

**Review of the Implementation of the Regional Forest
Agreement for the South-West Forest Region of
Western Australia for the Period 1999 - 2009**

**Dr Glen Kile
Independent Reviewer
20 December 2013**

Senator the Hon. Richard Colbeck
Parliamentary Secretary to the Minister for Agriculture
PO Box 6022
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CANBERRA ACT 2600

The Hon. Albert P Jacob MLA
Minister for Environment
12th Floor, Dumas House
2 Havelock Street
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Dear Ministers

Enclosed for your consideration is my *Review of the Implementation of the Regional Forest Agreement for the South-West Forest Region of Western Australia for the Period 1999-2009*.

The Review has been conducted in accordance with the Terms of Reference agreed by your respective governments and considers *A Report on Progress with the Implementation of the Regional Forest Agreement for the South-West Forest Region of Western Australia* together with submissions received during the public consultation process. I trust this Review will contribute to the ongoing Regional Forest Agreement arrangements in Western Australia.

I would like to take this opportunity to thank officers from both of your Governments who provided invaluable assistance during this Review.

Yours sincerely



Dr Glen Kile AM FTSE
Independent Reviewer
20 December 2013

Foreword

I submit this report to the Western Australian and Australian Governments in accordance with the Terms of Reference issued to me.

This report provides my independent assessment of progress with the implementation of the Regional Forest Agreement (RFA) for the South-West Forest Region of Western Australia in accordance with Clauses 36, 37, 38 and 39 of the RFA.

The review covered Period 1 (4 May 1999 - 3 May 2004) and Period 2 (4 May 2004 - 3 May 2009) of the RFA.

Dr Glen Kile AM FTSE
Independent Reviewer
20 December 2013

Executive summary

This is the first independent review of the Regional Forest Agreement (RFA) for the South-West Forest Region of Western Australia (WA RFA). By agreement of the State of Western Australia and the Commonwealth of Australia (the Parties), it covers Period 1 (May 1999 – May 2004) and Period 2 (May 2004 – May 2009) of the RFA. This report describes the review process and summarises the level of achievement against the key obligations, commitments and milestones contained in the RFA.

The RFA has been implemented in Periods 1 and 2 through the Conservation Commission of Western Australia's (CCWA's) *Forest Management Plan (FMP) 2004-2013* (linked via Clause 43 of the RFA) particularly in the areas of the Comprehensive, Adequate and Representative (CAR) forest reserve system, Ecologically Sustainable Forest Management (ESFM) (that includes the setting of sustained yield, forest management regimes, criteria and indicators for long-term assessment of ESFM and protection of threatened flora and fauna), Aboriginal heritage, public reporting and consultation, whilst RFA elements such as protection and management of forests on private land, research, forest employment and industry strategy, competition principles and data access were delivered via legislation or other agency programmes.

Overall, many of the RFA obligations, commitments and milestones have been met in Periods 1 and 2 particularly in relation to the environmental protection / biodiversity conservation, forest management, public consultation and cultural heritage aspects of the RFA. An audit of performance in these aspects and other areas was carried out by the CCWA and reported to the Environmental Protection Authority (EPA) through the *Mid-term Audit of the Performance Report of Forest Management Plan (FMP 2004-2013)* in 2008.

Due to policy changes by the State of Western Australia in the first half of Period 1 that increased the area of reserved forest and reduced the allowable wood harvest, the forest employment and industry development outcomes sought in the RFA have generally not been achieved in Periods 1 and 2 and are unlikely to be met in future periods under the current policy settings.

Thirteen Recommendations have been made:

1. The Parties clarify some matters in *A Report on Progress with the Implementation of the Regional Forest Agreement for the South–West Region of Western Australia* in a revised published (online) version.
2. The Parties develop an agreed statement or addendum of the legislative and administrative changes at Commonwealth and State level that affect the Regional Forest Agreement.
3. The Parties recommit to timely and regular reviews of the implementation of the Regional Forest Agreement recognising the scope of reviews will change as the RFA is progressively implemented.
4. The Government of Western Australia agrees on the mechanism to achieve external input into Research and Development (R&D) priorities and opportunities to expand cooperative research programmes.
5. The Government of Western Australia continues to periodically review the sustained yield in relation to the changing biotic and abiotic risk factors.

6. The Parties review the indicators used for Ecologically Sustainable Forest Management assessment in the Forest Management Plan 2014-2023 as part of the next 5-yearly Regional Forest Agreement to ensure they adequately address each of the Montreal Criteria.
7. The Parties assess the adequacy of the compliance provisions related to the Forest Management Plan 2014-2023 as part of the next 5-yearly Regional Forest Agreement review.
8. The Government of Western Australia considers the development of a comprehensive forest health assessment system.
9. The Parties ensure the climatic trends evident in the Regional Forest Agreement region are considered in future forest management planning and management for forest goods and services including conservation, wood and catchment water yields.
10. The Government of Western Australia undertakes an analysis of the adoption of research outputs into management practice as part of the process of determining future research priorities.
11. The Parties review policy settings that affect the utilisation of wood harvested in the Regional Forest Agreement region in light of changing economic circumstances, technology and the opportunity for climate change mitigation.
12. The Parties review the need for updating key data sets and any steps that should be taken to ensure ongoing access to historical data sets.
13. The Parties' consideration of the scope of the next 5-yearly Regional Forest Agreement review should ensure the ongoing Regional Forest Agreement requirements are met in Forest Management Plan 2014-2023 particularly in relation to:
 - a. Ecologically Sustainable Forest Management
 - b. protection of threatened flora and fauna, and that
 - c. the indicators of Ecologically Sustainable Forest Management are sufficiently comprehensive to cover social, economic and environmental aspects of forest management.

1. Introduction

1.1 Background to the Review

The State of Western Australia and the Commonwealth of Australia entered into a Regional Forest Agreement dated 4 May 1999. This 20-year agreement established the framework for the ecologically sustainable management of forests in the South-West Forest Region of Western Australia.

The RFA is in three parts:

- Part 1 - Interpretation, Definition and General Provisions
- Part 2 - (non legally binding) - Functioning of the Agreement, Ecologically Sustainable Forest Management, Threatened Flora and Fauna, CAR Reserve System, Industry Development, Indigenous Heritage, Plantations, Other Forest Uses, Competition Principles, Research and Data Use and Access
- Part 3 - (legally enforceable rights and obligations) - Forest Management, Compensation, Industry Assistance and Termination.

The RFA makes allowance for 5-yearly reviews against the commitments and milestones agreed by the Parties. No 5-yearly-review was undertaken at the end of the first 5-year period and by agreement between the Parties this review was commissioned to cover the first two 5-yearly periods (Periods 1 and 2) of the RFA (4 May 1999 - 4 May 2009).

A report on progress with implementation of the RFA for Periods 1 and 2 was jointly prepared by the State of Western Australia and the Commonwealth of Australia and released for public comment on 29 July 2013.

While the Parties were responsible for this report on progress with implementation, an Independent Reviewer (the reviewer) was appointed by the Parties to undertake a third-party review of the report, the public submissions and supporting documentation for the RFA.

1.2 Review terms of reference

The Independent Reviewer is required to:

1. Receive written submissions from the public on *A Report on Progress with the Implementation of the Regional Forest Agreement for the South-West Forest Region of Western Australia*.
2. Review written public submissions and undertake further targeted consultation with organisations or individuals as required, to clarify any issues raised in the written public submissions.
3. Provide a written report to the Review Committee, which:
 - provides comment and recommendations on *A Report on Progress with the Implementation of the Regional Forest Agreement for the South-West Forest Region of Western Australia*, considering the written public submissions received;
 - describes the key issues identified in the written public submissions;

- identifies any additional issues that should be considered for the continued implementation of the RFA; and
 - lists the names of the individuals and organisations that made written public submissions.
4. Deliver all written public submissions and information used by the Independent Reviewer to the Review Committee with their report.

The Scoping Agreement for the review signed on 10 May 2013 (and amended on 19 July 2013) by the State of Western Australia and the Commonwealth of Australia is at Attachment 1.

1.3 Review process

In accordance with the Scoping Agreement, the State of Western Australia and the Commonwealth of Australia jointly prepared a report on progress with implementation of the RFA for the period 1999-2009 (Periods 1 and 2).

The report was released on 29 July 2013 for an eight-week public comment period. Submissions were received by the WA Department of Parks and Wildlife until 23 September 2013. This was an extension from the original deadline of 13 September due to a delay of a week in advertising the call for submissions in some Western Australian regional newspapers.

The report was:

- sent to key stakeholders throughout the WA RFA region;
- promoted via a notice of its release and a web link sent to other stakeholders throughout the WA RFA region;
- advertised in *The West Australian* newspaper, in the *Koori Mail* and selected regional newspapers; and
- published on the Department of Parks and Wildlife (DPaW) website.

The independent review was overseen by a Review Committee consisting of two representatives of the Australian Government Department of Agriculture (Mr Andrew Wilson, Director, National Forest Policy Section, Forestry Branch, and Mr Mark Edwards, National Forest Policy Section, Forestry Branch) and two representatives of the Western Australian Department of Parks and Wildlife (Dr Geoff Stoneman, Director Sustainable Forest Management and Mr Paul Brennan, Senior Principal Policy and Project Officer).

This report was prepared based on *A Report on Progress with the Implementation of the Regional Forest Agreement for the South–West Forest Region of Western Australia* (110 pages) released by the Western Australian and Australian Governments, public submissions received on the report, consultation with the Review Committee and supplementary information provided by the Parties on some matters of detail in the progress with implementation report.

1.4 Submissions to the review

Twelve submissions were received on the RFA progress with implementation report. One submission (#12) was received beyond the deadline and was not considered. One submission (#11) was received one business day after the deadline but as notification to submit had been received it was considered. One submission (#9) was a broader review of the environmental protection offered by RFAs. This included reviews of aspects of the Western Australian RFA. A list of the submissions received and a summary of the issues raised is at Attachment 2.

The submissions varied greatly in depth and coverage of issues but key matters included the following:

- timeliness of RFA reviews
- questioned the interpretation of the Parties' position in achieving some milestones and commitments relating to the RFA industry clauses
- impact of forest reservation beyond that agreed in the original RFA, particularly on wood supply and consequential impact on industry and timber dependent communities
- monitoring and compliance with the FMP 2004-2013, a key mechanism for implementation of several areas of the RFA.

The reason for the small number of submissions is unclear but could be related to:

- A stakeholder view that the FMP is the major forest policy and management instrument for Western Australia and is the mechanism for implementing many aspects of the RFA. The development of the FMP 2014-2023 has involved a significant public and intergovernmental consultation process in recent times
- Reduced interest due to the lateness of the review and that it only covers Periods 1 and 2 of the RFA i.e. from 1999 to 2009 and not to current year and hence is historical in context.

1.5 Structure of the review report

This review report follows the headline areas as set out in the RFA and makes assessments against the key obligations/commitments/milestones as to the level of achievement in implementation based on the progress report, other documents and consultation with the Review Committee. Key issue(s) raised in the submissions are noted and a short analysis of issues in each headline area is provided. Where appropriate, recommendations have been made and these are listed in a consolidated form in Section 2.

The headline RFA areas covered are:

- Functioning of the Agreement and 5 year review/reporting
- Statutory obligations or legally binding rights and obligations
- Public reporting and consultative mechanisms
- Comprehensive, Adequate and Representative Reserve System
- Improvements to Western Australia's forest management systems on public land
- Protection and management of forests on private land

- Threatened flora and fauna
- Aboriginal heritage and consultation
- Priority areas of research
- Forest employment and industries development strategy
- Competition principles
- Data access agreement.

2. Recommendations

Thirteen Recommendations have been made noting that:

- Much of the RFA has been satisfactorily implemented or elements are subject to ongoing commitment
 - As this review covers Periods 1 and 2, issues have moved on and some matters that might have been subject to recommendation at the scheduled five-yearly reviews have been foreshadowed or identified through the FMP (2004-2013) and the FMP Mid-term Audit of Performance (2008) and hence presumably incorporated into the FMP 2014-2023.
1. The Parties clarify some matters in *A Report on Progress with the Implementation of the Regional Forest Agreement for the South–West Region of Western Australia* in a revised published (online) version.
 2. The Parties develop an agreed statement or addendum of the legislative and administrative changes at Commonwealth and State level that affect the Regional Forest Agreement.
 3. The Parties recommit to timely and regular reviews of the implementation of the Regional Forest Agreement recognising the scope of reviews will change as the RFA is progressively implemented.
 4. The Government of Western Australia agrees on the mechanism to achieve external input into Research and Development (R&D) priorities and opportunities to expand cooperative research programmes.
 5. The Government of Western Australia continues to periodically review the sustained yield in relation to the changing biotic and abiotic risk factors.
 6. The Parties review the indicators used for Ecologically Sustainable Forest Management assessment in the Forest Management Plan 2014-2023 as part of the next 5-yearly Regional Forest Agreement to ensure they adequately address each of the Montreal Criteria.
 7. The Parties assess the adequacy of the compliance provisions related to the Forest Management Plan 2014-2023 as part of the next 5-yearly Regional Forest Agreement review.
 8. The Government of Western Australia considers the development of a comprehensive forest health assessment system.
 9. The Parties ensure the climatic trends evident in the Regional Forest Agreement region are considered in future forest management planning and management for forest goods and services including conservation, wood and catchment water yields.
 10. The Government of Western Australia undertakes an analysis of the adoption of research outputs into management practice as part of the process of determining future research priorities.
 11. The Parties review policy settings that affect the utilisation of wood harvested in the Regional Forest Agreement region in light of changing economic circumstances, technology and the opportunity for climate change mitigation.
 12. The Parties review the need for updating key data sets and any steps that should be taken to ensure ongoing access to historical data sets.

13. The Parties' consideration of the scope of the next 5-yearly Regional Forest Agreement review should ensure the ongoing Regional Forest Agreement requirements are met in Forest Management Plan 2014-2023 particularly in relation to:
 - a. Ecologically Sustainable Forest Management
 - b. protection of threatened flora and fauna, and that
 - c. the indicators of Ecologically Sustainable Forest Management are sufficiently comprehensive to cover social, economic and environmental aspects of forest management.

3. Findings of the review

A Report on Progress with the Implementation of the Regional Forest Agreement for the South–West Region of Western Australia is noted to contain some minor factual errors or matters requiring clarification—some of which were pointed out in public submissions and others identified through Review Committee discussions. As a document of record for the first 10 years of the RFA's implementation, it is desirable they be corrected.

Some submissions challenged the accuracy of some of the joint Parties' assessments in the progress with implementation report against particular obligations, commitments or milestones. The reviewer's assessment of achievements against obligations, commitments or milestones also differs in some cases from those in the progress with implementation report. From the reviewer's perspective, these do not require harmonisation, unless the Parties choose to do so, rather they are differences in perspective based on the material available.

An additional issue that needs to be considered for this RFA (and potentially other RFAs) is the need to update it for the legislative and administrative changes that have occurred over time both at Commonwealth and State level for ease of reference for future RFA reviews.

Recommendations

1. The Parties clarify some matters in *A Report on Progress with the Implementation of the Regional Forest Agreement for the South–West Region of Western Australia* in a revised published (online) version.
2. The Parties develop an agreed statement or addendum of the legislative and administrative changes at Commonwealth and State level that affect the Regional Forest Agreement.

3.1 Functioning of the Agreement and 5-yearly review/reporting

The obligations, commitments or milestone(s) in relation to functioning of the Agreement are provided in the following table.

Obligation/commitment/milestone	Clause	Reviewers' Assessment of Progress
Neither Party will seek to use existing or future legislation or a Government Agreement to undermine or impede this Agreement.	19	State of Western Australia legislated changes in areas of reserved forest in Period 1 beyond that agreed by the Parties in the RFA. To support this change the State of WA delivered an increased compensation package. As neither party called the RFA into termination as laid out in Clause 99 of the RFA this is not a matter that could be considered to have undermined or impeded the RFA.
The Parties will manage their respective responsibilities with regard to the National Estate in accordance with the provisions of this Agreement as detailed in Attachment 2.	21	This obligation is no longer relevant. In 2003 the Commonwealth repealed the <i>Australian Heritage Commission Act 1975</i> (Cwth) and amended the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cwth) to provide for a National Heritage List to replace the Register of the National Estate.
The Commonwealth notes that its obligations to promote endangered species protection and management in the Region will involve ongoing cooperative and jointly funded work with Western Australian agencies.	25	Achieved.
The Parties agree that any potential World Heritage Nomination involving areas in the South-West Forest Region of Western Australia will be from within the CAR Reserve System.	26 (see also consequential RFA clauses 28, 29, 30 not reproduced here)	No World Heritage nomination for the RFA region was proposed in the review period hence this clause and consequential clauses was not operative during Periods 1 and 2.

Obligation/commitment/milestone	Clause	Reviewers' Assessment of Progress
<p>Milestone</p> <p>The Parties agree to actively participate in the World Heritage assessment of the Australia-wide Eucalypt theme, including any potential contribution from the South-West Forest Region of Western Australia.</p>	27	Achieved.
<p>Western Australia confirms its commitment to the ongoing implementation of its plans, Codes of Practice and guidelines relevant to the achievement of Ecologically Sustainable Forest Management.</p>	33	Achieved.
<p>The Parties note that no controls under the <i>Export Control Act 1982</i> (Cwth) will apply to hardwood Woodchips or Unprocessed Wood sourced from the South-West Forest Region of Western Australia while this Agreement is in place.</p>	32	Achieved.
<p>Milestone</p> <p>This Agreement establishes milestones (Attachment 3) and the Parties agree to provide each other with an annual report detailing their achievement of the milestones for the first four years, and then as they fall due and as part of the five-yearly reviews and report in accordance with Clauses 36 and 37. Public annual reporting on the achievement of milestones during the first four years will be through a brief statement in the annual report of the relevant agency.</p>	34	Achieved in some years. Lack of consistency and continuity in reporting.
<p>The Parties agree that, where the Agreement provides for the commissioning of external reviews, suitably qualified experts will be used.</p>	35	Achieved.

Obligation/commitment/milestone	Clause	Reviewers' Assessment of Progress
<p>Milestone</p> <p>The Parties note that under the CALM Act, Forest Management Plans are revised every ten years. Towards the end of the first and third five year periods of this Regional Forest Agreement, a joint Commonwealth/Western Australian review on performance against the milestones and commitments made in this Agreement will be undertaken at the same time as the Forest Management Plan revision process, thereby taking into account the required Environmental Protection Authority assessment of, and recommendations on, the revised Forest Management Plans due at those times and the associated statutory public consultation processes. The Commonwealth and the State will jointly report on performance before the end of the second five-year period of this agreement.</p>	36	Not achieved in Period 1 as no formal 5-yearly review was undertaken and no review was conducted before the end of Period 2.
<p>Milestone</p> <p>The Parties will agree the mechanisms for these joint reviews/report within six months of the signing of this Agreement and the reviews/report will be completed within three months after the completion of each five-year period.</p>	37	Not achieved as specified in the RFA.
<p>Milestone</p> <p>While these five year reviews/report on performance will not open up the Agreement to re-negotiation, both Parties may agree to some minor modifications to incorporate the results of the reviews or report on performance. The outcomes of the reviews and the report on performance will be made public.</p>	38	Not tested as this is the first review of the RFA implementation.

Obligation/commitment/milestone	Clause	Reviewers' Assessment of Progress
The Commonwealth will table in the Commonwealth Parliament the signed Regional Forest Agreement and when completed the annual reports detailing achievement of the milestones for the first four years of the Agreement and the first five year review on performance against milestones and commitments.	39	Partly achieved in that the RFA was tabled in Commonwealth Parliament on 13 October 1999 and the first Annual Report on 23 May 2001.
The Parties agree that ESFM is an objective which requires a long-term commitment to continuous improvement and that the key elements for achieving it are: <ul style="list-style-type: none"> a) the establishment of a CAR Reserve System (Attachment 1); b) the development of internationally competitive Forest-based industries; and c) a fully integrated and strategic Forest Management System capable of responding to new information. 	40	Ongoing commitment - achieved for element (a) and progress towards element (c) during Periods 1 and 2. Element (b) not achieved.

Key issues raised in submissions

- Timeliness and continuity of reporting / review of performance
- Non binding commitment to the agreement

Analysis

Several submissions noted the lack of consistency of reporting and review in relation to the implementation of the RFA. In part, these matters were negotiable between the Parties subsequent to the signing of the agreement although the major elements were specified in the RFA. A particular concern has been the delay in the 5-yearly reviews. Regular and consistent reporting would seem essential for adaptive implementation and to the credibility of the RFA. Of particular importance would have been the linkage with the development of the FMP 2004-2013 but without formal review at the time it is unclear how the requirements of the RFA were aligned with the FMP although the FMP gave effect to the values and objectives of many aspects of the RFA.

The most contentious issue in relation to RFA implementation was the decision of Western Australian Government to increase the areas of reserved forest in Period 1 significantly beyond that agreed at the time the RFA was signed through:

- Changes to forest access and management announced in July 1999 (Ministerial Advisory Group on Karri and Tingle Management).

- The Protecting Our Old Growth Forest Policy (POOGF) of 2001. This has had major adverse implications for the forest industry and local economies with a degree of dependence on the native forest industry. The reviewer notes the relevant clause of the RFA (Part 2 Clause 19) is non-legally binding. However, the changes made by the State of Western Australia demonstrated the non-binding nature of elements of the RFA and created uncertainty for industry when a key intent of the RFA was to provide certainty.

The RFA requires 5-yearly reviews. Discussion of the possible focus for the next 5-yearly review is at Section 4.

Recommendation

3. The Parties recommit to timely and regular reviews of the implementation of the Regional Forest Agreement recognising the scope of reviews will change as the RFA is progressively implemented.

3.2 Statutory obligations or legally binding rights and obligations

The obligations, commitments or milestone(s) in relation to legally binding rights and obligations are provided in the following table.

Obligation/commitment/milestone	Clause	Reviewers' Assessment of Progress
Western Australia will: <ul style="list-style-type: none"> (a) implement the CAR Reserve System described in Attachment 1 and identified on Map 1, including the tenure classification outlined therein, and management of these areas on the basis of the Agreement as if they were reserves until established in accordance with Clause 70. (b) make improvements to its Forest Management System including audits as outlined in Clause 42; and (c) Undertake reviews in accordance with the Competition Principles Agreement as outlined in Clause 87. 	95	<ul style="list-style-type: none"> (a) Achieved with more extensive forest reservation compared with that agreed in the RFA. (b) Ongoing commitment achieved in part with some alteration to timelines. (c) Achieved (see comment against clause 87).

Obligation/commitment/milestone	Clause	Reviewers' Assessment of Progress
<p>The Commonwealth will:</p> <p>(a) maintain accreditation of Western Australia's Forest Management System for the South-West Forest Region as amended by this Agreement providing changes to the system are consistent with the provisions of this Agreement; and</p> <p>(b) not prevent enterprises obtaining, using or exporting timber, woodchips or unprocessed wood products sourced from the South-West Forest Region of Western Australia in accordance with this Agreement.</p>	96	Achieved as accreditation was maintained and export controls were lifted.
<p>The WA RFA details the provisions for compensation in 97.1 to 97.20 (<i>NB: text not repeated here</i>).</p>	97	No claims for compensation were made in Periods 1 and 2.
<p>The Commonwealth will, subject to the terms and conditions under any Commonwealth Act which appropriates money, provide an amount of \$20 million and Western Australia will provide \$39 million to implement a South-West Forests Industry Structural Adjustment Program, subject to the development of a Memorandum of Understanding between the two Parties which establishes the respective roles and responsibilities of the two Governments in administering the Program, and a range of other Forest-based industry development initiatives.</p>	98	Achieved by the Commonwealth whilst the State of Western Australia increased its commitment to industry assistance to \$161 million under the POOGF policy.

Key issues raised in submissions

No issues on the implementation of this section of the agreement were raised in the submissions apart from the socio economic impact of the increase in area of forest reserved beyond that agreed in the RFA. This matter is discussed in other sections of this review.

Analysis

In this section of the agreement, the clauses are legally binding on the Parties. The Commonwealth of Australia has met its obligations in relation to accreditation, export controls and compensation whilst the State of Western Australia has exceeded its commitments on forest reservation and compensation (with impacts on the delivery of other elements of the RFA) and has revised its forest management system in line with the RFA.

Recommendation

No recommendations are made.

3.3 Public reporting and consultative mechanisms

The obligations, commitments or milestone(s) in relation to public reporting and consultative mechanisms are provided in the following table.

Obligation/commitment/milestone	Clause	Reviewers' Assessment of Progress
Milestone 1. Reviewing the processes for the involvement of communities in planning for cultural heritage conservation by 2002.	Attachment 4, point 2	Achieved.
Milestone 2. Consulting a peak stakeholder committee, comprising a wide range of interests, on research priorities within CALM by 1999.	Attachment 4, point 2	Milestones 2 and 3 below appear to overlap but achieved for most of Period 2.
Milestone 3. Establishing scientific advisory committees to facilitate input of external advice to research projects and to aid integration of CALM's strategic research planning with research priorities of other organisations, agencies and institutions by 1999.	Attachment 4, point 3	Achieved for most of Period 2 but not clear that the Research Advisory Committee was active at the end of Period 2.
Milestone 4. Extending the use of operational planning on periodic and integrated basis and introducing the opportunity for public examination of "look ahead" plans by 2002.	Attachment 4, point 4	Achieved for Period 1 for the then existing FMP and in Period 2 via the FMP 2004-2013.
Milestone 5. Consider publishing medium term fire management plans that	Attachment 4, point 5	Achieved in Period 1 and on an ongoing basis.

Obligation/commitment/milestone	Clause	Reviewers' Assessment of Progress
include an outline of the ecological basis for burning regimes by 2000.		

Key issues raised in submissions

No submissions raised matters on public reporting and consultative mechanisms.

Analysis

The State of Western Australia has a range of mechanisms for public consultation in place, particularly around the development and auditing of its rolling 10-year FMP that goes beyond the RFA milestones. Extensive information on forest management planning and forest management performance is available through government/departmental publications and websites. The lack of submissions on the mechanisms for and effectiveness of public consultation and reporting suggests the processes in place are working to the satisfaction of stakeholders.

The matter of external input into research priorities and programmes appears to have been handled inconsistently and it is not clear that there was a mechanism in place at the end of Period 2. External input into research priorities is desirable:

- because of the need to improve the targeting, efficiency and effectiveness of R&D that underpins the ESFM elements of the RFA and
- to enhance interagency and research provider cooperative programmes to provide scale and focus in tight budgetary environments.

Recommendation

4. The Government of Western Australia agrees on the mechanism to achieve external input into Research & Development (R&D) priorities and opportunities to expand cooperative research programmes.

3.4 Comprehensive, Adequate and Representative Reserve System

The obligations, commitments or milestone(s) in relation to the Comprehensive, Adequate and Representative Reserve System are provided in the following table.

Obligation/commitment/milestone	Clause	Reviewers' Assessment of Progress
The Parties agree that the primary function of the CAR Reserve System is to ensure the conservation and protection of environmental and heritage values.	64	Agreement between the Parties unchanged and implemented through the FMP 2004-13 on public land.

Obligation/commitment/milestone	Clause	Reviewers' Assessment of Progress
<p>The Parties agree that the CAR Reserve System established in accordance with this Agreement will comprise:</p> <p>(a) On Public Land as described in Attachment 1 and Map 1:</p> <p>(i) Formal Reserves; and</p> <p>(ii) CAR Informal reserves as described in Attachment 1; and</p> <p>(b) On Private Land as described in Attachment 1:</p> <p>(i) lands with CAR Values protected under secure management arrangement by agreement with private landholders;</p> <p>(c) on State-owned freehold land and Commonwealth land as described in Attachment 1:</p> <p>(i) lands with CAR Values protected under secure management arrangement by the landholders or managing authority.</p>	65	<p>Achieved with additional reservation beyond that agreed in the RFA implemented in Period 1 principally as a consequence of POOGF. This typically increased the area of the 26 defined forest ecosystems in the CAR reserve system by 1-15 per cent and some rarer ecosystems by 30-40 per cent.</p> <p>New national parks created via legislation in Nov/Dec 2004.</p> <p>Some aspects of implementation ongoing at end of Period 2.</p> <p>Protection of CAR values on other land tenures generally delivered as per RFA in Periods 1 and 2 although it has not been possible to meet reservation targets for some small ecosystems under represented on public land.</p>
<p>The Parties agree that the CAR Reserve System established under this Agreement meets the JANIS Reserve Criteria as defined in Clause 2.</p>	66	<p>The CAR system implemented and met the JANIS Reserve Criteria.</p>
<p>The Parties agree that changes to the CAR Reserve System will only occur in accordance with this Agreement. The Parties will seek to avoid a net deterioration in the protection of identified CAR values at the regional scale. Proposed changes to the boundaries of the CAR Reserve System will be made publicly available.</p>	67	<p>Achieved in part.</p> <p>The CAR reserve system agreed in the RFA was implemented plus additional forest reservation unilaterally enacted by WA. Elements 2 and 3 of this clause were achieved for what has been accepted as an expanded CAR system.</p>

Obligation/commitment/milestone	Clause	Reviewers' Assessment of Progress
<p>The Parties note that the Western Australian Water and Rivers Commission have recommended a reconfiguration of the stream reserve system. This may form part of the next Forest Management Plan, which will be scientifically assessed by the Environmental Protection Authority. While that reconfiguration, in its current form is expected to be neutral in its effect on timber resources, the Parties will ensure that security of access to resources for industry is maintained following implementation of any new stream reserve configuration.</p>	68	<p>Achieved. Review was undertaken but no changes made in the FMP 2004-2013.</p>
<p>The Parties agree that best endeavours will be used to maintain the levels of protection of National Estate Values in a regional context, however, minor changes to the levels of protection of individual values may occur as a result of changes to the CAR Reserve System.</p>	69	<p>There has been legislative change and altered responsibilities since the RFA was agreed. There is now a more coordinated approach to heritage protection and removal of overlapping responsibilities between Commonwealth, states and territories under the EPBC Act. National estate values were maintained through reservation and management prescriptions and codes of practice outside reserved areas.</p>
<p>Milestone The State undertakes to:</p> <ul style="list-style-type: none"> (a) manage the areas in the CAR Reserve System identified in Attachment 1(of the RFA), with the exception of Commonwealth owned or leased land, on the basis outlined in Attachment 1 and in accordance with the objectives set out in relevant classifications in Attachment 9 (of the RFA); (b) within one year of the date of this Agreement, subject to 	70	<p>Most elements of the Milestone achieved in Period 1 or 2 (some elements ongoing). Categorisation of forest reserves (70c) did not occur during Period 1 or 2 but the intent remains and they were managed as if they had been categorised as forest conservation zones.</p>

Obligation/commitment/milestone	Clause	Reviewers' Assessment of Progress
<p>section 9(2) of the CALM Act, establish new formal reserves under the Land Administration Act 1997 (WA) where:</p> <p>(i) they were proposed in the Forest Management Plan 1994-2003; and</p> <p>(ii) they are proposed as formal reserves under the <i>Land Administration Act 1997</i> (WA) in this Agreement, excluding those that will be established as formal reserves under section 62 of the CALM Act and which may later progress to formal reserves under the <i>Land Administration Act 1997</i> (WA);</p> <p>(c) within 6 months of the date of this Agreement, classify all proposed Formal reserves (specified in Attachment 1) other than those in (b) above as "Forest Conservation Zones" under Section 62 of the CALM Act, where:</p> <p>(i) these areas are State forest or timber reserves;</p> <p>(ii) this will be the final classification; or</p> <p>(iii) this will be an interim classification prior to classification under the <i>Land Administration Act 1997</i> (WA);</p> <p>(d) within three months of the date of this Agreement initiate the State processes for creation of new formal reserves proposed to be classified under the <i>Land Administration Act 1997</i> (WA), as specified in Attachment 1;</p> <p>(e) introduce an amendment to the CALM Act into the Western Australian Parliament by 31</p>		

Obligation/commitment/milestone	Clause	Reviewers' Assessment of Progress
<p>December 1999 to require the approval of both Houses of Parliament to revoke Forest Conservation Zones in State Forest which will be created under Section 62 of the CALM Act, and use its best endeavours to secure the enactment of the amendment introduced; and</p> <p>(f) establish the proposed new informal reserves, as identified in Attachment 1, in the next Forest Management Plan.</p>		

Key issues raised in submissions

Some public submissions canvassed or inferred contradictory positions and can be summarised as:

- the CAR reserve system was potentially inadequate through misclassification of some old growth or the forest was being degraded through continued logging, or
- the CAR reserve system was expanded significantly beyond that agreed by the Parties in the RFA with consequential adverse impacts on industry and the economies of timber dependent communities.

Analysis

Comprehensive information in written and tabular form on the currently existing and proposed CAR reserve system and informal reserves is available in *A Report on Progress with the Implementation of the Regional Forest Agreement for the South-West Forest Region of Western Australia*. The expanded reserve system is now accepted as the CAR reserve system for the RFA region. The additional reservation beyond that agreed in the RFA may be considered to have potentially improved the adequacy and to some extent representativeness of the CAR reserve system (JANIS 1997).

The agreed CAR reserve system in the RFA was 1,047,201 hectares or 44 per cent of the land in the RFA region but the area of forest reserved subsequently increased to 1, 270,570 hectares or 53 per cent of the land in the RFA land region. This covers 26 recognised forest ecosystems in formal and informal reserves. Changes to the CAR reserve system and management plans for reserved areas were incorporated in the FMP 2004-2013. Finer scale issues of implementation including definition of boundaries, categorisation and consultation continued at the end of Period 2.

There is an ongoing process for identifying old growth forest as part of the forest management and/or harvesting planning process and the issue of misclassification raised in one submission potentially relates to the issue of old growth forest definition. The forest management planning system and knowledge base in the relevant agencies appears adequate to resolve such issues.

The issue of the impact of increased reservation on forest and wood-processing industry is dealt with in 3.10.

Recommendation

No recommendations are made.

3.5 Improvement to Western Australia’s forest management systems on public land

The obligations, commitments or milestone(s) in relation to improvement to Western Australia’s forest management system on public land are provided in the following table.

Obligation/commitment/milestone	Clause	Reviewers’ Assessment of Progress
<p>Milestone Within 5 years of the date of this Agreement, Western Australia will further improve its Forest Management System and processes through the development and implementation of environmental management systems in accordance with the principles specified in Attachment 13 (of the RFA) and the actions identified in Attachment 5 (of the RFA) and acknowledges that its objective for native forest management under the CALM Act is system certification comparable with ISO 14000 series. The Parties note that such a system would include independent auditing of compliance with Codes of Practice and the Forest Management Plan.</p>	42	Achieved in Periods 1 and 2. Forests Products Commission (FPC) achieved Environmental Management System (EMS) certification under ISO14001 as well as forest management certification under the Australian Forestry Standard (AS4708—2007). FMP subject to audit/performance assessment by the CCWA and the EPA.
<p>Milestone Western Australia agrees to produce and publish a Forest Management Plan to implement the commitments of this Agreement by 30 June 2004 taking into account the importance of RFA certainty and commencing the planning process by early 2001.</p>	43	Achieved through development and publication of the FMP 2004-2013. RFA certainty for industry not achieved as commitments were modified during Period 1.
<p>Western Australia agrees to further develop and implement the Forest Management System for Private Lands in accordance with Attachment 6 (of the RFA).</p>	44	Achieved.

Obligation/commitment/milestone	Clause	Reviewers' Assessment of Progress
<p>Western Australia confirms that the Sustained Yield for native forest on Public Land will continue to be based on areas available for timber harvesting outside the CAR Reserve System and that the average annual cut will be within Sustained Yield in the 10 year period of each Forest Management Plan.</p>	45	<p>Achieved.</p> <p>An independent panel of experts (Ferguson <i>et al.</i> 2003 - referenced in the report on progress with implementation) reviewed the sustained yield for jarrah and karri for the FMP 2004-2013 following the expansion of the reserve system resulting from the POOGF policy. Harvest below upper limits of sustained yield in Period 2 (based on 2004-2007 data).</p>
<p>Milestone</p> <p>Western Australia will report on the results of monitoring of sustainability indicators as part of each 5-year review and report in accordance with Clauses 36 and 37.</p>	46	<p>Achieved in part.</p> <p>The FMP 2004-2013 includes key performance indicators that were reported on by the CCWA in the 2008 mid-term audit of performance submitted to the EPA.</p>
<p>Comprehensive Regional Assessments, the development of criteria and indicators for sustainable forest management through the Montréal Process and the development of this Agreement have provided extensive opportunities for public participation and reporting. Parties note the range of reporting and consultative mechanisms that currently exist in Western Australia (see Attachment 4 of WA RFA) and agree that Western Australia will further develop these by implementing the improvements specified in Attachment 4.</p>	47	<p>Achieved through expansion and ongoing development of consultative mechanisms, publication of information and education programmes.</p>

Obligation/commitment/milestone	Clause	Reviewers' Assessment of Progress
<p>The Parties agree that Western Australia's Forest Management System as amended by this Agreement, including improvements specified in Attachments 5 and 6, provide for continuing improvement in relation to ESFM. The Commonwealth accredits as providing for ESFM Western Australia's Forest Management Systems, as amended by this Agreement.</p>	48	<p>Achieved.</p> <p>Ongoing improvements have been made by the State of Western Australia in relation to ESFM on public and private land. System changes meet the accreditation requirements for Periods 1 and 2.</p>
<p>Milestone</p> <p>The Commonwealth accredits the process described in <i>An Appraisal of Methods and Data used by CALM to Estimate Wood Resource Yields for the South-West RFA Region of Western Australia</i> (Turner B.J., Department of Forestry, Australian National University, December 1997) and being used by CALM in the calculation of Sustained Yield of wood products from the public native Forest and plantation estate on the understanding that the improvements recommended in that report will be addressed prior to the development of the next Forest Management Plan. Western Australia agrees that the methods and data to be used in the calculation of the Sustained Yield of wood products from the public native Forest and the Sustained Yield figures to be included in the Forest Management Plans will be reviewed by a panel of suitably qualified independent experts as part of the development of each Forest Management Plan under the CALM Act and improvements incorporated during the forest management planning process. Western Australia confirms that its current standard of inventory will</p>	50	<p>Achieved.</p> <p>Continued improvement of forest mensuration data system and calculations of sustained yield.</p> <p>External expert review of data and calculation method was used to derive sustained yield figures included in the FMP 2004-2013.</p>

Obligation/commitment/milestone	Clause	Reviewers' Assessment of Progress
<p>be maintained and yield and planning databases and systems, as amended by this Agreement, will be enhanced.</p>		
<p>Milestone The Parties agree that the current Forest Management System will be enhanced by further developing appropriate mechanisms to monitor and review the sustainability of Forest management practices. To ensure that this occurs, in consultation with the Commonwealth, the State agrees to establish an appropriate set of sustainability indicators to monitor Forest changes. Any indicators established will be consistent with the Montréal Process Criteria (as amended from time to time), the current form of which is specified in Attachment 7, and will take into account the framework of regional indicators developed by the Montréal Process Implementation Group. Western Australia will implement those indicators, which are practical, measurable, cost-effective and capable of being implemented at the regional level and will monitor them at an appropriate frequency determined in consultation with the Commonwealth.</p>	<p>51</p>	<p>Achieved. A modified system of Montréal Process criteria and indicators was adopted to suit Western Australian circumstances and capacity to assess them (as allowed by the RFA). Scope of indicators under some Montréal Process criteria not as comprehensive as desirable to provide a full picture of the social, economic and environmental performance of management across all tenures e.g. socio-economic benefits.</p>
<p>Milestone Development of indicators, and collection of results for those indicators which can be readily implemented, will be completed in time to enable reporting during the first five-yearly review of this Agreement.</p>	<p>52</p>	<p>Achieved in part as indicators developed were incorporated into FMP 2004-2013 but no 5-yearly RFA review was undertaken. Performance for indicators reported in the 2008 FMP mid-term audit of performance.</p>

Key issues raised in submissions

A general view was expressed in some submissions that native forest logging is unsustainable either biophysically or commercially. Compliance with and accountability for operational management breaches under the FMP was raised as a specific issue.

Analysis

This element of the agreement incorporates a significant number of obligations, commitments and milestones in the RFA and in Attachment 5 to the RFA. The latter included 15 milestones and 10 commitments that have been reported against in Appendix 3 of the progress with implementation report. Milestones had been achieved (9) or in part (6) whilst all commitments except one had been met. Key elements are, however, the sustained yield, monitoring and auditing of operations and management practices to minimise environmental impacts and longer term assessment of sustainability across all forest tenures through a system of criteria and indicators.

The sustained yield was the subject of a significant assessment in Period 1 both in terms of improvement to the data collection system and modelling and evaluation of the yield calculation. A very conservative approach in terms of assumptions on future growth rates was taken as part of the sustained yield calculation. Whilst the harvest volumes given as a sample for Period 2 (2004-2007) were less than the approved yield, it was also noted in the FMP mid-term audit that yields were some 15 per cent less than calculated. This figure was subsequently revised upwards (mid-term audit – supplemental advice to CCWA May 2009) but confirms the need for periodic evaluation of the sustained yield in relation to the changing biotic and abiotic risk factors.

Significant changes have been implemented during Periods 1 and 2 in relation to environmental management and forest certification as agreed in the RFA. As the implementation of much of the RFA is delivered through the rolling 10-year FMP, monitoring and evaluation of the implementation of the FMP is critically important. The mid-term audits of performance undertaken by the CCWA together with periodic Performance Assessment Reports are key inputs to assessing performance and implementation. Three performance assessments were undertaken during Periods 1 and 2 on specific elements of the FMP in place at the time.

The issue of compliance with and penalties for transgressions of the FMP was raised in submissions. As noted above monitoring and auditing systems are in place through the CCWA. Certification of forest management system performance under AS 4708 has been implemented and is an additional mechanism to help conformance with requirements of the FMP. These matters are not directly covered in the RFA where the Commonwealth has accredited State systems in relation to forestry operations. There does not appear to be evidence in the review documentation or the submissions that any breaches of the FMP that occurred during the review period could be regarded as matters of national environmental significance. This issue, however, needs ongoing review to help maintain public confidence in forest management practices but is now one that relates to the FMP 2014-2023.

Criteria and indicators are designed for long-term assessment of sustainable forest management across all tenures. Their value depends on longitudinal measurement/assessment and the consistency of the indicators. During Period 1, the

Montréal Process Criteria and Indicators were adapted to Western Australian circumstances and the indicators were incorporated as Key Performance Indicators in the FMP 2004-2013. Only some of these indicators are quantifiable and some rely on expert opinion for assessment. They are also not entirely comprehensive with limited indicators related to the Montréal Process Criterion 6 - socio economic benefits and very superficial treatment of Criterion 5 - contribution to global carbon cycles. For the latter, the carbon stocks and flows for forests in the RFA region need to be assessed and monitored.

Pests and diseases, feral animals, weeds and high intensity wildfire threaten ESFM at the local-sub regional level, and these threats are recognised in the RFA/FMP. All forest tenures are strategically managed for fuel loads, pest, and pathogen and weed control. There is, however, no comprehensive system of forest health assessment and this is an area for further development.

An overall threat not recognised in the RFA was climate change (or at least the seemingly long term trend to a drier, warmer climate in south-west Western Australia plus rising carbon dioxide levels) that will be interactive with other threatening processes. It was recognised in the calculation of sustained yield for the FMP 2004-2013 where as noted above conservative assumptions on growth rates were used and climate change was raised as an issue in the FMP 2004-2013 mid-term audit of performance. These climatic trends will have longer-term impacts on the forest ecosystems in terms of growth and health and need to be considered in future adaptive forest management planning and management for forest goods and services including conservation, wood and catchment water yields.

Recommendations

5. The Government of Western Australia continues to periodically review the sustained yield in relation to the changing biotic and abiotic risk factors.
6. The Parties review the indicators used for Ecologically Sustainable Forest Management assessment in the Forest Management Plan 2014-2023 as part of the next 5-yearly Regional Forest Agreement to ensure they adequately address each of the Montreal Criteria.
7. The Parties assess the adequacy of the compliance provisions related to the Forest Management Plan 2014-2023 as part of the next 5-yearly Regional Forest Agreement review.
8. The Government of Western Australia considers the development of a comprehensive forest health assessment system.
9. The Parties ensure the climatic trends evident in the Regional Forest Agreement region are considered in future forest management planning and management for forest goods and services including conservation, wood and catchment water yields.

3.6 Protection and management of forests on private land

The obligations, commitments or milestone(s) in relation to protection and management of forests on private land are provided in the following table.

Obligation/commitment/milestone	Clause	Reviewers' Assessment of Progress
The Parties reaffirm their commitments made in the NFPS to the conservation and management of the private Forest estate. The Parties note that Western Australia has a management system in place that regulates the clearance of native forest on Private Land.	53	Ongoing commitment achieved under several pieces of State legislation some of which changed during the review period. Clearing permits may contain vegetation management conditions depending on purpose.
Western Australia will continue to encourage private forest owners to ensure that their management operations are consistent with the appropriate Codes and to have in place adequate mechanisms to protect nature conservation, heritage, catchment values and sustainable wood production.	54	Achieved though publication of a code of practice and management guidelines and working with landowners to ensure management based on sound environmental principles.
Western Australia will adopt the strategy and principles outlined in Attachment 6 in relation to Private Land.	55	Achieved.
RFA Attachment 6 - contains several commitments to improved protection and management of forests on private land – clearing of native vegetation on private land, timber harvesting on private land, remnant vegetation scheme, farm forestry, advisory service and land for wildlife schemes.		Achieved. There is assessment of properties and areas for inclusion in land for wildlife schemes and reassessment of status of included properties or areas from time to time.

Key issues raised in submissions

No submissions were made in relation to this section of the RFA.

Analysis

Implementation of this area of commitments has proceeded as set out in the RFA. Existing State legislation relating to clearing native vegetation has been reviewed and strengthened over time. During Periods 1 and 2, Western Australian Government agencies had schemes in place to encourage flora and fauna conservation on private land, adoption of improved forest

management practices and advisory services to encourage private forest development in a sustainable manner.

Recommendation

No recommendations are made.

3.7 Threatened flora and fauna

The obligations, commitment or milestone(s) in relation to threatened flora and fauna are provided in the following table.

Obligation/commitment/milestone	Clause	Reviewers' Assessment of Progress
<p>The Parties agree that the CAR Reserve System, actions under the <i>Wildlife Conservation Act 1950</i> (WA) and the <i>Endangered Species Protection Act 1992</i> (Cwth), and the Forest Management Systems as amended by this Agreement, provide for the protection of rare or threatened flora and fauna species and ecological communities.</p>	<p>56</p>	<p>Ongoing agreement between the Parties during Periods 1 and 2 noting that the <i>Endangered Species Protection Act 1992</i> (Cwth) was replaced by the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cwth) during Period 1.</p>
<p>Where threatened species restricted to Western Australia are listed under both the <i>Wildlife Conservation Act 1950</i> (WA) and the <i>Endangered Species Protection Act 1992</i> (Cwth), any new or revised Recovery Plans will be jointly prepared and funded under relevant programs and implemented co-operatively by the Parties to meet the requirements of both Acts. Where the Recovery Plans, Interim Recovery Plans or Regional and District Threatened Flora Management Plans meet the requirement of the <i>Endangered Species Protection Act 1992</i> (Cwth), the Commonwealth intends to consider their adoption under Section 46 of the <i>Endangered Species Protection Act 1992</i> (Cwth).</p>	<p>57</p>	<p>Achieved/ongoing. Nine recovery plans in place under the EPBC Act at end of Period 2.</p>

Obligation/commitment/milestone	Clause	Reviewers' Assessment of Progress
<p>Where threatened ecological communities and threatening processes restricted to Western Australia are listed under the <i>Endangered Species Protection Act 1992</i> (Cwth) any new or revised Recovery Plans or Threat Abatement Plans will be jointly initiated, prepared, funded under existing arrangements, agreed and implemented co-operatively by the Parties to meet statutory requirements. Where the Recovery Plans meet the requirement of the <i>Endangered Species Protection Act 1992</i> (Cwth), the Commonwealth intends to consider their adoption under Section 46 of the <i>Endangered Species Protection Act 1992</i> (Cwth).</p>	58	<p>Achieved.</p> <p>Nine threatened ecological communities listed under the EPBC Act at the end of Period 2.</p>
<p>Recovery Plans to meet statutory requirements under the <i>Wildlife Conservation Act 1950</i> (WA) and the <i>Endangered Species Protection Act 1992</i> (Cwth) and extending beyond Western Australia will be prepared jointly with Western Australia and other relevant governments, and be incorporated in the agreed Interim Recovery Plan or Recovery Plan as the Western Australian component of the Recovery Plan.</p>	59	<p>Achieved.</p> <p>Recovery plans for three species.</p>
<p>The Parties will continue to consult on the listing of threatened species, ecological communities and threatening processes, and the preparation of Recovery Plans, recognising that priorities can change in the light of new information. The current status of recovery planning/actions for threatened flora and fauna are outlined in Attachment 8 (of the RFA).</p>	60	<p>Achieved with improved alignment between national and State threatened species lists and administrative efficiencies.</p>

Obligation/commitment/milestone	Clause	Reviewers' Assessment of Progress
The Parties reaffirm their commitment that Recovery Plans for species in the South-West Forest Region of Western Australia which have already been prepared will have actions completed or significantly advanced in accordance with Recovery Plans.	61	Achieved.
The Parties note and Western Australia reaffirms its commitment to implement plant, disease and feral animal control strategies, including monitoring and evaluation, in accordance with Western Australia's Forest Management System.	62	Achieved. Active programs in relation to mapping and restricting the spread of <i>Phytophthora cinnamomi</i> , and reducing feral animal and weed populations in strategically important areas.
The Parties note that and Western Australia reaffirms its commitment to maintain the flora and fauna databases, enhanced through data collected as part of the Comprehensive Regional Assessment, for use in the management and protection of rare and threatened flora and fauna.	63	Achieved. There are flora and fauna databases that are accessible on line and regularly updated.

Key issues raised in submissions

Two submissions considered this topic:

- one noted the increase in number of taxa of threatened fauna and flora over Periods 1 and 2, and
- the other argued the RFA exemption from the EPBC Act for forestry operations resulted in a lower level of protection for threatened species.

Analysis

The *Environment Protection and Biodiversity Conservation Act 1999* (Cwth) replaced the *Endangered Species Protection Act 1992* (Cwth) during Period 1 and together with the *Wildlife Conservation Act 1950* (WA) were the legislative framework for listing and managing threatened flora, fauna and ecological communities in the RFA. A revised/new *Wildlife Conservation Act* (WA) was listed as Milestone 3 in Attachment 5 of the RFA although no timeline was given. A consultation paper on a proposed *Biodiversity Consultation Act* (WA) was issued in 2003 but no further progress has been made during the reporting period although it remains an agency (DEC now DPaW) priority. One submission stated WA has no comprehensive set of threatened species laws but apart from the issue of modernisation there appear to be adequate powers under the current Acts to manage threatened species and ecosystems. The resources available for the implementation of

recovery plans are probably a greater limitation on improved outcomes in relation to such species.

The obligations and commitments in relation to threatened flora and fauna have been implemented during Periods 1 and 2. However, during the period 1999-2009 the number of threatened fauna species increased from 12 to 26 and the number of threatened flora species from 57 to 87 for species that occur within the RFA region. There were a range of reasons provided in the progress with implementation report and FMP mid-term audit for the change in status of particular species, including a precautionary approach for some species, increased information for some species, taxonomic revisions and the continued expansion of the distribution of *Phytophthora cinnamomi*.

Evidence that forest harvesting was impacting the status of threatened and endangered species appears difficult to delineate from the impact of a number of other threatening processes. Whilst no species was apparently ranked at a higher level of threat because of forest harvesting during the review period, the management of threatened species and ecosystems is a matter for ongoing review.

Recommendation

No recommendations are made.

3.8 Aboriginal heritage and consultation

The obligations, commitment or milestone(s) in relation to Aboriginal heritage and consultation are provided in the following table.

Obligation/commitment/milestone	Clause	Reviewers' Assessment of Progress
The Parties agree that the procedures outlined in Attachment 10 will be implemented by Western Australia to ensure the appropriate management of Aboriginal heritage including the maintenance of traditional uses and values, in the South-West Forest Region of Western Australia.	81	Achieved in a slightly modified form with a model favouring more direct consultation with relevant Aboriginal groups.
<p>Milestone</p> <p>1. Western Australia will develop formal consultation process with Aboriginal people about policy and procedures for the protection of Aboriginal heritage values on CALM-managed lands.</p> <p>2. Western Australia will consult with Aboriginal people on the establishment of mechanisms to</p>		Achieved through a variety of mechanisms except for element 5 where the legislative change was made subsequent to the review period.

Obligation/commitment/milestone	Clause	Reviewers' Assessment of Progress
<p>enable more effective involvement of Aboriginal people in the protection of significant sites, and the provision of training and employment opportunities.</p> <p>3. Western Australia will protect identified Aboriginal sites in accordance with the requirements of the <i>Aboriginal Heritage Act 1972</i> (WA) and develop protocols for, and linking, the CALM geographic information system with information held by Aboriginal Affairs Department.</p> <p>4. Western Australia will, in consultation with Aboriginal people, establish procedures and protocols, and include relevant expertise in Aboriginal heritage in CALM, to enable the early identification of Aboriginal sites as defined in the <i>Aboriginal Heritage Act 1972</i> (WA) and afford them protection.</p> <p>5. Western Australia will introduce into Parliament, amendments to the <i>Wildlife Conservation Act 1950</i> (WA) and the CALM Act to permit Aboriginal people to undertake traditional and cultural activities on State Forest and other public land.</p> <p>6. The State, in consultation with Aboriginal people, will ensure Aboriginal heritage values, especially those associated with protected old-growth forests, are recognised and managed in culturally appropriate ways.</p> <p>7. CALM will facilitate the access to and use of CALM-managed forests by Noongars for culturally important activities.</p> <p>8. CALM will facilitate cross cultural awareness and interpretive activities to inform and educate the wider community about Noongar</p>		

Obligation/commitment/milestone	Clause	Reviewers' Assessment of Progress
<p>values and links to the South-West Forest Region.</p> <p>9. The State recognises that the <i>Commonwealth Native Title Act 1993</i> protects native title rights and interests and will comply with the provisions of the Act.</p> <p>10. CALM field activities will be monitored in relation to protection of Aboriginal sites.</p>		

Key issues raised in submissions

No submissions were made in relation to this section of the RFA.

Analysis

A Memorandum of Understanding between the then Department of Environment and Conservation (DEC) and the South West Aboriginal Land and Sea Council (Native Title Representative Body of the Noongar People) has been in place since 2001 with the purpose of working with Aboriginal people to identify, interpret, protect and manage significant cultural sites on DEC managed land within the RFA region. The approach documented in the RFA was modified to include more direct consultation with traditional owners and custodians. A dedicated Aboriginal Heritage Unit in DEC provided services to DEC in relation to liaison, education and management of cultural and heritage issues as well as cultural heritage education to schools and the community. FPC undertakes consultation on Aboriginal heritage matters during its harvest planning process.

During Period 2 particularly, there was a substantial increase in the number of heritage places and sites in the formal and informal reserve system in a large part as a consequence of the reservation of all old growth forest.

Recommendation

No recommendations are made.

3.9 Priority areas of research

The obligations, commitments or milestone(s) in relation to priority areas of research are provided in the following table.

Obligations/commitment/milestone	Clause	Reviewers' Assessment of Progress
The results of the Comprehensive Regional Assessment of the Forest values of the South-West Forest Region indicated a number of research priorities. The Parties have outlined	88	Achieved – research undertaken in relation to agreed (broad) priorities of description, documentation of biodiversity, protection and

Obligations/commitment/milestone	Clause	Reviewers' Assessment of Progress
research priorities in Attachment 11.		conservation of biodiversity, sustainable use of natural resources and development of tree crops as integral, multiple purpose components of sustainable land management systems.
The Parties agree to consult each other in the development of future research projects that may affect the Agreement and note that the subject areas and priorities may change throughout the duration of the Agreement.	89	No direct engagement between the Parties during Periods 1 and 2 but both Parties engaged in broader mechanisms to prioritise and coordinate research including the Research Priorities and Co-ordination Committee (RPCC) and its Research Working Groups (RWGs).
The Parties agree to make publicly available, wherever possible, research reports relevant to this Agreement.	90	Achieved.
Research priorities - headline priorities 1. Description and documentation of biological diversity: 2. Protection and conservation of biodiversity: 3. Sustainable utilisation of natural resources: 4. Development of tree crops	Attachment 11 of the WA RFA	Research projects proceeded in these key areas.

Key issues raised in submissions

No submissions were made in relation to this section of the RFA.

Analysis

Research in line with the agreed priorities has been undertaken during Periods 1 and 2 and the results from that research made publicly available via websites (the then Department of Conservation and Land Management (CALM) and the then DEC) or through the scientific literature. In terms of responsibilities, the then DEC sponsored research on ESFM whilst FPC sponsored research on commercial tree crops and wood utilisation. Research on these topics was also undertaken in collaboration with Universities, CSIRO and through Cooperative Research Centres.

The FMP 2004-2013 Mid-term Audit of Performance (2008) provides a more detailed snapshot on the resourcing and outputs of research for the years 05/06-07/08. This indicates a relatively steady investment and delivery of outputs but what is lacking is any analysis of the adoption of research into management practice and the impacts of adoption over time.

Recommendation

10. The Government of Western Australia undertakes an analysis of the adoption of research outputs into management practice as part of the process of determining future research priorities.

3.10 Forest employment and industries development strategy

The obligations, commitments or milestone(s) in relation to forest employment and industries development strategy are provided in the following table.

Obligation/commitment/milestone	Clause	Reviewers' Assessment of Progress
The Parties agree that State Forest outside the CAR Reserve System is available for timber harvest in accordance with the Forest Management Plan and the undertakings of this Agreement.	71	Achieved in part in that areas outside formal and informal reserves and fauna habitat zones were available for timber harvest but the potential area/harvest volume was significantly reduced by the implementation of the POOGF policy in Period 1.
The Parties agree that any changes to State Forest or Timber Reserves available for timber harvesting will only occur in accordance with this Agreement and will not lead to deterioration in the Sustained Yield in terms of volume, species and quality.	72	Not achieved during Periods 1 and 2. Implementation of POOGF reduced available sawlogs by 54 per cent for jarrah and 70 per cent for karri relative to the agreed figures in the RFA with consequent significant industry restructuring and downsizing together with impacts on timber dependent communities. The immediate impacts were most felt in Period 2 particularly but consequential impacts continue beyond the review period.
The Parties acknowledge that Forest-based industries dependent upon the South-West Forest Region make a significant contribution to both the regional and State economies and are an essential component of many communities in the Region. The Parties intend that this Agreement will enhance	73	Limited achievement (a) Wood using industry – some investment in sawing technology and value adding (drying and dressing), investment in wood utilisation research and some promotion of the industry. No evidence of

Obligation/commitment/milestone	Clause	Reviewers' Assessment of Progress
<p>opportunities for further growth and development of Forest-based industries dependent upon the South-West Forest Region and provide long-term stability for these industries. The Parties therefore acknowledge that this Agreement must provide enhanced security of access to resources for Forest-based industry for the life of the Agreement.</p> <p>The Agreement will facilitate industry development including:</p> <ul style="list-style-type: none"> (a) new investment, plantation development, reforestation, downstream processing, value-adding and jobs growth in wood-based manufacturing industries; (b) further introduction of new technology, enhanced utilisation of regrowth timber for sawn products, thinning of regrowth forests and more efficient utilisation of residual wood, including for the production of charcoal; (c) investment in Mineral and Petroleum Exploration, Mining and Mineral processing and Petroleum Operations; and (d) tourism and recreation investment. 		<p>more efficient or alternative utilisation of residual wood during Periods 1 and 2</p> <p>(b) Plantations /tree crops - 14 000 hectares new long rotation softwood and hardwood plantations established during the Periods 1 and 2</p> <p>(c) Extractive industries – no evidence of significant additional development during the period</p> <p>(d) Tourism and recreation – approximately \$50 million invested in nature based tourism facilities in the south-west region during the period.</p>
<p>As part of providing greater security of access to resources for Forest-based industry, the Commonwealth will not prevent enterprises obtaining, using or exporting timber, Woodchips or Unprocessed Wood products sourced from the South-West Forest Region in accordance with this Agreement.</p>	74	Achieved.
<p>The Parties agree that this Agreement is expected to provide, based on current sawlog specifications, logging and sawmilling technology, royalty structure, market demand and price,</p>	75	Not achieved with sustained yield reduced under the POOGF policy implemented in Period 1.

Obligation/commitment/milestone	Clause	Reviewers' Assessment of Progress
<p>sawlog Sustained Yield levels for the period 1999-2003 inclusive of 324,000 m³ per annum of Jarrah first and second grade sawlogs averaged over the period, 186,000 m³ per annum of Karri first and second grade sawlogs and 78,000 m³ per annum of Marri sawlogs. For the period 2004-2018 inclusive, this Agreement is expected to provide sawlog Sustained Yield levels of 286,000 m³ per annum of Jarrah first and second grade sawlogs, 178,000 m³ per annum of Karri first and second grade sawlogs subject to clause 76 and 80,000 m³ per annum of Marri sawlogs. Environmental, heritage, economic, social and ecologically sustainable forest management issues have been taken into account in providing a land base and management practices that are expected to produce these yields. The quantities in this clause are based on scheduling of timber harvesting so as to produce a non-declining yield of sawlogs. The Sustained Yield of sawlogs for the period 2004 to 2018 makes allowance for a higher level of harvest for jarrah and karri sawlogs for the period 1999 to 2003 and has been confirmed by a Panel of Independent Experts. The Parties acknowledge that sawlog Sustained Yield levels in Western Australia are subject to periodic review under the CALM Act.</p>		

Obligation/commitment/milestone	Clause	Reviewers' Assessment of Progress
<p>The parties acknowledge the recommendation of the panel of Independent Experts that the Sustained Yield of Karri sawlogs could be set at 178,000 m³ per annum from 2004 with some minor revisions to the rotation length of a small number of Karri regrowth stands. Western Australia agrees to the introduction of revised Karri rotation lengths as part of the next Forest Management Plan, noting that harvesting associated with these revisions will occur beyond the life of the current Forest Management Plan.</p>	76	<p>Not achieved. Under the POOGF policy and the FMP the sustained yield was reassessed and reduced.</p>
<p>Western Australia expects to change from a system of sawlog sales based on sawlog specifications to a system of sales based on bole log specifications at the time of the next Forest Management Plan. Based on a bole log sales system, it would be expected that the actual level of sawlogs will be more than that obtained from the current specifications for sawlogs through increased utilisation of Gross Bole Volume. At the time of this change a new bole log sustained yield figure would be established.</p>	77	<p>Achieved in part through voluntary uptake by some primary resource users.</p>
<p>Wherever possible Western Australia will continue to enhance silvicultural programs and reforestation works to improve the productive capacity of State forests.</p>	78	<p>Achieved through a number of revisions to silvicultural operations/prescriptions.</p>

Obligation/commitment/milestone	Clause	Reviewers' Assessment of Progress
<p>Milestone Both Parties are committed to the implementation of a range of Forest-based industry development initiatives (Attachment 14). The Parties agree to develop a Memorandum of Understanding for a joint Commonwealth-Western Australian South-West Forest Industry Structural Adjustment Program (WA FISAP), which will establish the respective roles and responsibilities of the two governments in administering the program. The Parties further agree that a total of \$59 million is available to implement these initiatives (refer Clause 98).</p>	79	<p>Achieved in part. The Commonwealth of Australia contributed \$20 million in structural adjustment. \$39 million from WA was incorporated in the \$161 million structural adjustment funding associated with the POOGF policy. \$28 million of the latter funding was used for industry development assistance, investment attraction.</p>
<p>The Parties recognise the importance of certainty of resource supply to industry and the role this plays in investment in value adding. Western Australia will explore mechanisms to enable contracts for the sale of wood to extend beyond the period of Forest Management Plans and make them renewable as well as transferable.</p>	80	<p>Achieved in part through the offering of Investment Security Guarantees with a capacity to seek compensation if contracted supply reduced by changes in government policy.</p>

Key issues raised in submissions

Forest employment and industry development strategy was a topic for a number of submissions essentially around two areas:

- the POOGF policy and its impact on the size and structure of the native forest based industry with subsequent impacts on the economies of towns/communities where timber harvesting and wood processing was a major part of the economic base, or
- the limited success of the industry development initiatives that aimed to fill the economic gap created by native forest industry downsizing.

Analysis

The native forest based industry underwent radical change during Periods 1 and 2 and the consequences of this restructuring continue beyond the review period. This restructuring was much more extensive than envisaged when the RFA was agreed by the Parties, as a consequence of the cessation of harvesting of all old growth forest and the significant consequential reduction in the sustained yield. Additional impacts of the changes for industry

have included lower log quality and higher log prices. Houghton (2012) and Loxton *et al.* (2013 - in review) have analysed effects of these changes on the native forest industry.

The remaining native forest based industry has adapted as best it could with some investment in new sawing technology and greater emphasis on drying and dressing of sawn timber. Much of this investment was supported by the RFA/POOGF structural adjustment package. However, the quantity, quality and allocation of the resource in relation to existing processing capacity challenged the commercial viability of the remaining industry during Periods 1 and 2.

The failure of the RFA to provide resource security as initially agreed combined with the fact that sustained yield may alter from one 10-year FMP to the next 10-year FMP has meant that:

- significant long term investment in value adding has not occurred during Periods 1 and 2, and
- geographical dispersion/economics of resource extraction and resource quality has meant the opportunity for new utilisation industries has not materialised during Periods 1 and 2.

The vision of a stable, innovative and competitive native forest industry has not been fulfilled in the review period. Alternative or complementary resource availability (long rotation hardwood plantation or farm forests development suitable for appearance wood products (i.e. solid wood or veneer) has been limited and will not be available for many years.

Whilst there was investment in R&D, it has not resulted in new commercially viable value adding opportunities for the available native forest resource during the review period. Certainly, hopes to increase the utilisation of bole logs below Category 1 or 2 sawlogs do not appear to have been fulfilled. At the same time domestic downstream manufacturing activities, such as furniture production, were impacted by rising costs and competition from imports.

There has been significant investment in nature based tourism infrastructure in the south-west region and that has been accepted as a positive development. The benefits of this investment have not been quantified and one submission suggests benefits may have flowed more to coastal communities than traditional timber towns.

Sustainable forest management with utilisation of harvested wood in long term uses and product substitution can enhance long-term carbon sequestration and storage and industry viability (Moroni 2011; Ximenes *et al.*, 2012). This opportunity typically lies with greater utilisation of low value logs and residues both in the WA RFA region and elsewhere in Australia. Policy settings need to reflect this opportunity for climate change mitigation.

Recommendation

11. The Parties review policy settings that affect the utilisation of wood harvested in the Regional Forest Agreement region in light of changing economic circumstances, technology and the opportunity for climate change mitigation.

3.11 Competition principles

The obligation, commitment or milestone(s) in relation to competition principles is set out in the table below.

Obligation/commitment milestone	Clause	Reviewers' Assessment of Progress
Milestone The Parties recognise that in accordance with the Competition Principles Agreement, Western Australia will undertake a review of relevant sections of the CALM Act and a review of competitive neutrality applying to CALM's wood-based businesses. The Commonwealth agrees that the day-to-day pricing and allocation arrangements for Forest Produce from public forests are matters for Western Australia. Western Australia confirms its commitment to the wood pricing and allocation principles set out in the NFPS.	87	Achieved separation of conservation and monitoring functions and commercial forest operations through the creation of the Forest Products Commission responsible for harvest and sale of forest products from State land.

Key issues raised in submissions

There were no submissions on this section of the RFA.

Analysis

The creation of the Forests Products Commission in 2000 separated forest harvesting and sale of forest products from the conservation and monitoring function of the then CALM. The FPC has been subsequently reviewed and since 2008 its core business has been the harvesting and supply of wood for industrial users from native forests, softwood plantations and dry country sandalwood.

Recommendation

No recommendations are made.

3.12 Data access agreement

The obligations, commitment or milestone(s) in relation to data access are provided in the following table.

Obligation/commitment/milestone	Clause	Reviewers' Assessment of Progress
The Parties recognise that the implementation and monitoring of this Agreement depends on appropriate mutual access to and accreditation of relevant information owned and held by each of them and have agreed to provide such access and accreditation for the term of this Agreement in accordance with the practices and procedures specified in Attachment 12.	91	Achieved.
The Data Agreement covers: (a) ownership and custodianship; (b) archival lodging and location and associated documentation standards; and (c) access, use and maintenance of the data.	92	Achieved.
Milestone The Parties also agree to lodge archival copies of data within six months of signing this Agreement.	93	Achieved.

Key issues raised in submissions

No submissions were made in relation to this section of the RFA.

Analysis

A data exchange agreement was signed between the Parties in Period 1 and archiving of data occurred in Periods 1 and 2. Appropriate data from Western Australia was made available for the *2008 State of the Forests Report*.

Issues for the Parties to consider are:

- the historical nature of some information and data and whether it needs to be updated, and
- given technological change, the format and ease of access to historical data.

Recommendation

12. The Parties review the need for updating key data sets and any steps that should be taken to ensure ongoing access to historical data sets.

4. Future reviews of the Regional Forest Agreement

Many of the one-off structural and system improvement elements of the RFA have been implemented during Periods 1 and 2 including: the change in status from multiple use forests to conservation, improvements to the calculation of sustained yield, forest management planning and silvicultural regimes, a system of criteria and indicators for assessment of ESFM, codes of practice, forest certification and separation of commercial from conservation activities. Government involvement in industry adjustment and promotion has also been completed.

This suggests future 5-yearly reviews could be narrower in scope and focused in key areas such as progress in the ongoing implementation of the CAR system, how the FMP 2014-2023 gives effect to the ongoing implementation of ESFM and the effectiveness of measures to protect threatened flora and fauna.

Recommendation

13. The Parties' consideration of the scope of the next 5-yearly Regional Forest Agreement review should ensure the ongoing Regional Forest Agreement requirements are met in the Forest Management Plan 2014-2023 particularly in relation to:
 - a. Ecologically Sustainable Forest Management
 - b. protection of threatened flora and fauna, and that
 - c. the indicators Ecologically Sustainable Forest Management are sufficiently comprehensive to cover social, economic and environmental aspects of forest management.

**Attachment 1. Scoping agreement - Review of Progress with the
Implementation of the Regional Forest Agreement for the
South-West Forest Region of Western Australia**

**Regional Forest Agreement for the South-West
Forest Region of Western Australia**

**Review of
Progress with the Implementation of the
Regional Forest Agreement for the South-West
Forest Region of Western Australia**

Scoping Agreement

The Commonwealth of Australia

and

The State of Western Australia

April 2013

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Preamble

The purpose of this Scoping Agreement is to confirm the arrangements agreed by the Western Australian and Commonwealth Governments (the Parties) to undertake a review of performance against the agreed milestones and commitments of the Regional Forest Agreement for the South-West Forest Region of Western Australia 1999 (WA RFA) in accordance with the provisions of Clauses 36, 37, 38 and 39 of the WA RFA.

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

This version of the Scoping Agreement supersedes any prior Scoping Agreement in relation to Implementation of the Regional Forest Agreement for the South-West Forest Region of Western Australia that has been entered into by either party prior to execution of this Scoping Agreement.

The Parties agree that this Scoping Agreement will be consistent (including with respect to the definition of terms) with the WA RFA, the 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 Western Australia or the Commonwealth of Australia where that law is binding on that party.

Background

The State of Western Australia and the Commonwealth of Australia entered into the WA RFA on 4 May 1999. The purpose of the WA RFA was to provide for the maintenance and development of a sustainable forest industry in Western Australia. The duration of the WA RFA is twenty years (i.e. 1999 to 2019) which can be extended with the agreement of both Parties under Clause 6 following the third review (due in 2014) specified in Clause 36.

The WA RFA was the fourth of a series of Regional Forest Agreements (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 NFPS and all have a requirement for reviews.

The WA RFA provides for a suite of measures to provide for conservation of the environmental and heritage values of the forest estate. These include the establishment of a Comprehensive, Adequate and Representative (CAR) Reserve System, management systems to ensure sustainable practices within forests and a reporting framework to facilitate their effective implementation.

The WA RFA also provides a suite of measures to ensure the efficient and effective development of the timber industry and forest based industries to provide for better social and, in particular, employment outcomes in the south-

west of Western Australia. It also provides specific measures to ensure security for the mining and tourism industries.

An important element of the WA RFA is the requirement for reporting. Clause 36 of the WA RFA specifically provides for five-year reviews of performance against the specified milestones and commitments.

The first five-year review was to be undertaken at the same time as the State conducted a revision of its Forest Management Plan (FMP). The FMP was revised between 2001 and 2003 and the Forest Management Plan 2004-2013 was released by the State Government on 20 December 2003, confirming significant resource reductions and amendments to the reserve system.

The WA RFA review by the Parties will proceed, recognising the FMP and the direction this has taken.

RFA Requirements for a Performance Review

Clauses 36, 37, 38 and 39 of the WA RFA require a review of the performance of the WA RFA be undertaken within each five year period:

Clause 36 – The Parties note that under the Conservation and Land Management Act 1984, Forest Management Plans are revised every ten years. Towards the end of the first and third five year periods of this Regional Forest Agreement, a joint Commonwealth/Western Australian review on performance against the milestones and commitments made in this Agreement will be undertaken at the same time as the Forest Management Plan revision process, thereby taking into account the required Environmental Protection Authority assessment of, and recommendations on, the revised Forest Management Plans due at those times and the associated statutory public consultation processes. The Commonwealth and the State will jointly report on performance before the end of the second five year period of this Agreement.

Clause 37 – The mechanisms for these joint reviews/report will be agreed by the Parties within six months of the signing of this Agreement and the reviews/report will be completed within three months after the completion of each five-year period.

Clause 38 – While these five year reviews/report on performance will not open up the Agreement to re-negotiation, both Parties may agree to some minor modifications to incorporate the results of the reviews or report on performance. The outcomes of the reviews and the report on performance will be made public.

Clause 39 – The Commonwealth will table in the Commonwealth Parliament the signed Regional Forest Agreement and when completed the annual reports detailing achievement of the milestones for the first four years of the Agreement and the first five year review on performance against milestones and commitments.

The purpose of the review is to assess and report on progress made against the milestones and commitments specified in the WA RFA (Attachment 1), and will include:

- the extent to which milestones and commitments 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 WA RFA.

Principles for Conduct of the Review

The WA RFA is a twenty-year agreement. It explicitly provides for reporting annually for the first five years and thereafter every five years.

The review will cover two periods: the first from the date the WA RFA was signed on 4 May 1999 to 4 May 2004 and the second from 5 May 2004 to 4 May 2009. The review will satisfy the requirement to undertake a review of the performance of the WA RFA for the first two periods.

In undertaking the Review the Parties agree that they are jointly responsible for the Review and agree to undertake such measures as are necessary to ensure effective coordination within and between both Parties. The Review will be completed in accordance with the process described in section Process and time frame for conducting the Review of this Scoping Agreement.

The Parties also recognise their responsibility for the efficient management of resources. To help the Parties meet this responsibility, the review process will be designed to avoid duplication of process and waste of effort. Therefore, the review will be cognisant of other State and National forest reporting processes and requirements.

The Parties recognise their responsibility to the community in accounting for the management of Western Australia's forests under the WA RFA. Therefore, the conduct of the review is to be undertaken in a manner that:

- is open, transparent and equitable;
- is open to public comment;
- is cognisant of other forest reporting requirements;
- is reliant on the most recent data as required by the WA RFA;
- doesn't open the WA RFA to re-negotiation; and
- ensures the outcomes of the review will be made publicly available.

Items for Review

All milestones and commitments in the WA RFA have been agreed by the joint Western Australian and Commonwealth Government Review Committee (the Review Committee) as the subject of this review including those milestones specified in Attachment 3 of the WA RFA. Those items subject to review are listed in Attachment 1 of this document. The Review Committee acknowledges that it is important to identify the objectives behind the agreed milestones and commitments. This approach will enable much of the work undertaken during the FMP to be recognised as contributing to WA RFA milestones and commitments, therefore avoiding unnecessary duplication of work.

Linkages to Other Processes

There are a number of processes requiring essentially similar information aimed at reporting on sustainable management of forest ecosystems. These include the Western Australian and Australian State of the Environment reporting, Australian State of the Forests reporting and reporting against Montreal Process Criteria and Indicators and progress and performance reports on the FMP.

Where practicable, both Parties will endeavour to collect and store information in a form which is readily transferable to and from other reporting mechanisms.

Governance

The development, implementation and finalisation of the review will be undertaken by the Review Committee.

The Review Committee will comprise two representatives of the Australian Government nominated by the Department of Agriculture, Fisheries and Forestry and two representatives of the Western Australian Government nominated by the Department of Environment and Conservation.

It will be jointly chaired by the Australian Government Department of Agriculture, Fisheries and Forestry and the Western Australian Department of Environment and Conservation.

The Review Committee will have primary responsibility for developing elements of the review as outlined in the Scoping Agreement, including, where appropriate, progress reports for the consideration and/or approval of Ministers.

The Review Committee will be responsible for:

- undertaking day to day implementation of this Scoping Agreement;
- nominating the Independent Reviewer;
- preparing A Report on Progress with Implementation of the *Regional Forest Agreement for the South-West Region of Western Australia*;
- allocating resources to undertake the review, including provision of administrative support to the Independent Reviewer;
- inviting public comment on A Report on Progress with Implementation of the *Regional Forest Agreement for the South-West Region of Western Australia*;
- supporting the Independent Reviewer to review public submissions on A Report on Progress with Implementation of the *Regional Forest Agreement for the South-West Region of Western Australia* in accordance with the Terms of Reference for the Independent Reviewer; and
- preparing and publishing the Joint Australian and Western Australian Government Response to the report by the Independent Reviewer.

Ministerial

The Parties to the Scoping Agreement are represented by:

Western Australia:

The Hon. Albert Jacob MLA
Minister for the Environment; Water

Commonwealth:

The Hon. Sid Sidebottom MP
Parliamentary Secretary for Agriculture, Fisheries and Forestry

The Ministers shall approve the:

- Appointment of the Independent Reviewer.
- Joint Australian and Western Australian Government Response to the report by the Independent Reviewer.

Process and Timeframe for Conducting the Review

The following process and time frame for the Review is proposed by the Parties:

Phase 1 - Preparation

By end of January 2013

- A Report on Progress with Implementation of the *Regional Forest Agreement for the South-West Region of Western Australia (WARFA)* prepared by the Parties.
- Determine scope of responsibilities for the Independent Reviewer.
- Appoint an Independent Reviewer.

Phase 2 – Public Consultation/Comment

Between 20 May and 28 June 2013

- Public consultation or comment will be sought on A Report on Progress with Implementation of the *Regional Forest Agreement for the South-West Region of Western Australia (WARFA)*.

Phase 3 – Review

Between 1 July and 9 August 2013

- A Report on Progress with Implementation of the *Regional Forest Agreement for the South-West Region of Western Australia (WARFA)*, including the public comments, Governments response(s) to comments from the public consultation process or extra information provided by Governments will be reviewed by the Independent Reviewer.
- A report prepared by the Independent Reviewer.

Phase 4 – Public Reporting and Government Response

Between 12 August and 20 September 2013

- The report prepared by the Independent Reviewer is presented to the Western Australian and Australian Governments.
- The Parties jointly respond to the Review findings and publish the Joint Australian and Western Australian Government Response.

Arrangements for Conduct of the Review

The following arrangements for conduct of the Review are agreed by both Parties:

- the Review Committee will undertake the review and prepare a report on the progress with implementation of the WA RFA;
- the Review Committee will release the report for public comment and collate written public submissions to the report;
- the Independent Reviewer will review the report and written public submissions and compile a report to the Parties;
- the Review Committee will make publicly available the Independent Reviewer's report and written public submissions; and
- the Review Committee will prepare a joint response from Governments which responds to the Independent Reviewer's report.

This approach is consistent with arrangements developed between the Australian Government and other State governments who have undertaken reviews of progress with implementation relating to RFAs.

Reporting Protocols

The Review Committee shall report to:

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

Financial Issues

The State and the Commonwealth are to be responsible for all their own internal costs associated with 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 Scoping Agreement has been signed for and on
behalf of the Parties on the TENTH day of MAY
in the year 2013

Signed for and on behalf of the
Commonwealth of Australia by the
Hon Sid Sidebottom MP,
Parliamentary Secretary for
Agriculture, Fisheries and Forestry

Signature of witness

NATHAN POPE

Name of witness (print)

← _____ ←
Signature of representative

SID SIDEBOTTOM

Name of representative (print)

Signed for and on behalf of the
Western Australian Government by
the Hon Albert Jacob MLA,
Minister for Environment; Water

Signature of witness

TAMATHA SMITH

Name of witness (print)

← _____ ←
Signature of representative

ALBERT JACOB

Name of representative (print)

Attachment 1: Items for the Review

Milestones and commitments contained in the following clauses and attachments of the WA RFA.

THE REGIONAL FOREST AGREEMENT FOR THE SOUTH-WEST FOREST REGION OF WESTERN AUSTRALIA.

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Attachment 1	Comprehensive, Adequate and Representative (CAR) Reserve System
Attachment 2	Protection and Management of National Estate Values
Attachment 3	Milestones
Attachment 4	Public Reporting and Consultative Mechanisms
Attachment 5	Improvements to Western Australia's Forest Management Systems on Public Land
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Attachment 12	Western Australia Regional Forest Agreement, RFA Data Access Agreement
Attachment 13	Key Principles of an Environmental Management System
Attachment 14	Forest Employment and Industries Development Strategy

Attachment 2: Terms of Reference for the Independent Reviewer

Background

The Australian and Western Australian Governments signed the Regional Forest Agreement for the South-West Forest Region of Western Australia (WA RFA) in May 1999.

The WA RFA established a framework for the management of forests within the South-West Forest Region of Western Australia. The duration of the WA RFA is twenty years.

The Western Australian RFA was developed as part of a series of Regional Forest Agreements (RFAs) between the Commonwealth Government and the Governments of Victoria, New South Wales, Western Australia and Tasmania.

An important element of the WA RFA is the requirement to review the performance of the RFA every five years.

A review is an assessment of the progress made with implementation against the milestones and commitments specified in the WA RFA. Clauses 36, 37, 38 and 39 of the Regional Forest Agreement for the South-West Forest Region of Western Australia require that:

36. *The Parties note that under the CALM Act, Forest Management Plans are revised every ten years. Towards the end of the first and third five year periods of this Regional Forest Agreement, a joint Commonwealth/Western Australian review on performance against the milestones and commitments made in this Agreement will be undertaken at the same time as the Forest Management Plan revision process, thereby taking into account the required Environmental Protection Authority assessment of, and recommendations on, the revised Forest Management Plans due at those times and the associated statutory public consultation processes. The Commonwealth and the State will jointly report on performance before the end of the second five year period of this Agreement.*
37. *The mechanisms for these joint reviews/report will be agreed by the Parties within six months of the signing of this Agreement and the reviews/report will be completed within three months after the completion of each five-year period.*
38. *While these five year reviews/report on performance will not open up the Agreement to re-negotiation, both Parties may agree to some minor modifications to incorporate the results of the reviews or report on performance. The outcomes of the reviews and the report on performance will be made public.*
39. *The Commonwealth will table in the Commonwealth Parliament the signed Regional Forest Agreement and when completed the annual*

reports detailing achievement of the milestones for the first four years of the Agreement and the first five year review on performance against milestones and commitments.

Terms of Reference

The role of the Independent Reviewer will be to review A Report on Progress with the Implementation of the *Regional Forest Agreement for the South-West Forest Region of Western Australia* and associated written public submissions, and report to the Review Committee. The review will cover two five-yearly periods: the first from the date the RFA was signed on 4 May 1999 to 4 May 2004 and the second from 5 May 2004 to 4 May 2009.

The Independent Reviewer is required to:

5. Receive written submissions from the public on A Report on Progress with the Implementation of the *Regional Forest Agreement for the South-West Forest Region of Western Australia*.
6. Review written public submissions and undertake further targeted consultation with organisations or individuals as required, to clarify any issues raised in the written public submissions.
7. Provide a written report to the Review Committee, which:
 - provides comment and recommendations on A Report on Progress with the Implementation of the *Regional Forest Agreement for the South-West Forest Region of Western Australia*, considering the written public submissions received;
 - describes the key issues identified in the written public submissions;
 - identifies any additional issues that should be considered for the continued implementation of the RFA; and
 - lists the names of the individuals and organisations that made written public submissions.
8. Deliver all written public submissions and information used by the Independent Reviewer to the Review Committee with their report.

Timing

The Independent Reviewer must submit their report to the Review Committee within 4 months of public comment being invited on A Report on Progress with the Implementation of the *Regional Forest Agreement for the South-West Region of Western Australia*.

General

The terms of reference for the Independent Reviewer should be read in conjunction with this Scoping Agreement (dated).

Attachment 2. List of submissions and summaries of issues raised

Submission number	Date of Submission	Submitter
1	19/08/2013	Leeuwin Environment
2	09/09/2013	The Warren Blackwood Alliance of Councils (Inc)
3	10/09/2013	Shire of Manjimup
4	11/09/2013	Department of Mines and Petroleum (WA)
5	13/09/2013	Department of Water (WA)
6	13/09/2013	Forest Industries Federation (WA) Inc.
7	13/09/2013	Timber Communities Australia – Western Australia
8	13/09/2013	WA Forest Alliance
9	17/09/2013	Environmental Defenders Office (Tasmania, Victoria and NSW), Lawyers for Forests and Friends of the Earth
10	23/09/13	Institute of Foresters of Australia (WA Division)
11	26/09/213	Australian Forest Products Association
12	01/10/13	Shire of Murray

Summary of issues raised in submissions

Submission 1

- Critical of the RFA process and the RFA agreement on the basis that the native forest industry has continued to decline but (allegedly) at increasing financial cost to the public whilst at the same time there is continuing damage to forest ecosystems through logging.
- Quality of data used in some decision-making questioned.
- Notes the number of endangered species of flora and fauna has continued to increase with the RFA in place although no causal relationship was claimed. Claims the RFA has not created a sustainable industry or protected Western Australian forests.

Submission 2

- Notes the significant downsizing of the native forest timber industry and economic impact on local communities in the Shires of Manjimup, Bridgetown – Greenbushes and Nannup, particularly with the increase in the area of reserved forest flowing from the Protecting Our Old Growth Forests Policy (POOGF) of 2001.
- Disagrees with assessment of achievement in the progress with implementation report in relation to clauses 19, 74, 75 and 76.
- Notes considerable structural adjustment funds were provided but there has been little benefit in terms of new industry development or employment.

Submission 3

- Critical of the lack of binding commitment to the agreement by the Parties and the subsequent drastic socio economic impacts of the reductions in sustained yield following the implementation of POOGF (2001).
- Available timber resources are considered insufficient to support new industry opportunities.
- The Forest Employment and Industries Development Strategy considered to have failed across areas from planning, promotion, certification, product development, R&D, development of manufacturing networks to fit for purpose plantation establishment.
- Likewise the RFA has not resulted in an expansion of tourism, limited new private tourism infrastructure investment or additional investment in mineral extraction and exploration or other forest-based industries.

Submission 4

- Highlights opportunities for improved accuracy and interpretation in the joint Parties' report on progress with implementation in relation to mining and petroleum industries particularly in relation to definitions, legislation and land tenure.

Submission 5

- Noted the progress on implementation of the RFA in relation to hydrological issues during the review period.

Submission 6

- Notes the delayed review process and the need for recommitment of the Parties to reviews on the timelines in the RFA or to coincide with revision of the FMP.
- Accuracy of assessment of achievement in the progress with implementation report is questioned in relation to particular RFA clauses, commitments and milestones as forest reservation has been overachieved or achieved in excess of that specified in the RFA noting that 64 per cent of forest is now in permanent reserves up from 44 per cent commitment under the RFA.
- It is also argued that POOGF (2001) and the subsequent legislation undermined many aspects of the industry development commitments and that the progress with implementation report does not accurately report these effects and that the full suite of industry commitments agreed in the RFA was not implemented via the 2004-2013 FMP.
- Notes also the decline in the government-owned WA softwood estate and lack of any plantation development (beyond blue gum plantations (private) and farm forestry).

Submission 7

- A key purpose of the RFA was to provide resource security but notes this was destabilised by the POOGF (2001) with subsequent lack of investment to improve regrowth utilisation.
- Notes the progress with implementation report may not be entirely accurate in terms of reporting of achievements against obligations, commitments and milestones particularly in relation to CAR reserves.

Submission 8

- Notes the lack of compliance to agreed RFA review time lines and the potential conflict of interest of the Department (DEC and now DPaW) preparing the progress with implementation report and their responsibility for implementing many of the elements of the RFA.
- The submission also comments on the discretionary nature of the FMP 2004-13 and that Forest Management Plan Performance Assessments undertaken by the CCWA have identified many breaches of the FMP 2004-2013 but that there is inadequate power to enforce compliance with the FMP.
- There is also comment on the process for developing the 2014-2023 FMP that is beyond the scope of this review.

Submission 9

- This submission was not developed specifically for this review but seeks to address the question of whether the RFA regime delivers equivalent environmental protection standards to those likely to be achieved if the EPBC Act applied directly to forestry operations in RFA areas. As such, RFAs in the States of Victoria, Tasmania, NSW and WA are examined under the headings of Background and Legal Context, Accredited State Regimes, Compliance, Monitoring and Auditing, Enforcement and Conflict.

- As essentially a review of the current legal position in the various jurisdictions it claims that protection of forest's biodiversity would be of a higher standard if regulated by the EPBC Act than under the RFA regime. It also claims a lack of monitoring and enforcement is a fundamental weakness of the RFA regime noting differences between the RFA states.
- For WA there is (a) a review of the accredited environmental protection regulations and the implementation of accredited conservation and threatened species protection measures and (b) a review of monitoring and compliance arrangements and the powers of enforcement.
- The submission also raises the issue of the capacity of RFAs to respond to a 'new' issue like climate change and associated effects such as declining rainfall and changes in fire frequency. In summarising forestry environmental legal case studies it noted the only two actions in WA had preceded the introduction of the RFA.

Submission 10

- Endorsed the comprehensiveness of the report on progress with implementation.
- Reiterated support for the RFA as originally agreed and noted the adverse impacts on the development of the timber industry.

Submission 11

- Supports the RFA process (and renewal of the RFA) but critical of the lack of timeliness of reviews and the failure of the RFA to deliver the resource security and sustained yield agreed in the RFA.
- Critical of the accuracy of some assessments of achievements in the progress with implementation report around the sustained yield, industry development clauses including limited plantation expansion. Notes that the Executive Summary does not include obligations /commitments/milestones that were not achieved*.
- Suggests the adverse socio economic impacts of increased forest reservation from that agreed between the Parties in the RFA have been down played in the progress report.

**Reviewer's comment – Table 1 (Summary of WA RFA's progress with implementing milestones) appearing in the joint Parties' progress report on implementation is reproduced directly from Attachment 3 of the RFA. Attachment 3 did not include a number of key clauses relevant to industry.*

Submission 12

- Received after the submission period and not considered although it is noted the submission did not raise new issues.

Attachment 3. Acronyms

ANZECC	Australian and New Zealand Environment and Conservation Council
AS	Australian Standard (Used in relation to AS 4708—2007 <i>Sustainable Forest Management – Economic, social, environmental and cultural criteria and requirements</i>)
CALM	Department of Conservation and Land Management (WA)
CAR	Comprehensive, Adequate and Representative (in relation to the system of forest reserves)
CCWA	Conservation Commission of Western Australia
CSIRO	Commonwealth Scientific and Industrial Research Organisation
DEC	Department of Environment and Conservation (WA)
DPaW	Department of Parks and Wildlife (WA)
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cwth)
EMS	Environmental Management System
EPA	Environmental Protection Authority (WA).
ESFM	Ecologically Sustainable Forest Management.
FMP	Forest Management Plan
FPC	Forest Products Commission (WA)
ISO	International Organization for Standardization
JANIS	Joint ANZECC/MCFFA NFPS Implementation Sub-committee.
MCFFA	Ministerial Council on Forestry, Fisheries and Aquaculture
NFPS	National Forest Policy Statement
POOGF	Protecting Our Old Growth Forest Policy (WA)
RFA	Regional Forest Agreement
R&D	Research and Development
RPCC	Research Priorities and Co-ordination Committee (a former sub-committee of the Forestry and Forest Products Committee of the Primary Industries Standing Committee)
RWG	Research Working Group (of RPCC)
SOFR	State of the Forests Report

Attachment 4. Reference Documents

A Report on Progress with the Implementation of the Regional Forest Agreement for the South-West Forest Region of Western Australia (2013). (110 pages)

Australia's State of the Forests Report 2008. Available at www.daff.gov.au. (248 pages)

Forest Management Plan 2004-2013 (2004). Conservation Commission of Western Australia. (144 pages)

Forest Management Plan 2004-13 (2008). Mid-term audit of performance report. Conservation Commission of Western Australia. (224 pages)

Forest Management Plan 2004-2013 (2009). Mid-term audit report. Supplemental advice to the Conservation Commission concerning the reasons for differences between the realised and forecast yields of jarrah sawlog during 2004-2007. (16 pages)

Houghton D S (2012). Protecting Western Australia's old-growth forests: the impact of 2001 policy changes. *Australian Forestry* 75:135-142.

Janis (1997). Comprehensive, Adequate and Representative Reserve Systems for Forests in Australia (1997). A Report by the Joint ANZECC/MCFFA National Forest Policy Statement Implementation Sub-committee.

Loxton E, Schirmer J and Kanowski P (2013). Social impacts of forest policy change in Western Australia on members of the native forest industry: implications for policy goals and decision-making processes. (Manuscript in review - *International Forestry Review*).

Moroni M (2011). The role of forest management in greenhouse gas mitigation: a contextual framework for Australia. Forest and Wood Products Australia. Project Report PRC 162-0910. (65 pages)

Regional Forest Agreement for the South-West Region of Western Australia (1999). (128 pages)

Ximenes de A, George B H, Cowie A, Williams J and Kelly G (2012). Greenhouse Gas Balance of Native Forests in New South Wales, Australia. *Forests* 2012, 3: 653-683