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23 December 2016

Penny Wells
Director of Forest Policy
Department of State Growth

By email: reviewrfa@stategrowth.tas.gov.au

Dear Penny,

Extending the Tasmanian Regional Forest Agreement

Please find attached a brief submission regarding the proposed extension of the Tasmanian Regional Forest Agreement. I was not able to complete the questionnaire online, so have provided answers in the attachment.

EDO Tasmania remains concerned by the process adopted for the extension, and urges the Tasmanian and Commonwealth governments to undertake a comprehensive assessment of the merits of the Regional Forest Agreement. The Independent Review of the third five-yearly review raised a number of matters which have not been addressed by the minor amendments proposed.

Any review of the RFA must identify revisions needed to ensure that any such agreement can achieve the dual aims of resource security and conservation for the coming decades, and consult widely on specific reform proposals. Simply rolling over an agreement drafted 20 years ago, and which has resoundingly failed to achieve its aims, without a thorough review condemns both Tasmania's biodiversity and the economic security of the forest industry.

Please do not hesitate to contact me if you would like to discuss any of our responses to the questionnaire.

Yours sincerely,

EDO Tasmania



Jess Feehely
Principal Lawyer

Attach: Questionnaire response – EDO Tasmania



Extending the Tasmanian Regional Forest Agreement

The Australian and Tasmanian governments have committed to establish a 20 year rolling extension to the Tasmanian Regional Forest Agreement (RFA). To inform this process, we are seeking your feedback.

Stakeholders have had an initial opportunity to provide feedback (from 17 April to 12 June 2015) about extending the Tasmanian RFA, as part of the third five-yearly review of the RFA. This initial feedback, and the Independent Reviewer's report to the third five-yearly review of the Tasmanian RFA, has informed the focus of this additional consultation.

The governments will consider any practical improvements to the Tasmanian RFA, to ensure it remains effective and credible in the long term. While the governments are not negotiating a new RFA, or changing the Agreement's fundamental objectives, they have identified the following improvements to the RFA framework:

- **Streamlined and strengthened review and reporting arrangements** – presently the five yearly reviews examine the implementation of the RFA clause-by-clause. The improved review and reporting arrangements will be outcomes focused.
- **Improved and contemporary dispute resolution mechanisms** – these will give the governments more options for resolving issues about the implementation of the RFA.
- **Improved communication and consultation** – the governments will hold annual officials level bilateral meetings, in the interim years between five-yearly reviews, to discuss issues relating to the ongoing implementation of the RFA.
- **Modernisation of the RFA** – where practicable, the governments will update references to superseded legislation and policy.

The Tasmanian RFA is the governments' policy framework for delivering sustainable forest management in Tasmania. In extending the Tasmanian RFA, the governments will maintain the Agreement's key objectives:

- certainty of resource access and supply to Tasmania's forestry industry
- ecologically sustainable forest management and use of Tasmania's productive forests, and
- a Comprehensive Adequate and Representative reserve system.

Have your say

Please complete the questionnaire and:

- Hand in while visiting a drop-in centre

Monday 5 December 2016, 4.00–7.30pm at Peach & Plum Rooms – Huon LINC, 1 Skinner Drive, Huonville

Wednesday 7 December 2016, 4.00–7.30pm at Wellers Inn, 36 Queen Street, Burnie

Thursday 8 December 2016, 4.00–7.30pm at The LINC, 51 King Street, Scottsdale

- Or, email your completed response to: reviewrfa@stategrowth.tas.gov.au.

Consultation closes **12.30pm AEDT, Friday, 23 December 2016**. Questionnaires received after this time may not be accepted.

Your details

Given name

Family name

Organisation

Mobile phone

Email

Please select one of the following

- I confirm that my completed questionnaire does not contain sensitive information and can be published in full on the Department of State Growth website.
- My completed questionnaire should **NOT** be published on the Department of State Growth website.

Privacy Notice

You are providing personal information to the Tasmanian Department of State Growth (the Department), which will manage that information in accordance with the *Personal Information Protection Act 2004*. The personal information collected here will be used by the Department for the purpose of receiving and verifying contact details for stakeholders who have chosen to submit a completed questionnaire on the extension to the Tasmanian Regional Forest Agreement. Failure to provide this information may result in the non-acceptance of your questionnaire or records not being properly maintained. The Department may also use the information for related purposes, or disclose it to third parties, including the Australian Government Department of Agriculture and Water Resources, in circumstances allowed for by law. You have the right to access your personal information by request to the Department and you may be charged a fee for this service.

Copyright in completed questionnaires resides with the author(s), not with the Department.

In providing a completed questionnaire, you agree that:

- unless you indicate otherwise below (or as otherwise determined by the Department), your questionnaire will be published on the Department's website and will remain on the Department's website indefinitely
- the Department can contact you about your questionnaire
- for published questionnaires from individuals, your name will be published with your questionnaire. All other contact details will be removed from your questionnaire
- for published questionnaires from organisations, your name and your organisation's details will be published with your questionnaire.

Please select your interest/s with extending the RFA

- Forest management system
 - Resource certainty
- Research and development
- Threatened species
- Comprehensive Adequate and Representative reserve system
- Heritage values
- Socio-economic data
 - Value of industry
 - Employment figures

Other interests (please list)

Our principal interest is in advocating against the extension of the RFA in its current or only slightly modified form.

The current consultation is flawed and disingenuous as it pre-supposes the rolling over of the RFA with minimal changes, and provides no specific details of the changes for the public to comment upon. It is not clear from the schematic of the review process on the State Growth website where the current consultation sits, or whether any further opportunities will be given to comment on specific amendments.

The minor amendments proposed (though not detailed) by the governments include “modernisation of the RFA”, however this appears limited to updating references to superseded legislation rather than a genuine attempt to review whether the RFA remains appropriate in the modern context, including climate risks, higher rates of biodiversity loss, changes in market demands, certification requirements and employment demographics.

A comprehensive review and consultation on a revised draft is essential if any future RFA is to meet the stated objectives.

Your feedback

Please list any publicly available non-government documents, reports or data that the Australian and Tasmanian governments could consider in extending the Tasmanian RFA

- EDO Tasmania's 2015 analysis of the operation of the Tasmanian Regional Forest Agreement, *State Forests, National Interests*, was provided with our submission on the third five yearly review. We urge the governments to reconsider the recommendations outlined in that report: www.edotas.org.au/state-forests-national-interests
- The uplisting of a number of threatened species into higher categories of extinction risk, including the Swift Parrot, *Astacopsis gouldii* and the Eastern quoll. The continuing decline of local populations of these species in Tasmania is testament to the failure of the current RFA to provide adequate protection for threatened species. <http://www.iucnredlist.org/>

An EDO Tasmania report, *Critically Endangered, Under-Protected*, examines some of the impacts of forestry on habitat for critically endangered species such as the Swift Parrot, highlighting the RFA exemption from the EPBC Act as a significant constraint on strategic protection.

- ABARES. 2016. *Australia's plantation log supply 2015 – 2059*. This report highlights reductions in plantation productivity, and raises questions as to whether efforts to improve productivity and plantation management would deliver more efficient resource security than an extended RFA.

A number of government documents, reports and announcements should also be considered. These include:

- The Dept of State Growth “fact sheet” on the forest management system refers to the importance of the Permanent Native Forest Estate Policy, but neglects to mention that significant restrictions on private land clearing, pursuant to commitments under the 2005 Tasmanian Community Forest Agreement, were intended to take effect on January 2015 but have now been deferred on three separate occasions. As Prof Kile acknowledged in his Independent Review of the RFA, as at October 2015, Tasmania was close to reaching the 95% threshold. It is essential that the RFA explicitly implement broadscale land clearing restrictions to ensure that the threshold is not breached and the native forest estate is replenished.
- Announcements made by Tasmanian Minister for Resources, Guy Barnett, regarding an intention to bring forward harvesting of FPPF reserve areas to 2018.
- [Letter from Forestry Tasmania Chairman](#), Rob de Fegely, to relevant Tasmanian Ministers outlining difficulties in maintaining current minimum statutory sawlog commitments. This letter has direct consequences in relation to Recommendation 11 of the Independent Review regarding regular review of the Sustainable Yield calculations.
- Proposal by the national Threatened Species Scientific Committee to [list the “Tasmanian forests and woodlands dominated by black gum or Brookers gum \(*E. ovata* / *E. brookeriana*\)” as a critically endangered ecological community under the EPBC Act](#), following over 90% decline in abundance of the forest community.

The Governments contend that this is a matter for the EPBC Act and *Forest Practices Act 1985*, and not relevant to the RFA negotiations. However, given that forestry operations undertaken under the RFA will not be subject to assessment requirements under the EPBC Act, even where likely to have a significant impact on a critically endangered ecological community, it is essential that the RFA itself imposes restrictions on clearing of listed communities. Without this, the RFA cannot “provide certainty for conservation of environmental and heritage values”.

What improvements could be made to the five-yearly RFA review process to make it more outcomes focused?

We strongly support any review process being outcomes focussed, but question how practicable this will be with the current drafting of the RFA. Many clauses rely on procedural compliance, rather than outcomes.

For example, clause 68 originally required protection of species (an outcome that can be monitored) but was amended to provide that the forest practices system is taken to protect species. This is no longer an outcome-focussed obligation.

What research and development priorities are important to Tasmanian forestry industry stakeholders?

Consistent with Recommendation 7 of the Independent Review, the government should implement a “resourced and prioritised research and development plan” as part of the renewal of the RFA. Priorities should include:

- Fire management
- Pest and weed control
- Climate change impacts on growth rates, water uptake, fire risks and habitat ranges of listed species – such research will be essential in managing forest stocks in a precautionary manner
- Availability of special species timbers outside CAR reserves
- Opportunities to maximise forest produce through use of “secondary” quality sawlogs
- Carbon accounting mechanisms
- Streamside reserve management impacts on downstream habitats (especially in relation to the Giant Freshwater Crayfish and burrow-dependent aquatic species)

What socio-economic data and analysis is important to Tasmanian forest industry stakeholders?

- **An independent analysis of the value of avoided deforestation and options to capitalise on that value.**

Such an analysis is essential to inform a rational debate regarding the economic contribution of the forest industry and opportunities to secure equivalent economic returns in a more environmentally responsible manner.

- **A clear analysis of what is required to achieve, and maintain, FSC certification for all native forestry operations conducted within Tasmania.**
- **Detailed analysis to understand people's experience in accessing forest data, reporting non-compliance to regulators, and dealing with forest operators.**

Social licence for the forest industry relies on the credibility and transparency of its operations. Research to identify current weaknesses will allow legislative and policy changes to address those issues.

How could the governments improve outcomes-focused monitoring and reporting on threatened species and biodiversity, as part of extending the Tasmanian RFA?

We support Recommendation 5 of the Independent Review, identifying the need for long-term forest condition monitoring systems.

Data collection systems must also be integrated to allow information sharing between the various agencies responsible for vegetation clearing assessments, including the Forest Practices Authority, planning authorities, Parks and Wildlife and Crown Land Services.

We would support the government adopting the methodology for assessing the CAR reserve system used in the [Wild Island project](#) for identifying biodiversity hotspots, connectivity needs and species range.

What other improvements could be made to the RFA framework?

- **Removal of the EPBC Act exemption**

We have consistently advocated for the repeal of the RFA exemption under s.38 - 42 of the EPBC Act, to ensure that the Commonwealth Minister is empowered to assess forestry activities likely to have a significant impact on listed threatened species and ecological communities, migratory species and national heritage places.

Our previous submissions, along with detailed reports, [State Forests, National Interests](#) and [One Stop Chop](#), describe the adverse impact of the RFA exemption on the protection of matters of national environmental significance.

- **Consolidation of commitments into one document**

Presently, the "Tasmania RFA" comprises the original agreement, several amendments to the agreement and the Tasmanian Community Forest Agreement. These multiple documents are difficult to navigate, making it very difficult to monitor compliance with the various commitments.

Recommendation 16 of the Independent Review recommends simplification of the RFA as part of the extension process, noting that much of the current agreement contains "commitments that have now been completed, are redundant or have been superseded."

Simply rolling over the various existing documents comprising the RFA will do nothing to address this recommendation.

- **Comprehensive review of natural and cultural values, and CAR reserves**

An RFA is defined under the *Regional Forests Agreement Act 2002* as (among other things) an agreement entered into having regard to assessments of environmental values, indigenous heritage values, economic values and social values, and which provides for a comprehensive, adequate and representative reserve system.

Given significant changes in environmental conditions (including habitat loss and degradation, climate impacts such as bushfire risk, contracting or mobile habitat ranges, and continuing species decline) and the socio-economic environment in which the forest industry operates (including market demands, significant growth in the plantation estate and increased eco-tourism revenue), it is arguable that rolling over the 20 year old RFA without any re-assessment of those values and the extent to which the reserve system remains adequate and representative would not deliver an RFA within the RFA Act meaning.

Recommendation 1 of the Independent Review encourages the governments to fulfil outstanding reservation commitments and consider any new reserves required to secure a genuinely comprehensive, adequate and representative reserve system. As outlined above, the recent announcement by the Tasmanian Minister for Resources that he intends to allow harvesting Future Potential Production Forest areas demonstrates the lack of security currently provided by the reserve system.

The proposal to extend the RFA in largely its current form ignores Recommendation 1. Any future RFA should be preceded by a comprehensive re-assessment of natural and cultural values, the adequacy and representativeness of reserve areas (based on ecological, rather than commercial access criteria), and the accuracy of the Priority Species lists.

In addition to securing the FPPF reserves and delivering on previous commitments, the current moratorium on harvesting on Bruny Island should also be made permanent through any review of CAR reserves.

- ***Review of Aboriginal and European heritage management provisions***

The Independent Review strongly recommends that any extension be informed by a review to ensure compatibility of the RFA with the national heritage provisions of the EPBC Act (which were introduced after the introduction of the RFA – see Recommendation 10) and far greater consultation with the Aboriginal community (Recommendation 4). Despite the joint government response to the Independent Review indicating agreement with the recommendations, neither of these issues is included in the minor revisions proposed as part of the rollover.

The *Aboriginal Relics Act 1975* has proven ineffective in protecting Aboriginal heritage, particularly at a landscape scale, and it is not appropriate for the governments to rely on that legislation to satisfy any commitment to protecting cultural heritage. Consultation with the Aboriginal community must occur in the development of the RFA and in any proposals under the forest practices system likely to impact on cultural heritage.

- ***Permanent Native Forest Estate Policy***

Restrictions on broadscale clearing on private land must be introduced under the RFA, to complement the overall 95% retention threshold with clear assessment criteria for harvesting proposals.

- ***Significantly greater funding for compliance audits and enforcement activities.***

At present, the Forest Practices Authority employs only two compliance officers for the entire State – it is unreasonable to expect that adequate oversight can be achieved with such limited investigation and enforcement capacity.

- ***Improved transparency of forest planning documents***

Recommendation 3 of the Independent Review encourages the governments to improve the transparency in the development of forest practices plans. While Forestry Tasmania's practices have improved, there remains a general lack of transparency in relation to the development of forest practices plans and no opportunities to challenge certification decisions.

As outlined in *State Forests, National Interests*, the RFA forestry system should provide equivalent protections and processes to the EPBC Act if the exemption from assessment under that Act is to be justified. To achieve equivalence, the RFA should explicitly require FPPs to be advertised, copies to be made available and affected third parties able to challenge a decision to certify an FPP.