

**Victorian Regional Forest Agreements –  
East Gippsland, Central Highlands, North East,  
Gippsland and West Victoria**

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

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

**Third Five-Yearly Review  
May 2016**

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## 1. Preamble

The purpose of this Scoping Agreement is to confirm the arrangements agreed by the Victorian Government and the Australian Government (the Parties) for undertaking the third five-yearly review of performance to assess progress 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 Gippsland and West Victoria RFAs.

The Parties agree that this Scoping Agreement will be consistent with the Victorian RFAs, the 1992 National Forest Policy Statement (NFPS), and other relevant agreements and policies.

The Parties recognise that this Scoping 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.

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

## 2. Background

The five Victorian RFAs were developed in a series of RFAs between the Commonwealth of Australia and the Governments of Victoria, New South Wales, Tasmania and Western Australia. While all the RFAs have their own unique elements, they have all been drawn up under the NFPS and all have a requirement for five-yearly reviews of performance.

The State of Victoria and the Commonwealth of Australia entered into the Victorian RFAs on the following dates:

- East Gippsland RFA on 3 February 1997
- Central Highlands RFA on 27 March 1998
- North East RFA on 9 August 1999
- Gippsland and West Victoria RFAs on 31 March 2000.

The duration of each of the Victorian RFAs is 20 years. The Victorian RFAs can be amended with the written agreement of both Parties. The process for extending the agreements for a further period will be considered by the parties as part of this third five-yearly review.

The Victorian RFAs establish the framework for the management of forests within the five Victorian RFA regions. The Parties are committed to ensuring the RFAs are durable and that the obligations and commitments contained within them are delivered to ensure effective conservation, forest management and forest industry outcomes.

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

*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 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. The mechanism and timing for the review will be determined by both Parties before the end of the five year period and the review will be completed within three months.

#### **4. Additional undertakings for this five-yearly review**

The Parties have also agreed the review will report on progress against agreed actions within the 'Joint Australian and Victorian Government Response to the *Independent Review on Progress with Implementation of the Victorian Regional Forest Agreements (RFAs) FINAL REPORT* May, 2010, October 2014'.

#### **5. Principles for conduct of the review**

In undertaking the third five-yearly review of the Victorian RFAs, the Parties agree that they are jointly responsible for the review and will ensure effective coordination within and between the Parties.

The Parties agree that:

- the review will cover the period from 1 July 2009 to 30 June 2014
- the review will satisfy the requirement to undertake a review of the performance of the Victorian RFAs for the third five-year period
- the review will be conducted in accordance with five-yearly review requirements of the Victorian RFAs
- the review will be conducted in a manner that is open and transparent
- the review will invite public comment on the report on progress with implementation of the Victorian RFAs with respect to the milestones and obligations and, invite public comment relevant to the extension of the Victorian RFAs
- the five Victorian RFAs will be reviewed simultaneously and a single report on the performance outcomes of the review prepared
- the review will be completed in accordance with the process outlined in section 8 of this Scoping Agreement
- *Victoria's State of the Forests Report 2013* fulfils the requirement in the Victorian RFAs to report on the results of monitoring sustainability indicators
- the review will be cognisant of other Victorian state and national forest reporting processes and requirements
- the review may make recommendations based on the past implementation of the Victorian RFAs
- the review may also make suggestions on the future implementation of the Victorian RFAs in their current format which may be amended by the extension process to take the Victorian RFAs beyond their current duration
- the review does not open up the Victorian RFAs to re-negotiation, but the Parties may agree minor modification to the Victorian RFAs to incorporate the outcomes of the review
- the outcomes of the review will be made publicly available.

The Parties note that, as per clause 5 of the East Gippsland RFA and clause 6 of the other Victorian RFAs, this review will include the Parties jointly considering the process to extend the

Victorian RFAs for a further period. The Parties will consider the extension of the Victorian RFAs through a bilateral process separate to this third five-yearly review.

## 6. Items for review

The Parties agree that:

- a) the review will assess and report on progress made against the implementation of the milestones and obligations specified in Attachment 1 of this Scoping Agreement. Only those milestones or obligations that are ongoing or had not been completed prior to this review period (1 July 2009 to 30 June 2014) will be reported on in this review of progress with implementation. In instances where milestones and obligations have been completed and reported against in an earlier five-yearly review report they are not in scope for further review—instead reference to the relevant previous five-yearly review on progress with implementation report can be made for the flow of the document
- b) the review will report on progress against agreed actions within the 'Joint Australian and Victorian Government Response to the *Independent Review on Progress with Implementation of the Victorian Regional Forest Agreements (RFAs) FINAL REPORT May, 2010, October 2014*' from the combined first and second five-yearly review on progress
- c) the *Victoria's State of the Forests Report 2013* fulfils the requirement in the Victorian RFAs to report on the results of monitoring sustainability indicators. This report provides background material for the review and is not material for public consultation or comment by the Independent Reviewer.

## 7. Governance

### a) Joint Working Group

The Parties agree to the formation of a joint Victorian Government and Australian Government Working Group.

The Joint Working Group will comprise two nominees of the Victorian Government and two nominees of the Australian Government. It will be jointly chaired by a representative of the Australian Government Department of Agriculture and Water Resources (which will provide secretariat duties) and a representative of the Victorian Department of Environment, Land, Water and Planning.

The Joint Working Group is responsible for:

- implementing this Scoping Agreement
- allocating resources to undertake the review, including supporting the Independent Reviewer
- preparing and publishing the *Report on Progress with Implementation of the Victorian Regional Forest Agreements (RFAs): Period 3 - 2009-2014*
- inviting public submissions on the *Report on Progress with Implementation of the Victorian Regional Forest Agreements (RFAs): Period 3 - 2009-2014* with respect to the milestones and obligations of the Victorian RFAs, and relevant to the extension of the Victorian RFAs
- supporting the Independent Reviewer in their review of both the report and the public submissions on the *Report on Progress with Implementation of the Victorian Regional Forest Agreements (RFAs): Period 3 - 2009-2014*, in accordance with the Terms of Reference for the Independent Reviewer at Attachment 2 of this Agreement

- preparing and publishing the joint government response to the report by the Independent Reviewer.

The support to be provided to the Independent Reviewer by the Joint Working Group will include provision of the *Report on Progress with Implementation of the Victorian Regional Forest Agreements (RFAs): Period 3 - 2009-2014* and relevant documents, collation and supply of public submissions. Support will not include secretariat services or drafting of reports.

#### **b) Ministerial**

The Parties to the Agreement are represented by the responsible Ministers:

##### **Victoria:**

The Hon. Lisa Neville MP  
Minister for Environment, Climate Change and Water

##### **Commonwealth:**

Senator the Hon. Anne Ruston  
Assistant Minister for Agriculture and Water Resources

The Ministers shall approve the:

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

## **8. Process for conducting the Review**

The third five-yearly review will be conducted in accordance with the following process:

- (a) **Preparation** – By end of 2016, the:
  - Report on Progress with Implementation of the Victorian Regional Forest Agreements (RFAs): Period 3 - 2009-2014 is prepared by the Parties
  - Independent Reviewer is appointed
  - Parties agree the high-level process for extending the duration of the Victorian RFAs.
  
- (b) **Public consultation and independent review** – anticipated duration 4.5 months
  - public submissions are sought on the Report on Progress with Implementation of the Victorian Regional Forest Agreements (RFAs): Period 3 - 2009-2014 with respect to the milestones and obligations of the RFAs and relevant to the extension of the agreements
  - the Joint Working Group collates written public submissions and provides them to the Independent Reviewer
  - the Independent Reviewer reviews the Report on Progress with Implementation of the Victorian RFAs, public submissions, and, as required, extra information provided by the Joint Working Group
  - Within three months of the close of the public submission period, the Independent Reviewer prepares and delivers their review report on the Report on Progress with Implementation of the Victorian Regional Forest Agreements (RFAs): Period 3 - 2009-2014 to the Joint Working Group. This will include a synthesis of public submissions on the operation of the Victorian RFAs. The report, to all practicable extent, will group comments into themes, including identifying those comments that may be particularly relevant to an extension of the Victorian RFAs.

- (c) **Joint government response** – anticipated duration 3 months
- the Independent Reviewer's report is tabled in the Australian Parliament at a timing that is jointly agreed by the Parties
  - the Parties jointly respond to the report prepared by the Independent Reviewer for the third five-yearly review of progress with implementation of the Victorian RFAs and make publicly available the Joint Australian and Victorian Government Response following tabling in the Australian Parliament by the Australian Government
  - the response identifies the process, as agreed by the Parties, for extending the Victorian RFAs for a further period.

## **9. Reporting protocols**

The Joint Working Group shall, where appropriate, report to responsible Ministers on an 'as needs' basis through the co-Chairs.

## **10. Communication protocols**

The Parties agree that prior to either party making a separate public statement about this third five-yearly review that they will advise the other party.

## **11. Financial issues**

The Parties are responsible for all their own costs incurred in the implementation of this Scoping Agreement.

The Parties will share evenly the agreed additional costs of the review including:

- advertising public notices in relevant media to invite public submissions;
- the Independent Reviewer's agreed fee including their associated travel costs to attend meetings with the Parties (as required); and
- the preparation, publication and distribution of reports generated by the third five-yearly review.

**12. Signing page**

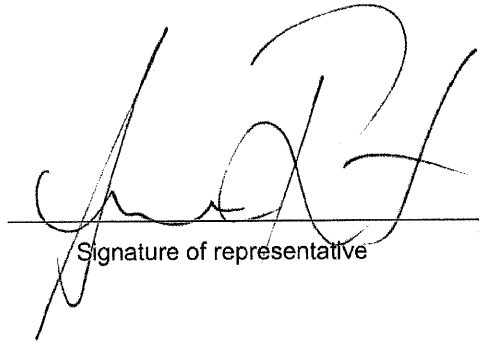
IN WITNESS WHEREOF this Agreement has been signed for and on behalf of the Parties on the 7<sup>th</sup> day of May in the year 2016

**Signed for and on behalf of the Commonwealth of Australia by**

Senator the Hon. Anne Ruston,  
Assistant Minister for Agriculture and Water Resources



Signature of witness



Signature of representative

Sara Bray  
Name of witness (print)

Anne Ruston  
Name of representative (print)

**Signed for and on behalf of the Victorian Government by**

Hon. Lisa Neville MP, Minister for Environment, Climate Change and Water



Signature of witness



Signature of representative

Chris Owner  
Name of witness (print)

LISA NEVILLE  
Name of representative (print)



## Attachment 1 Items for the Review

Only those milestones or obligations that are ongoing or had not been completed prior to this review period, as listed in the table below, will be reported on in this review of progress with implementation.

Milestones or obligations that were completed within previous review periods may be included in the report for the flow of the document, but they are not in the scope of this review.

Where a milestone or obligation has been overtaken by events, or is no longer relevant, this will also be indicated.

Milestone / Obligation	East Gippsland RFA Clause	Central Highlands RFA Clause	North East RFA Clause	Gippsland RFA Clause	West Victoria RFA Clause
<b>PART 1</b>					
Duration of Agreement	5	6	6	6	6
<b>PART 2</b>					
Relationship to statutory obligations	12, 15, 17-18, 21, 23	21, 25, 27-30, 32-33	21, 25, 27-30, 32-33	21, 25, 28-31, 33-34	21, 25, 28-31, 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			39-40		
Monitoring, reporting and consultative mechanisms	26-28, 34	41-43, 45(c), 45(d)	41-43, 45(a), 45(b)	42-44, 46(a), 46(b)	42-44, 46
Private land	42	52	52	53	53
Threatened flora and fauna	43-45	55-58	55-58	56-59	56-59
The CAR reserve system	50	63-64	63-64	65-66	65-67
Industry development	53	67-72	66-71	68-72, 74-76	68-72, 74-76
Indigenous heritage	54	74	73	78	78
Other forest uses	57-60	77-80	76-79	83-86	83-86
Competition principles	61	82	80	88	88
Research	62-64	83-85	81-83	89-91	89-91
Funding	65, 66				
Data agreement		86	84	92	92
<b>PART 3</b>					
Forest management		89	86.4, 86.5, 87	94.4, 95	94.2, 94.3, 94.4, 95
Compensation		90	88	96	96
	Attachment	Attachment	Attachment	Attachment	Attachment
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	2	3	3	3	3
Public reporting and consultative mechanisms	5	5	5	5	5
Research	6	6	6	6	6
Indigenous heritage				8	8

## Attachment 2 Terms of Reference for the Independent Reviewer

### Background

The Australian and Victorian Governments (the Parties) signed five Victorian RFAs between 3 February 1997 and 31 March 2000.

The Victorian RFAs establish the framework for the management of forests within the Victorian RFA regions. The duration of each of the Victorian RFAs is 20 years from its date of signing.

As provided under clause 5 of the East Gippsland RFA and clause 6 of the other Victorian RFAs, it is the intent of the Parties to consider the process for extension of the agreements as part of the third five-yearly review.

An important element of the Victorian RFAs is the requirement to review the performance of each of the Victorian RFAs. An RFA review is an assessment of progress made against the milestones and obligations specified in each of the Victorian 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 Gippsland and West Victoria 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 management of the National Estate*
- *the results of monitoring of sustainability indicators*
- *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. The mechanism for the review will be determined by both Parties 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 *Report on Progress with Implementation of the Victorian Regional Forest Agreements (RFAs): Period 3 - 2009-2014* and associated written public submissions, and provide a report to the Joint Working Group. The review will cover the 1 July 2009 to 30 June 2014 five-yearly period.

The Independent Reviewer is required to:

1. Review written public submissions on the *Report on Progress with Implementation of the Victorian Regional Forest Agreements (RFAs): Period 3 - 2009-2014* and undertake further targeted consultation with organisations or individuals as required, to clarify any issues raised in the written submissions.
2. Provide a written report to the Joint Working Group, which:
  - provides comment on the *Report on Progress with Implementation of the Victorian Regional Forest Agreements (RFAs): Period 3 - 2009-2014* considering the written public submissions received
  - describes the key issues identified in the written public submissions

- noting the policy framework as established by the National Forest Policy Statement, identifies any additional issues that should be considered for the continued implementation of the Victorian RFAs
  - lists the names of the individuals and organisations who made written public submissions where consent to do so is provided.
3. Deliver all written submissions and information used by the Independent Reviewer to the Joint Working Group with the report.

#### **Timing**

The Independent Reviewer must submit their report to the Joint Working Group within three months of the closure of the public submission period unless an extension of time is mutually agreed by the Parties and Independent Reviewer.

#### **General**

The Terms of Reference for the Independent Reviewer should be read in conjunction with the Scoping Agreement for the review of progress with implementation of the Victorian Regional Forest Agreements.