Implementation of the Victorian RFAs*, considering the public submissions received.
 - describes the key issues identified in the public submissions
 - identifies any additional issues that should be considered for the continued implementation of the RFAs; and
 - lists the names of the individuals and organisations who made submissions.
4. Deliver all written submissions and information used by the Independent Reviewer to the Steering Committee with the report.

Timing

The Independent Review must submit its report to the Steering Committee within 12 weeks of public comment being invited on the draft *Report on Progress with Implementation of the Victorian RFAs*.

General

The terms of reference should be read in conjunction with the Scoping Agreement.