

Tasmanian Regional Forest Agreement

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

**The Commonwealth of Australia
and
The State of Tasmania**

**Third Five-Yearly Review
March 2015**

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1. Preamble

The purpose of this Scoping Agreement is to set out the arrangements agreed by the Tasmanian Government and Australian Government (the Parties) for undertaking the third five-yearly review to assess performance against the milestones and commitments of the Tasmanian Regional Forest Agreement (Tasmanian RFA). The review will cover the 2007 to 2012 five-year period, using data reported in the *State of the Forests Tasmania 2012* report (data to June 2011) and the joint report *Implementation of the Tasmanian Regional Forest Agreement 2007-2012*.

The Parties agree that this Scoping Agreement will be consistent with the Tasmanian RFA (as amended by the 2001 Variation to the Tasmanian RFA, the 2005 Supplementary Tasmanian RFA (SRFA) and the 2007 Variation to the RFA), the 1995 National Forest Policy Statement (NFPS), and other relevant agreements and policies.

This review will occur in accordance with:

- clauses 45, 46 and 47 of the Tasmanian RFA;
- clauses 1, 3 and 4 of the SRFA, negotiated as part of the Tasmanian Community Forest Agreement; and
- clauses 1, 2 and 3 of the Variation to the Tasmanian RFA – February 2007.

The Parties recognise that this Scoping Agreement cannot impose on a party any obligation that is inconsistent with a law of the State of Tasmania 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 Tasmanian RFA was developed as one of a series of RFAs between the Commonwealth of Australia and the Governments of Tasmania, New South Wales, Victoria and Western Australia. While all the RFAs have their own unique elements, they have all been drawn up under the NFPS and all have requirements for reviews.

The State of Tasmania and the Commonwealth of Australia entered into the Tasmanian RFA on 8 November 1997.

The duration of the Tasmanian RFA is 20 years, from 1997 to 2017, and it can be extended with the agreement of both Parties (clause 8).

While this review was due to occur in 2012, in the context of settling implementation arrangements for the Tasmanian Forests Agreement, the Parties delayed initiation of the review.

The Tasmanian RFA establishes the framework for the management of forests within the Tasmanian RFA region. The Parties are committed to ensuring the Tasmanian RFA is durable and delivers the milestones and commitments contained within to ensure effective forest management, forest industry and conservation outcomes.

The Parties have also committed to extend the Tasmanian RFA. The outcomes of the review will be a consideration in negotiations between the parties to extend the Tasmanian RFA.

3. The requirement for a five-yearly review

As stated in clauses 45, 46 and 47 of the Tasmanian RFA:

45. *A review of the performance of this Agreement is to be undertaken during the last year of each five year period to assess the progress of the Agreement against its specified milestones and commitments:*

The review is to be conducted:

- (i) by a person or body jointly appointed by the Parties; and*
- (ii) in accordance with agreed priorities, procedures and funding arrangements which are to be agreed no later than six months before the end of each five year period of this Agreement.*

The review will also:

- (iii) invite and take account of public comments; and*
- (iv) use and take account of the Sustainability Indicators including trends; and*
- (v) be sufficient to satisfy the requirements for a State of the Forests Report as required by Section 59D of the Forestry Act 1920¹ (Tas.); and*
- (vi) be completed within three months of its commencement; and*
- (vii) develop a report detailing the review process and its findings.*

46. *The report prepared for the Review process described above will be published and made publicly available within three months of it having been received by both Parties.*

47. *The purpose of the review process under this Agreement is not to renegotiate the Agreement.*

The review will also include an assessment of the performance of the Tasmanian RFA against agreed actions that arose out of the joint government response to the second five-yearly review in 2010.

The review may make recommendations with regard to the past implementation of the Tasmanian RFA. These recommendations may also be relevant to future implementation of the Tasmanian RFA.

4. Principles for conduct of the review

The Tasmanian RFA is a 20-year agreement that requires performance reporting every five years. The review will cover the third five-year period from 2007 to 2012, using data reported in the *State of the Forests Tasmania 2012* report and the joint report *Implementation of the Tasmanian Regional Forest Agreement 2007-2012*.

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

¹ This clause is now redundant. The State of the Forests report is now prepared in accordance with Section 4Z of the *Forest Practices Act 1985* (Tas). The State of the Forests Report is prepared independently by the Forest practices Authority and is reported to the Parliament of Tasmania. This report is now an input to the review, not an output from it.

The review:

- will be conducted in accordance with clauses 45, 46 and 47 of the Tasmanian RFA
- will be conducted in a manner that is open and transparent
- will invite public comment on the joint report on implementation of the Tasmanian RFA with respect to the milestones and commitments, recognising that the review is being undertaken in the context of the commitment to extend the Tasmanian RFA
- will be completed in accordance with the process outlined in section 7 of this Scoping Agreement
- will be cognisant of other Tasmanian state and national forest reporting processes and requirements
- does not open up the Tasmanian RFA to re-negotiation
- outcomes will be made publicly available in a report that outlines the process used by the reviewer and findings of the reviewer.

The Parties note that, as per clause 8 of the Tasmanian RFA, this review will include the Parties agreeing on the process to extend the Tasmanian RFA. The Parties intend to negotiate an agreed position on an extended Tasmanian RFA through a bilateral process informed by, but separate from, this third five-yearly review.

5. Items for review

The Parties agree that:

- (a) the review will assess and report on progress made against the milestones and commitments specified in Attachment 1 of this Scoping Agreement.
 - In instances where milestones and commitments have been completed and reported against in earlier five-yearly reports, they have been included in the *Implementation of the Tasmanian Regional Forest Agreement 2007-2012* for the integrity and flow of the document, however they are not in scope for further review.
- (b) Tasmania's State of the Forests reports, released in 2002, 2007 and 2012 fulfil the requirement in the Tasmanian RFA to report on the results of monitoring sustainability indicators. These reports provide background material for the review and are not material for public consultation and comment by the reviewer (noting that they have already been tabled in the Tasmanian Parliament).

6. Governance

(a) Joint Working Group

The development, implementation and finalisation of the review will be supported by the Joint Working Group. In addition, the Joint Working Group will be supported by a Joint Working Group Support Team.

The Joint Working Group will comprise two nominees of the Tasmanian Government and two nominees of the Australian Government. It will be chaired by a representative of the Department of Agriculture (which will provide secretariat duties).

The Joint Working Group is responsible for:

- allocating resources to undertake the review, including reviewing submissions, supporting the Independent Reviewer and publishing the joint Government response to the report by the Independent Reviewer
- inviting public comment on the *Implementation of the Tasmanian Regional Forest Agreement 2007-2012* with respect to the commitments and milestones of the RFA, and recognising that the review is being undertaken in the context of the commitment to extend the Tasmanian RFA
- publication of the joint government response to the review.

(b) Joint Working Group Support Team

A Joint Working Group Support Team will comprise officers from both the Tasmanian and Australian Governments, as appointed by each party.

The Joint Working Group Support Team will be responsible to the Joint Working Group and its duties will include:

- day to day implementation of this Scoping Agreement
- preparing the *Implementation of the Tasmanian Regional Forest Agreement 2007-2012*
- preparing the *Tasmanian Regional Forest Agreement third five-yearly review (2007 – 2012) Summary Document*
- supporting the Independent Reviewer in their review of public submissions on the *Implementation of the Tasmanian Regional Forest Agreement 2007-2012*, in accordance with the Terms of Reference for the Independent Reviewer at Attachment 2 of this Agreement
- preparing the Joint Government Response to the report by the Independent Reviewer.

Support to be provided to the Independent Reviewer by both parties will include provision of relevant documents, as well as collation and supply of public submissions. Support will not include secretariat services or drafting of reports.

(c) Ministerial

The Parties to the Agreement are represented by:

Tasmania:

The Hon. Paul Harriss MP
Minister for Resources

Commonwealth:

Senator the Hon. Richard Colbeck
Parliamentary Secretary to the Minister for Agriculture

The Ministers shall approve the:

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

7. Process for conducting the Review

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

(a) Preparation – By end of March 2015:

- the *Implementation of the Tasmanian Regional Forest Agreement 2007-2012* is prepared by the Parties
- the *Tasmanian Regional Forest Agreement third five-yearly review (2007 – 2012) Summary Document* is prepared by the Parties
- the scope of responsibilities for the Independent Reviewer is determined
- the Independent Reviewer is appointed
- the parties agree the high-level process for extending the duration of the Tasmanian RFA.

(b) Public consultation – duration 6 weeks

- public comments are sought on the *Implementation of the Tasmanian Regional Forest Agreement 2007-2012* with respect to the milestones and commitments of the RFA, recognising that the review is being undertaken in the context of the commitments to extend the agreement
- the Parties collate written public submissions and provide them to the reviewer.

(c) Review – duration 3 months

- the Independent Reviewer reviews the *Implementation of the Tasmanian Regional Forest Agreement 2007-2012* including the public comments, Government response(s) to public comments or extra information provided by Governments
- a report is prepared and delivered to the Parties within three months of the close of public submissions by the Independent Reviewer, including a synthesis of public comments on the operation of the Tasmanian RFA. The report, to the extent practicable, will group comments into themes, including identifying those comments that may be particularly relevant to the commitment to extend the RFA.

(d) Joint government response – duration 3 months

- the Independent Reviewer's report is tabled in the Australian Parliament
- the Parties jointly respond to the report prepared by the Independent Reviewer for the third five-yearly review of progress with implementation of the Tasmanian RFA and make publically available the Joint Australian and Tasmanian Government Response
- this response will note the Tasmanian RFA extension process agreed by the Parties.

8. Reporting protocols

The Joint Working Group shall report to:

- responsible Ministers on an as needs basis through the Chairs
- responsible Ministers who shall consider the report of the Independent Reviewer and agree a formal response from the Parties with a view to the publication of both documents.

9. 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.


10. 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 costs of the review including: advertising the review and calling for submissions, the Independent Reviewer and their associated costs, the preparation, publication and distribution of reports.

11. Signing page

IN WITNESS WHEREOF this Agreement has been signed for and on behalf of the Parties on
the 2nd day of April in the year 2015

Signed for and on behalf of the
Commonwealth of Australia by the Senator
the Hon. Richard Colbeck, Parliamentary
Secretary to the Minister for Agriculture



Signature of witness



Signature of representative

COURTNEY HARRIS

Name of witness (print)

RICHARD COLBECK

Name of representative (print)

Signed for and on behalf of the **Tasmanian
Government** by the Hon. Paul Harriss MP,
Minister for Resources



Signature of witness



Signature of representative

MEEGAN JACKSON

Name of witness (print)

PAUL HARRISS

Name of representative (print)

Attachment 1

Items for the Review

Milestones and commitments contained in the following clauses and attachments of the Tasmanian RFA (as amended by the SRFA and the 2007 Variation) are, or have been subject to review.

Only those milestones or commitments that are ongoing or not yet completed as indicated in the table below will be reported on in this review. Commitments that were completed prior to the 2007 Review have been included in the Implementation Report to maintain the integrity and flow of the document; however they are not in the scope for review. Where a milestone or commitment has been overtaken by events, or is no longer relevant, this is also indicated,

Milestone/Commitments	Clause	Status at the commencement of the review period
Establish and manage reserves	24	Ongoing
National estate	26	Ongoing
Threatened species and communities	32-37	Ongoing
Milestones	44	Ongoing
Five-yearly review	45	Ongoing
CAR reserve system	48 SRFA 7, 15	Ongoing
Public land	51, 57	Ongoing
Private land	58-59 SRFA 21-24	Ongoing
Ecologically Sustainable Forest Management	64	Ongoing
Priority species	69-71	Ongoing
Consultative mechanisms	72-73	Ongoing
Employment and industry development	74	Ongoing
Other forest uses	80-82	Ongoing
Indigenous issues	83	Ongoing
Research	89	Ongoing
Data agreement	90	Ongoing
Forest management	94 SRFA 12	Ongoing
Databases and confirmation	96-97	Ongoing
Review of high quality sawlog supply levels	98	Ongoing
Financial assistance	100 SRFA 53-56, 66, 74-80	Ongoing
Old growth	SRFA 6	Ongoing
Formal and Informal Reserves	SRFA 16, 17	Ongoing
Old growth silviculture	SRFA 30-32	Ongoing
Plantations	SRFA 33-34	Ongoing
Wildlife management	SRFA 39-42	Ongoing
Special Species	SRFA 44	Ongoing
Harvest residue management	SRFA 58	Ongoing
Infrastructure development	SRFA 59	Ongoing
Pulpmill approvals	SRFA 60	Ongoing
Softwood industry	SRFA 63	Ongoing
Other elements	SRFA 67-72	Ongoing
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CAR reserve system	6, SRFA 1	Ongoing
Protect CAR values on private land	8	Ongoing
Maintaining a permanent forest estate	9	Ongoing

Improvements to Tasmania's forest management systems	10	Ongoing
Public reporting and consultative mechanisms	11	Ongoing
Employment and Industries Development Strategy	12	Ongoing
Financial arrangements	SRFA 2	Ongoing

Terms of Reference for the Independent Reviewer

Background

The Australian and Tasmanian Governments (the Parties) signed the Tasmanian RFA on 8 November 1997.

The Tasmanian RFA establishes the framework for the management of forests within the Tasmanian RFA region. The duration of the Tasmanian RFA is 20 years.

As required by clause 8 of the Tasmanian RFA, the Parties will agree the process for extending the duration of the agreement as part of the third five-yearly review.

An important element of the Tasmanian RFA is the requirement to review the performance of the Tasmanian RFA. A review is an assessment of progress made against the milestones and commitments specified in the Tasmanian RFA.

Clause 45 of the Tasmanian RFA requires that:

A review of the performance of this Agreement is to be undertaken during the last year of each five-year period to assess the progress of the Agreement against its specified milestones and commitments:

The review is to be conducted:

- (i) by a person or body jointly appointed by the Parties
- (ii) in accordance with agreed priorities, procedures and funding arrangements.

The review will:

- (iii) invite and take account of public comments
- (iv) use and take account of the Sustainability Indicators including trends
- (v) be sufficient to satisfy the requirements for a State of the Forests Tasmania Report as required by Section 59D of the Forestry Act 1920 (Tas.)²
- (vi) be completed within three months of its commencement
- (vii) develop a report detailing the review process and its findings.

The parties may extend the review period to ensure a rigorous process.

Terms of Reference

The role of the Independent Reviewer will be to review the *Implementation of the Tasmanian Regional Forest Agreement 2007-2012* and associated written public comments, and report to the Joint Working Group. The review will cover the 2007 to 2012 five-year period, using data reported in the *State of the Forests Tasmania 2012* report.

The Independent Reviewer is required to:

1. Receive written submissions from the public on the *Implementation of the Tasmanian Regional Forest Agreement 2007-2012* with respect to the milestones and commitments of the RFA and, in the context of the commitment to extend the Tasmanian RFA, report public comments relevant to the future implementation of the agreement.
2. Review written public submissions and undertake further targeted consultation with organisations or individuals as required, to clarify any issues raised in the written submissions.

² This clause is now redundant. The State of the Forests report is now prepared in accordance with Section 4Z of the *Forest Practices Act 1985* (Tas). The State of the Forests Report is prepared independently by the Forest Practices Authority and is reported to the Parliament of Tasmania. This report is now an input to the review, not an output.

3. Provide a written report to the Commonwealth and Tasmanian ministers responsible for forestry, which:
 - provides comment on the *Implementation of the Tasmanian Regional Forest Agreement 2007-2012*, and any specific recommendations on implementation, 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 issues arising that are particularly relevant to the ongoing implementation of the RFA in the context of the commitment to extend the agreement
 - lists the names of the individuals and organisations who made written public submissions, where consent to do so has been granted.
4. 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 Commonwealth and Tasmanian ministers responsible for Forestry within four months of the closure of the public comment period.

General

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