

Review of the Implementation of the Regional Forest Agreement for the South-West Forest Region of Western Australia for the Period 2009 – 2014

A report to the Commonwealth of Australia and the State of Western Australia in accordance with the Scoping Agreement for the third five-yearly review pursuant to Clauses 36-39 of the Regional Forest Agreement

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Independent Reviewer

May 2017

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Dear Ministers

I submit this review in accordance with the Terms of Reference laid down in the Scoping Agreement between the Commonwealth of Australia and the State of Western Australia of 28 January 2016 for the third five-yearly review of progress with the implementation of the Regional Forest Agreement for the South-West Forest Region of Western Australia, covering the period 2009-2014.

Yours sincerely



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23 May 2017

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Abbreviations and acronyms

AFORA	Australian Forest Operations Research Alliance
AFS	Australian Forestry Standard (AS 4708-2013)
Att	Attachment
CALM	Department of Conservation and Land Management
CALM Act	<i>Conservation and Land Management Act 1984 (WA)</i>
CAR	Comprehensive, Adequate and Representative (reserve system)
CRC	Cooperative Research Centre
CSIRO	Commonwealth Scientific and Industrial Research Organisation
Cwth	Commonwealth (of Australia)
DEC	Department of Environment and Conservation
DMP	Department of Mines and Petroleum (WA)
DPaW	Department of Parks and Wildlife (WA)
EMP	Environmental Management Plan
EMS	Environmental Management System (ISO 14001:2004)
ESFM	Ecologically Sustainable Forest Management
EPA	Environmental Protection Authority (WA)
EP Act	<i>Environmental Protection Act 1986 (WA)</i>
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999 (C'wlth)</i>
FMP	Forest management plan
FPC	Forest Products Commission
FSC	Forest Stewardship Council
ISG	Investment Security Guarantees
ISO 14001	ISO 14001:2004 Environmental management
JANIS	Joint ANZECC/MCFFA National Forest Policy Statement Implementation Sub-committee
KPI(s)	Key Performance Indicator(s)
RFA	Regional Forest Agreement
RFA Act	<i>Regional Forest Agreement Act 2002 (C'wlth)</i>
SFM	Sustainable Forest Management
SoF	(Australian) State of the Forests (Report)
SWALSC	South West Aboriginal Land and Sea Council
WA	Western Australia
WA FISAP	Western Australian Forest Industry Structural Adjustment Package
WA RFA	<i>Regional Forest Agreement for the South-West Forest Region of Western Australia</i>

1. Executive summary

This report presents the findings of an independent review of the report on progress with the implementation of the Regional Forest Agreement for the South-West Region of Western Australia (WA RFA) for the third five-year period (2009-2014), and public submissions received on that report.

The review has found that considerable progress has been made by Western Australia towards the achievement of the commitments in the WA RFA. A total of 71 commitments were achieved or completed during the reporting period, 32 were partially achieved or in progress, and 11 were not achieved.

Twelve submissions on the progress report were received from stakeholders. The key issues raised in public submissions were: the integrity and enforceability of the WA RFA; competing views over the trade-off between economic and environmental uses of native forests; the economics of logging native forests; concerns about resource security; the adequacy of compliance monitoring and enforcement; and funding of forest-based tourism and recreation.

The reviewer has made 17 recommendations for the parties to consider for the ongoing improvement of outcomes under the WA RFA.

A summary of the key findings of progress against the commitments and milestones in the WA RFA is presented below.

The Agreement and Relationship to Statutory Obligations

- Western Australia (WA) has a comprehensive forest management system to implement the WA RFA. However, the community has widely differing views with respect to desired outcomes under the WA RFA, and these competing views continue to cause debate over the management of the forests. This debate is not helped by a lack of clarity and consistency within the legislative, policy and institutional framework within WA with respect to the relative contribution that forests outside of reserves should make to the maintenance of biodiversity.
- The economics of native forest logging remain a contentious issue. The lack of an overall assessment of the relative economic benefit of native forest harvesting leaves a key performance outcome of the WA RFA largely unaddressed.
- Some stakeholders expressed concern about a perceived lack of certainty and enforceability of the WA RFA; the forest industry from the perspective of wood supply; and the conservation sector from the perspective of compliance with commitments relating to biodiversity and environmental care.
- The unilateral action of the WA Government in Period 1 of the WA RFA to substantially increase the CAR Reserve System and reduce the allowable cut for the native forest processing sector continued to have implications for resource security and industry investment in Period 3.
- Several submissions argued that stakeholders need to be better engaged in the development and implementation of the WA RFA.
- The WA RFA should be kept up to date in relation to new information and priorities, but any changes should be undertaken in a manner that does not undermine the trust of stakeholders in the integrity and security of the agreement.

Five yearly review/report on performance

- The report for Period 3 is very comprehensive and it provides an accurate account of progress against the milestones and commitments within the WA RFA. There are some minor information gaps and differences between the Parties and the Independent Reviewer with respect to the assessment of performance. These matters can be transparently addressed through the Joint Government Response to the review.
- Concerns continue to be raised about the failure to meet the reporting timelines in the WA RFA.

Ecologically Sustainable Forest Management (ESFM)

- WA has a very comprehensive system in place to monitor forestry operations. However, there are certain aspects of the state's compliance framework that could be reviewed to address concerns raised in some submissions regarding perceived deficiencies in monitoring and enforcement.

Monitoring, Reporting and Consultative Mechanisms

- WA has a comprehensive system in place for reporting on key performance indicators (KPIs) under the Forest Management Plan (FMP). This system could be further improved by collating and synchronising the reporting of KPIs for the FMP with other reporting requirements, such as the reporting of sustainability indicators under the Montréal Process.

Private Land

- Government programs and resources to promote ESFM on private land have declined.
- Overall, there is a marked lack of clarity and information with respect to the role and contribution of private forests to the objectives of the WA RFA.

Threatened Flora and Fauna

- The commitments relating to threatened flora and fauna were achieved.
- However, the submissions expressed widely differing interpretations and expectations with respect to the role of the WA RFA in providing protection for threatened species, and specifically, the relative contribution that should be made to the conservation of these values from forests outside of reserves.

The CAR Reserve System

- A further 21,884 ha were added to the Comprehensive, Adequate and Representative (CAR) Reserve System in Period 3. For some elements, e.g. old growth forest, the reservation levels are 36% above the area agreed in the WA RFA. Whilst the additional reservation may be viewed in a positive light as an 'over-achievement' for the CAR Reserve System, it is technically non-compliant with the WA RFA since there was no agreement between the Parties to amend Clause 65 or Attachment 1 pursuant to Clause 8 of the WA RFA. Furthermore, the additional reservation has ongoing consequences for the achievement of other commitments, particularly those relating to the supply of wood.
- Formal reservation has been completed for approximately 88% of the proposed reserve area.

Industry Development

- There was little evidence of new investment or forest industry development during Period 3. The plantation estate declined by 41,700ha (9.8 per cent) during Period 3 due to the collapse of companies using Managed Investment Schemes (MIS) and due to a decision by the government not to replant some areas of harvested pines.
- The low availability of residue markets continues to restrict the capacity of the Forest Products Commission (FPC) to achieve optimal silvicultural outcomes, particularly for the thinning of jarrah and karri regrowth, which was well below the levels planned in Period 3.
- The key issue for the forest industry was the failure of the WA RFA to deliver the (original) agreed wood supply. Continuing uncertainty over long term access to resource is hampering investment in the industry.
- WA continues to provide significant funding for tourism and recreation, much of which has been invested in programs and facilities to support the use of national parks created under the FMP 2004–2013. There is a perception among some stakeholders that State forests do not provide adequate support for recreation.

Indigenous Heritage

- Progress continues to be made with respect to the commitments. Processes are in place with respect to consultation with the Aboriginal community and procedures for field assessments and management of cultural heritage.

Other Forest Uses

- Mining in WA affects large areas of the forest estate, leaving many areas in a substantially altered state. The report for Period 3 does not comment on the degree to which the rehabilitation of mining sites contributes to the principles of ESFM and the long-term maintenance of forest values. Mining is subject to the operation of the *Environmental Protection Act 1986*, the objects and principles of which appear to be more directly relevant to mining than the principles of ESFM.

Research

- WA has a very good track record of forest-related research over many years.
- It is not clear from the report whether the research capacity has been maintained, or whether it has declined in recent years as is the case across most of Australia.

Recommendations of the Independent Reviewer on the Progress Report for Periods 1 & 2

- The 13 recommendations of the Independent Reviewer are largely completed (nine) or have been commenced and are in progress (four).

2. Recommendations

Recommendation 1 - WA considers the means by which its legislative, policy and institutional framework can deliver a clear and consistent interpretation of the contribution that forests outside of reserves (including private land) should make to the conservation of biodiversity across the range of temporal and spatial scales.

Recommendation 2 - WA considers mechanisms to foster a common understanding within government and amongst land managers, resource-users, scientists, non-government organisations, the media and the wider community, of the role and contribution of forests outside of reserves to the conservation of biodiversity.

Recommendation 3 – The Parties consider a means to better evaluate and publicly report on the socio-economic impacts associated with the harvesting and processing of wood products from native forests, including: transparent reporting of the accounting methods; costs and returns to government; and the opportunity costs related to other uses of the forest.

Recommendation 4 - The Parties consider ways to foster improved and ongoing participation of stakeholders in the WA RFA process.

Recommendation 5 – The Parties consider the legal form of any future WA RFA to better clarify the commitments that are legally-binding and those commitments that are more performance-based. Where practical, the WA RFA should focus on desired outcomes rather than prescribed actions or process.

Recommendation 6 – The Parties re-affirm their commitment to deliver transparency and certainty of outcomes under the WA RFA, noting that-

1. the WA RFA should be regularly updated as required in response to new information and changes to operating environments;
2. all changes should follow a formal amendment process;
3. all proposed changes should be publicly released for comment;
4. the Parties should formally consider and respond to any submission from a person who can demonstrate a direct and material disadvantage from the proposed changes.

Recommendation 7 – WA considers the means by which it may work towards the collation of data, including KPIs and Sustainability Indicators, and the synchronising of relevant reviews and reports to meet state and national obligations, including the FMP, WA RFA, national State of the Forests Report and Montréal Process.

Recommendation 8 - The Parties address the information gaps and suggested corrections noted in this report by way of the Joint Government Response and consider attaching a label to the on-line versions of the two progress reports (Period 1 & 2 and Period 3) to briefly explain their status, the process of review (including submissions on the report and the independent review), and to clarify that any additions or amendments to the report are detailed in the Joint Government Response to each report.

Recommendation 9 – The Parties consider amending the timeframe for completing the joint reviews/report pursuant to Clause 37 of the WA RFA to ensure that there is sufficient time to complete the work and to report in a practical and timely manner.

Recommendation 10 - The Parties ensure that there is a 'whole of government' approach to the preparation of the progress reports, by ensuring that relevant government agencies are involved in the finalisation of the reports prior to their public release.

Recommendation 11 – The Parties agree to include a table of legislative and administrative changes at Commonwealth and State level that affect the Regional Forest Agreement in all future five-yearly reports, together with an analysis of the impact of these changes on the capacity of the Parties to implement the commitments in the Agreement.

Recommendation 12 - WA considers reviewing its regulatory framework to-

1. Develop an annual consolidated compliance monitoring report for the FMP, to clearly outline: the respective roles and responsibilities of organisations; the methodology for monitoring; the periodicity of reporting (e.g. annual and five-yearly); and the consolidated results of monitoring, including trend data from previous reports.
2. Improve the manner in which the nature, number and outcomes of investigations, including enforcement actions, are transparently reported in publicly-available reports (e.g. annual and five-yearly reports).

Recommendation 13 – WA considers the need to translate the forest management guidance documents into a condensed and practical form suitable for use by forest contractors and operators.

Recommendation 14 - The Parties consider how trends in employment and skills that are directly and indirectly related to activities under the FMP can be better captured for reporting under the ESFM framework.

Recommendation 15 – The Parties clarify the extent to which mining sites, following rehabilitation, are expected to contribute to the principles of ESFM and to the long-term maintenance of forest values and ecological health.

Recommendation 16 – WA clarifies the role and contribution of private forests to the objectives of the WA RFA and the current mechanisms for fostering ESFM on private land, including the mapping of forest ecosystems and inventory of known or predicted values.

Recommendation 17 - WA considers undertaking regular review and reporting on the purpose and outcomes of all forest-related research projects with respect to the degree of relevance to, and uptake by, forest managers over time.

3. Background to the Review

The State of Western Australia and the Commonwealth of Australia (the 'Parties') entered into a Regional Forest Agreement on 4 May 1999¹. This 20-year agreement established the framework for the ecologically sustainable management of forests in the South-West Forest Region of Western Australia.

The WA RFA provides that the Parties will undertake joint 5-yearly reviews of performance against

¹ (The State of Western Australia and the Commonwealth of Australia, 1999)

the milestones and commitments made in the Agreement. No review was undertaken at the end of the first 5-year period (1999-2004). Instead, a combined review was undertaken to cover the first and second 5-year periods (i.e. 1999-2009).

The report on progress with implementation of the WA RFA for the first and second periods was jointly prepared by the Parties² and released for public comment on 29 July 2013. The report, and comments received on the report, were subject to an independent review by Dr Glen Kile. Dr Kile made 13 recommendations in his report³ which was tabled in the Parliament of Australia on 18 March 2014. The Parties' joint response⁴ to Dr Kile's recommendations was tabled in the Parliament of Australia on 11 February 2015.

4. Process for the third five-yearly review

The process for conducting the third five-yearly review was agreed by the Parties under a Scoping Agreement signed on 28 January 2016⁵ (see Attachment 1 of this report). In summary, the process involves the following steps-

- (a) Preparation of a report by the Parties on progress with implementation of the WA RFA and appointment of an Independent Reviewer
- (b) Public submissions are sought on the report
- (c) Independent Reviewer reviews the report and public submissions and provides a report to the Parties; the report is tabled in the Australian Parliament
- (d) Joint government response to the report of the Independent Reviewer is prepared by the Parties and the response is tabled in the Australian Parliament.

The third five-yearly report⁶ was jointly prepared by the Parties in 2016. It covers the status of milestones and commitments in the WA RFA from 2009 to 2014 (Period 3), including-

1. WA RFA commitments that were not covered by milestones in the combined first and second five- yearly performance report and those that are ongoing
2. WA RFA commitments that were not completed prior to the combined first and second five-yearly performance report
3. Responses to the recommendations for continual implementation of the RFAs arising from the report of the Independent Reviewer (Dr Kile) for Periods 1 and 2.

The third five-yearly report was released for an eight-week public comment period, from 15 November 2016 to 13 January 2017. Twelve submissions were received (see section 9 of this report).

The Parties jointly appointed Mr Graham Wilkinson to undertake the independent review according to the terms of reference laid down in Attachment 2 of the Scoping Agreement. In summary, the role of the Independent Reviewer was to-

1. Review the report prepared by the Parties on progress with the implementation of the WA RFA for Period 3 (2009-2014) with respect to the agreed milestones, commitments and obligations

² (Department of Parks and Wildlife (WA), Department of Agriculture and Water Resources (C'wlth), 2013)

³ (Kile, 2013)

⁴ (Government of Western Australia and the Government of Australia, 2014)

⁵ (Commonwealth of Australia and the State of Western Australia, 2015)

⁶ (Department of Parks and Wildlife (WA), Department of Agriculture and Water Resources (C'wlth), 2016)

2. Receive and review submissions from the public relevant to the progress report and the proposed extension of the WA RFA
3. Provide a written report to the Australian and Western Australian ministers responsible for RFAs, which-
 - a. Provides comment on the progress report for Period 3 and any specific recommendations on implementation of the WA RFA
 - b. Summarises the key issues identified in the public submissions and lists the names/organisations who made public submissions
 - c. Noting the policy framework as established by the National Forest Policy Statement, identify any additional issues that could be considered for the continued implementation and extension of the WA RFA, including minor improvements that strengthen the overall WA RFA framework.

The Independent Reviewer used the following sources of information to undertake the review-

1. The progress report for Period 3 (*A report of progress with the implementation of the Regional Forest Agreement for the South-West Forest Region of Western Australia Period 3: 2009-2014*)⁷.
2. Public submissions received (section 9 of this report)
3. Other documents as cited in this report (section 10 References).
4. Internal guidelines, procedures etc. available via departmental websites.
5. Information provided by officers of the Commonwealth and Western Australian Governments in response to requests for clarification of items in the progress report. This information was largely gathered during meetings and field inspections conducted in Bunbury and forest sites (Palmer Forest and Ernest Forest) in Western Australia on 4th and 5th April 2017.

Progress with each of the commitments and milestones in the WA RFA was individually assessed as: achieved; achieved in part (incomplete, achieved outside of the timeframe, or still in progress); not achieved; or not required/no longer applicable. Differences in assessed progress for individual milestones/commitments between the reports for Period 1&2 and Period 3 are largely a reflection of changes in outcomes during the respective time periods. Differences between the assessments made by the Parties and the Independent Reviewer (and, in some cases, differences between the Independent Reviewer for Period 1&2 and the Independent Reviewer for Period 3) are largely a matter of technical interpretation, as noted in footnotes to individual milestones/commitments. For example, the Parties reported that the commitments in Clause 65 of the WA RFA relating to the establishment of the CAR Reserve System had been “achieved” whereas the Independent Reviewer for this report has taken the view that the commitments were “not achieved” on the basis that the levels of reservation exceeded, and were therefore not in agreement with, those agreed by the Parties in the WA RFA.

5. Summary of progress with milestones and commitments

Table 1 contains a summary of progress with the milestones and commitments in the WA RFA.

Table 2 contains a summary of progress with the actions arising from the recommendations of the independent review for Periods 1 & 2.

⁷ (Department of Parks and Wildlife (WA), Department of Agriculture and Water Resources (C'wlth), 2016)

Table 1. Consolidated summary of progress for Periods 1 & 2 and Period 3 ^{8,9}

Heading from WA RFA	WA RFA Clause or Attachment	1999-2009 (Periods 1 & 2)				2009-2014 (Period 3)			
		Full	Partial	Not	NR	Full	Partial	Not	NR
Part 1									
Agreement	6, 8-9				3	1	1	1*	
Part 2									
Relationship to Statutory Obligations	19, 21, 25-30, 32-33	9			1	8		2*	
Milestones	34-35	2				2			
Five yearly review/report on performance	36-39	1*	1	3*	1*		3*		
Ecologically Sustainable Forest Management	40, 42-45	5*	1*				4*		
Monitoring, Reporting and Consultative Mechanisms	46-47	1	1			1	1		
Accreditation	48, 50	3				2			
Sustainability Indicators	51-52	2				1			
Private Land	53-55	3				1	2*		
Threatened Flora and Fauna	56-63	8				8			
The CAR Reserve System	64-70	11	1*			5	1*	2*	
Industry Development	71-80	2	5*	3		2	4*	4*	
Indigenous Heritage	81	1				1			
Other Forest Uses	84-86	3				3			
Competition Principles	87	1				1			
Research	88-90	3				3			
Data Use and Access	91-93	2				1			
Part 3									
Forest Management	95-96	1	2			1	1	1*	
Compensation	97				1				1*
Industry Assistance	98	1				1			
Attachments									
CAR Reserve System	1	2	3			2	2		
Protection and Management of National Estate Values	2				1				1
Public Reporting and Consultative Mechanisms	4	4				4			
Improvements to Western Australia's Forest Management Systems on Public Land	5	17	7	1		12	10*	1*	
Protection and Management of Forests on Private Land	6	2				1	1*		

⁸ The status is shown as Full (fully achieved); Partial (achieved in part, achieved outside of the timeframe, or still in progress); Not (not achieved) or NR (not required or no longer applicable) for individual commitments or combined commitments. Further elaboration on the status of commitments is provided in the progress tables for each set of commitments in the following sections of this report.

⁹ As assessed by the respective Independent Reviewers for each period. An asterisk (*) indicates a difference between the status reported by the Parties and the assessment of the Independent Reviewer.

Heading from WA RFA	WA RFA Clause or Attachment	1999-2009 (Periods 1 & 2)				2009-2014 (Period 3)			
		Full	Partial	Not	NR	Full	Partial	Not	NR
Threatened Flora and Fauna ¹⁰	8								
Aboriginal Heritage and Consultation	10	9	1			10*			
Priority Areas of Research	11	1					1		
Key Principles of an Environmental Management System ¹¹	13								
Forest Employment and Industries Development Strategy	14		1				1		
Total		94	23	7	7	71	32	11	2

Table 2. Summary of progress with the recommendations of the Independent Reviewer for Periods 1 & 2

Recommendation	Progress ¹²
1: Clarify some matters in the progress report	Completed in part*
2: Provide an addendum of the legislative and administrative changes.	Completed
3: Recommit to timely and regular five-yearly reviews.	Underway, but late
4: Achieve external input into Research and Development priorities.	Completed
5: The Government of Western Australia continues to periodically review the sustained yield in relation to the changing biotic and abiotic risk factors.	Completed
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 Montréal Process Criteria.	Completed
7: Assess the adequacy of the compliance provisions related to the FMP.	Still in progress
8: Consider the development of a comprehensive forest health assessment system.	Completed
9: Ensure climatic trends are considered in future forest management planning.	Completed
10: Analyse the adoption of research outputs into management practice.	Completed*
11: Review policy settings that affect the utilisation of wood harvested under changing circumstances.	Underway
12: Review the updating key data sets and ensure ongoing access to historical data.	Underway
13: Focus the scope of the next 5-yearly review on FMP particularly in relation to: a. ESFM b. protection of threatened flora and fauna c. the indicators of ESFM	Completed in general*

¹⁰ The commitments in Attachment 8 are principally dealt with under Clauses 56-63 above.

¹¹ There are no specific commitments in Attachment 13

¹² An asterisk (*) indicates a difference between the status reported by the Parties and the assessment of the Independent Reviewer. Further details are provided in Table 3.

6. General comments on the WA RFA and potential future extension

6.1.1. Issues raised in submissions

Four submissions (5, 6, 10, 11) argued that the WA RFA process has failed in part or in whole and the WA RFA should not be renewed or should be comprehensively overhauled (Issue 2). Some of these submissions attached a publication¹³, in which the authors conclude that RFAs are “the antithesis of economic and environmental success”. They advocate a comprehensive overhaul of RFAs to accommodate new scientific information on forest values and threats, employ proper resource and financial accounting, and make commensurate reductions in the levels of sustained yield.

Five submissions (1, 5, 6, 7, 9, 10) argued that the logging of native forest is not environmentally, socially or economically sustainable and it should be phased out and the forests should be managed for conservation and other uses (Issue 6). Some of these submissions cited a recent publication¹⁴, in which the authors argue that FPC’s native forestry operations have posted repeated losses, forest productivity and sawlog recovery rates have declined and the native forests are worth more to the state left standing for alternative uses, such as tourism, carbon abatement, wildflower harvesting and honey production.

Three submissions (4, 8, 12) supported the extension of the WA RFA but argued that economic and social objectives, including resource security, employment and investment, must be given equal weight as environmental objectives (Issue 3). Two submissions (6, 7) commented that the process for engagement with the community is poor and one submission (11) argued that RFAs were never ‘agreed’.

6.1.2. Reviewer’s comments

The submissions reflect the widely differing views that the community has with respect to the values, use and management of forests, and the widely differing expectations that the community has with respect to desired outcomes under the WA RFA. The purpose of the WA RFA was to seek a resolution to the long-standing debate over the use and management of forests. However, it failed to win the support of the conservation movement and ongoing public criticism prompted successive WA governments to step outside the WA RFA process by unilaterally introducing substantial policy changes to end timber harvesting in old-growth forests^{15, 16}. However, these changes have not fully resolved the debate over forest use within the WA RFA region.

Forest management involves trade-offs between the differing expectations and competing interests of the community. This principle seems to be broadly understood and accepted where forests are set aside for conservation, and other uses such as timber harvesting are excluded. However, the principle is less understood or accepted where forests are designated for resource use. The *National Forest Policy Statement*¹⁷ provides that forests outside of reserves should contribute to values such as nature conservation through ‘complementary management’. However, the level of contribution is an ill-defined and contentious issue. On one hand, some people argue that resource use has priority in such forests and economic activity should not be unduly constrained by restrictions to protect biodiversity etc. On the other hand, some people believe that the protection of values such

¹³ (Lindenmayer, Blair, McBurney, & Banks, 2015)

¹⁴ (Swann & Browne, 2016)

¹⁵ (Houghton, 2012)

¹⁶ The implications of major policy changes being made outside of the RFA are discussed in section 7.1.3 of this report.

¹⁷ (Commonwealth of Australia, 1992)

as biodiversity should not be compromised, regardless of any impacts on resource use. These competing views continue to cause ongoing debate over the management of forests.

WA has a comprehensive system in place to take account of the competing demands on the forest estate. In particular, the planning process goes to considerable effort to ensure that timber harvesting operations are conducted in a manner that contributes to the maintenance of biodiversity values; both at the individual coupe scale and at the landscape level (as part of the mosaic of structural diversity, created by both anthropogenic impacts and natural disturbance regimes/ ecological processes).¹⁸ The degree to which biodiversity is maintained at the coupe scale depends upon factors such as: the intensity and periodicity of harvesting; silvicultural regime; exclusion zones; and the retention of habitat trees. However, stakeholders, such as the forest industry and conservation groups, have very different views on the trade-off between the proportion of the forest that can be harvested and the proportion that must be retained as a contribution to the maintenance of biodiversity. This disagreement is not helped by a lack of clarity and consistency within the legislative, policy and institutional framework within WA with respect to the relative contribution that forests outside of reserves should make to the maintenance of biodiversity.

Recommendation 1 - WA considers the means by which its legislative, policy and institutional framework can deliver a clear and consistent interpretation of the contribution that forests outside of reserves (including private land) should make to the conservation of biodiversity across the range of temporal and spatial scales.

Recommendation 2 - WA considers mechanisms to foster a common understanding within government and amongst land managers, resource-users, scientists, non-government organisations, the media and the wider community, of the role and contribution of forests outside of reserves to the conservation of biodiversity.

The economics of native forest logging remain a contentious issue. In the submissions, those opposed to the harvesting and processing of wood products from native forests relied heavily on non-governmental publications to argue that the industry is rapidly shedding jobs and is an overall drain on the public purse. In contrast, the industry argues that it continues to make important direct and indirect contributions to the WA economy, particularly in regional areas. It is beyond the scope of this review to resolve this complex matter. However, the lack of an overall assessment of the relative economic benefit of the native forest harvesting and processing industry leaves a key performance outcome of the WA RFA largely unaddressed.

Recommendation 3 – The Parties consider a means to better evaluate and publicly report on the socio-economic impacts associated with the harvesting and processing of wood products from native forests, including: transparent reporting of the accounting methods; costs and returns to government; and the opportunity costs related to other uses of the forest.

The relatively low number of submissions on the report for Period 3 may reflect a degree of ‘review fatigue’ given that there were two other major public consultative processes in the preceding four years (draft FMP in late 2012¹⁹ and the report for Period 1 & 2 of the WA RFA in late 2013²⁰). Several submitters, from both conservation and industry sides, articulated a sense of alienation from the WA RFA process, particularly relating to changes that were made contrary to the WA RFA (see section

¹⁸ It is beyond the scope of this review to determine the extent to which the harvesting of timber from the forests of WA contributes to the maintenance of biodiversity at different temporal and spatial scales.

¹⁹ More than 5,000 public submissions on the draft FMP were received by the Conservation Commission

²⁰ Twelve submissions were made on the report for Period 1 & 2.

7.1.3 below). Whilst a key purpose of the WA RFA is to provide long term certainty for the implementation of ESFM, its implementation needs to be amended as necessary, through an ongoing participatory process.

Recommendation 4 - The Parties consider ways to foster improved and ongoing participation of stakeholders in the WA RFA process.

The WA RFA comprises a mixture of legally-binding and non-legally-binding obligations, which appears at times to be confusing and somewhat inconsistent. The legally-binding rights and obligations are prescribed in Part 3 of the WA RFA. These relate to-

- Forest management (Clauses 95 and 96) and associated Clauses 70 and Attachment 1 (CAR Reserve System), Clause 42 and Attachment 5 (Improvements to Forest Management System), and Clause 87 (Competition Principles Agreement).
- Compensation (Clause 97)
- Industry Assistance (Clause 98)
- Termination and miscellaneous (Clauses 99-102).

The commitments in Part 2 of the WA RFA are not legally binding, other than where they are referred to in Part 3 (which in fact covers a large number of key commitments). Some of the commitments have milestones attached to them, but many do not and are therefore absent from the list of milestones in Appendix 3 of the WA RFA. Commitments in Part 2 vary from 'will (do)' statements, 'intended' actions, 'will consider' actions and actions that are subject to the availability of funding or subject to other legislative or policy matters. The status of some commitments changes within the WA RFA. For example, points 1 to 5 in Attachment 4 are preceded by the words "the State intends to" but in Attachment 3 (Milestones) these 'intended actions' are re-written with a higher order of obligation as 'will (do)' statements.

Overall, the WA RFA is a mixture of legal obligation and noble intent, which makes it a difficult agreement to 'enforce', giving rise to perceptions amongst some submitters that the WA RFA is not, in fact, enforced.

The current WA RFA and FMP rely heavily on prescribed actions and processes, which is unavoidable to a large degree. However, many actions in the WA RFA have been superseded by changes in factors such legislation and policy, institutional arrangements, new information and improved planning tools, which have led to different approaches being adopted.

Recommendation 5 – The Parties consider the legal form of any future WA RFA to better clarify the commitments that are legally-binding and those commitments that are more performance-based. Where practical, the WA RFA should focus on desired outcomes rather than prescribed actions or process.

See also Recommendation 6.

7. Progress with commitments and milestones

7.1. Duration of Agreement and Relationship to Statutory Obligations

7.1.1. Progress

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
6	The process for extending the Agreement for a further period will be agreed by the Parties as part of the 15-year review (clause 36).	2014	Not yet required	Achieved in part	Achieved in part (in progress)
8	This Agreement may only be amended with the consent, in writing, of both Parties. The Parties agree to work co-operatively to address any differences between them as to the interpretation or implementation of the Agreement.	On-going	None reported	Achieved	Not achieved ²¹
9	The Parties agree that if a dispute arises between the Parties regarding this Agreement it must be resolved expeditiously in accordance with the provisions of Clauses 10 to 14.	On-going	None reported	Achieved ²²	Achieved
19	Neither Party will seek to use existing or future legislation or a Government Agreement to undermine or impede this Agreement.	On-going	Achieved	Achieved	Not achieved (see section 7.1.3 below)
21	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.	On-going	No longer applicable due to legislative changes	No longer applicable due to legislative changes	Not achieved (see section 7.1.3 below)
25	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.	On-going	Achieved	Achieved	Achieved (see also Clauses 56-63)
26	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.	On-going	Achieved	Achieved. There were no nominations in period 3.	Achieved
27	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 Regions of WA.	On-going	Achieved	Achieved. There were no nominations in period 3.	Achieved

²¹ There were no amendments to the RFA pursuant to Clause 8. However, certain key provisions of the RFA were altered without formal amendment of the RFA under Clause 8. See comments for Clauses 19, 21 and 65.

²² There were no disputes between the Parties during Period 3

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
28	The Parties note that in order to progress work and then proceed to World Heritage Nomination, the agreement of all relevant governments will be required.	On-going	Achieved	Achieved. There were no nominations in period 3.	Achieved
29	The Commonwealth agrees that it will give full consideration to the potential socio-economic consequences of any World Heritage Nomination of places in the South-West Forest Region of Western Australia and that any such nomination will only occur after the fullest consultation and with agreement of the State.	On-going	Achieved	Achieved. There were no nominations in period 3.	Achieved
30	The Parties agree that before any World Heritage Nomination is made: (a) all necessary management arrangements, including joint policy coordination arrangements will be agreed; and (b) all related funding issues will be resolved to the satisfaction of both Parties.	On-going	Achieved	Achieved. There were no nominations in period 3.	Achieved
32	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.	On-going	Achieved	Achieved	Achieved
33	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.	On-going	Achieved	Achieved	Achieved

7.1.2. Issues raised in submissions

Three submissions (4, 8, 12) contended that the WA RFA had been undermined by legislation in WA, which increased the areas of reserved forest beyond that agreed by the Parties in the WA RFA, resulting in a significant reduction to the sustained yield (Issues 9, 10).

7.1.3. Reviewer's comments

It is inevitable over the time span of a 20-year agreement that amendments will be required to reflect new information and changes in the socio-economic and socio-political frameworks. However, the making of major changes to the WA RFA without formal process and without consultation with affected bodies only serves to undermine the purpose of the WA RFA and the confidence and trust of stakeholders in the integrity and security of the agreement.

Some key changes have been made without formal amendment during the life of the WA RFA, including the following-

1. *Undermine or impede Agreement* - Clause 19 of the WA RFA provides that neither Party will seek to use existing or future legislation or a Government Agreement to undermine or

impede this Agreement. The progress report for Period 3 states that this ongoing commitment was achieved in Periods 1 & 2 and 3. This reviewer does not agree because in 2001 the WA Government used the provisions of legislation²³ to give effect to its *Protecting Our Old Growth Forests Policy*, which reserved additional areas of forest to those agreed by the Parties in the WA RFA, with a consequent decrease in sustained yield and wood supply to industry. Whilst there were no further such changes to sustained yield in Period 3, the continuation of the reduced wood supply levels in the FMP 2014-23 had the continuing effect of impeding the purpose of the WA RFA under Clause B(c) and related clauses, including Clauses 72 and 75.

2. *National Estate* – Clause 21 of the WA RFA prescribes that the National Estate will be managed as detailed in Attachment 2. The progress report notes that the provisions laid down in the attachment were superseded as a result of changes to heritage protection agreed by the Council of Australian Governments (COAG) in 1997, which led to changes to Commonwealth legislation. However, the progress reports for Periods 1 & 2 and 3 do not state whether these changes delivered outcomes consistent with the provisions of Attachment 2 and there is no analysis presented as to the impact of the changes on other commitments in the WA RFA. The setting aside of Clause 21 and Attachment 2 does not appear to have been done through amendment of the WA RFA pursuant to Clause 8 and is therefore, in the opinion of the Independent Reviewer, technically non-compliant with the WA RFA.
3. *Aboriginal Heritage and Consultation* - Clause 81 of the WA RFA prescribes “that the procedures outlined in Attachment 10 will be implemented”. However, the report for Period 3 notes that “consultation with Aboriginal people on the appropriate management of cultural and heritage values occurs in a modified approach to that envisaged in Attachment 10 of the WA RFA”. Clause 81 has therefore not technically been achieved.

Such departures from the provisions of the WA RFA may have been made for good reasons. However, the absence of formal amendment of the WA RFA raises doubts about the overall integrity of the agreement and the degree to which the Parties may unilaterally or jointly decide to set aside previously agreed commitments.

Recommendation 6 – The Parties re-affirm their commitment to deliver transparency and certainty of outcomes under the WA RFA, noting that-

1. **the WA RFA should be regularly updated as required in response to new information and changes to operating environments;**
2. **all changes should follow a formal amendment process;**
3. **all proposed changes should be publicly released for comment;**
4. **the Parties should formally consider and respond to any submission from a person who can demonstrate a direct and material disadvantage from the proposed changes.**

²³ The *Protecting Our Old Growth Forests Policy* was given effect through the Forest Management Plan 2004-2013 prepared under the provisions of the *Conservation and Land Management Act 1984*

7.2. Milestones and Five yearly review/report on performance

7.2.1. Progress

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
34	The Parties will provide each other with an annual report detailing their achievement of milestones for the first four years of the Agreement and then as they fall due and as part of the five-yearly reviews and report.	2000	Achieved		
		2001	Achieved		
		2002	Achieved in part		
		2003	Achieved in part		
		2004	Achieved (outside proposed timeline)		
		2009	Achieved (outside proposed timeline)		
		2014		Achieved (outside proposed timeline)	Achieved (outside proposed timeline)
35	Public annual reporting on achievement of milestones during the first four years will be through a brief statement in the annual report of the relevant agency.	2000	Achieved		
		2001	Achieved		
36	The Parties agree that, where the Agreement provides for the commissioning of external reviews, suitably qualified experts will be used.	2002	Achieved in part		
		2003	Achieved in part		
35	The Parties agree that, where the Agreement provides for the commissioning of external reviews, suitably qualified experts will be used.	On-going	Achieved	Achieved	Achieved
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.	2004	Achieved in part ²⁴		
		2014		Achieved in part. The third five-year review was not synchronised with the FMP revision process.	Achieved in part.

²⁴ The Independent Reviewer assessed this commitment as “not achieved”.

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
	The Parties will jointly report on performance before the end of the second five-year period of this Agreement.	2009	Achieved in part ²⁵		
37	The mechanisms for these five-yearly review/reports will be agreed by the Parties within six months of the date of this Agreement.	Nov 1999	Achieved (outside proposed timeline)		
	Complete reviews/report within three months after the completion of each five-year period.	2004 and 2009	Achieved (outside proposed timeline) ²⁶		
		2014		Achieved (outside proposed timeline)	Achieved in part (outside proposed timeline and still in progress)
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.	2004 and 2009	Achieved ²⁷		
		2014		Achieved in part (review in progress) ²⁸	Achieved in part (in progress)
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.	1999-2004	Achieved in part (outside proposed timeline)		

7.2.2. Issues raised in submissions

Five submissions (5, 6, 7, 10, 11) were concerned that the report was late and they felt that this reflected a lack of commitment by the Parties (Issue 3). One submission (10) argued that the report has no credibility as it is a self-assessment, prepared by the people implementing the WA RFA (Issue 4).

Minor amendments or additions to the report were suggested by two submitters (2, 3) relating to progress on the development and execution of Indigenous Land Use Agreements (Issue 11) and

²⁵ The Independent Reviewer assessed this commitment as “not achieved”.

²⁶ The Independent Reviewer assessed these commitments as “not achieved”.

²⁷ The Independent Reviewer assessed this commitment as “not tested as this is the first review of the RFA implementation”.

²⁸ The WA RFA was not modified as a result of the combined first and second five-yearly progress reporting process.

details relating to the mining and petroleum sectors (Issue 12).

Five submissions (5, 6, 7, 10, 11) criticised the content of the report, saying that it contained little focus on the non-timber uses of the forests (Issue 3). In contrast, three submissions (4, 8, 12) argued that the WA RFA, and hence the progress report, did not contain sufficient milestones with strong industry development commitments (Issue 2).

Two submissions (6, 11) argued that the report primarily deals with actions against the commitments and it does not adequately assess performance. It was similarly argued that the KPIs in the FMP are process-driven rather than outcome-driven (Issue 5).

7.2.3. Reviewer's comments

The intent of Clause 36 of the WA RFA was to seek to synchronise various reviews and reporting in order to optimise the efficiency and effectiveness of reporting obligations at state and national level e.g. reporting of sustainability indicators for the FMP and for the national State of the Forests Report. Currently, the reporting obligations at state and national level are not synchronised. This results in additional costs for the preparation of different reports and it means the state data that are fed into national reports are not up to date.

Recommendation 7 – WA considers the means by which it may work towards the collation of data, including KPIs and Sustainability Indicators, and the synchronising of relevant reviews and reports to meet state and national obligations, including the FMP, WA RFA, national State of the Forests Report and Montréal Process.

As a general comment the report for Period 3 is very comprehensive and the information provided is relevant. However, in some places the report does not specifically or fully address a commitment or parts of a commitment in the WA RFA, for example-

- Clause 46 - the report (section 7) contains an outline of the reporting mechanisms for sustainability indicators. However, the results of monitoring of sustainability indicators are not provided in the report (as required), other than by reference to the results published in 2012 in the *Forest Management Plan 2004–2013 End-of-term audit of performance report*²⁹.
- Clause 55/ Attachment 6, and Clause 65 – The area of private land is not provided in Table 12 in Appendix 1 and the report contains no information on the relative contribution of private land to the JANIS targets.
- Clause 79 - the report does not fully or systematically address all the measures that were to be given priority in implementing the WA Forest Industry Structural Adjustment Package (WA FISAP) or to the agreed additional research, development and marketing activities as listed in Attachment 14 of the WA RFA.
- Clause 88 - Appendix 6 of the report provides a summary of relevant research that has been conducted. However, it does not systematically or fully address each of the “priority areas of research” listed in Attachment 11 of the WA RFA.
- Attachment 5 (Clauses 42 and 95) – The report only refers to the code of practice for plantations, and makes no reference to a code of practice for native forests, which formed

²⁹ (Conservation Commission of Western Australia, 2012)

part of the *Code of Practice for Timber Harvesting in Western Australia* referred to in the WA RFA.

The Independent Reviewer for the report for Periods 1 & 2 recommended that corrections to the report should be made as a revised on-line version to ensure that there was a [correct] “document of record for the first 10 years of the WA RFA’s implementation” (see Table 3). The Parties responded to this recommendation by way of an addendum to the Joint Government Response, rather than as a revised on-line version. This response is appropriate as it transparently preserves the context and integrity of the review process (which is clearly laid out on both Parties’ web sites). However, it would be beneficial if a label was attached to the progress reports to briefly explain their status and the process of review and to provide links to the report of the relevant Independent Reviewer and any corrections/amendments to the progress report as detailed in the Joint Government Responses.

Recommendation 8 - The Parties address the information gaps and suggested corrections noted in this report by way of the Joint Government Response and consider attaching a label to the on-line versions of the two progress reports (Period 1 & 2 and Period 3) to briefly explain their status, the process of review (including submissions on the report and the independent review), and to clarify that any additions or amendments to the report are detailed in the Joint Government Response to each report.

The Independent Reviewer for the report for Periods 1 & 2 noted the concern raised in submissions about the extended delay in completing the progress reports and he recommended that the Parties recommit to timely and regular reviews. The preparation of the report for the third five-yearly review commenced in 2015 and the Scoping Agreement for the review was signed by the Parties in January 2016, with anticipated completion of the review within 10 months. This timeframe is outside of that prescribed in the WA RFA (Clause 37 of the WA RFA requires the joint reviews/report to be completed within three months after the completion of each five-year period, which is by 4 August 2014 for the current review). Priority should be given to timely reporting, however, the timeframe prescribed for the review in the WA RFA is very short given the weight and complexity of the information and the requirements for public comment and independent review.

Recommendation 9 – The Parties consider amending the timeframe for completing the joint reviews/report pursuant to Clause 37 of the WA RFA to ensure that there is sufficient time to complete the work and to report in a practical and timely manner.

Submission 3 by the Department of Mines and Petroleum seeks clarification/correction of parts of the report. This follows a similar submission by that department with respect to the report for Periods 1 & 2. Suggested additions to the report for Period 3 were also made in submission 2 by another government body (Department of Aboriginal Affairs) in relation to Aboriginal heritage. The WA RFA is an agreement between the State of Western Australia and the Commonwealth of Australia. The progress report for Period 3 was coordinated by the WA Government Department of Parks and Wildlife and the Australian Government Department of Agriculture and Water Resources, with contributions from the Forest Products Commission (WA Government) and the Department of the Environment and Energy (Australian Government). The involvement of other government agencies in the preparation of the report would avoid the need for these agencies to submit corrections after its public release.

Recommendation 10 - The Parties ensure that there is a ‘whole of government’ approach to the preparation of the progress reports, by ensuring that relevant government agencies are involved in the finalisation of the reports prior to their public release.

The Independent Reviewer for the report for Periods 1 & 2 recommended that 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. This was agreed by the Parties and details of changes were included in the report for Period 3. Such a document is highly relevant to the ongoing reviews of the WA RFA.

Recommendation 11 – The Parties agree to include a table of legislative and administrative changes at Commonwealth and State level that affect the Regional Forest Agreement in all future five-yearly reports, together with an analysis of the impact of these changes on the capacity of the Parties to implement the commitments in the Agreement.

7.3. Ecologically Sustainable Forest Management

7.3.1. Progress

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
40	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:	On-going	Achieved ³⁰	Achieved	Achieved in part- see sub-sections below
	a) the establishment of a CAR Reserve System (Attachment 1)				a) achieved, but contrary to WA RFA ³¹
	b) the development of internationally competitive Forest-based industries				b) not shown ³²
	c) a fully integrated and strategic Forest Management System capable of responding to new information.				c) good progress was made

³⁰ The Independent Reviewer assessed this commitment as “achieved for element (a) and progress towards element (c) and not achieved for element 9(b)”.

³¹ See comments for Clause 65

³² The report contains no assessment as to the relative international competitiveness of the forest-based industries as at Period 3 compared to the pre-RFA situation. The lack of sufficient markets for low grade timber and residues continues to constrain the competitiveness of the industry (see section 7.11 of this report)

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
42	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 WA RFA) and the actions identified in Attachment 5 (of the WA 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.	2004	Achieved in part ³³	Achieved in part	Achieved in part. See comments for Clause 95(b) and Attachment 5 below.
43	Western Australia will produce and publish a Forest Management Plan to implement the commitments of this Agreement.	30 June 2004	Achieved		
	Western Australia agrees to commence the FMP planning process by early 2001.	Early 2001	Achieved		
44	Western Australia agrees to further develop and implement the Forest Management System for Private Lands in accordance with Attachment 6 (of the WA RFA).	On-going	Achieved	Achieved	Achieved in part ³⁴
45	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.	On-going	Achieved	Achieved	Achieved in part ³⁵
Att 5.1	Western Australia will include a commitment to the principles of ecologically sustainable forest management in the next FMP.	2004 2014	Achieved Achieved	Achieved	Achieved
Att 5.2	Western Australia will develop and publish policy related to productive capacity of former mine sites, maintenance of carbon and hydrological cycles, and natural and cultural heritage, in relevant Forest Management Systems.	2004	Achieved in part	Achieved in part	Achieved in part. ³⁶

³³ The Independent Reviewer assessed this commitment as “Achieved”

³⁴ See comments for Attachment 6 in section 7.7 below

³⁵ The annual cut was within the sustained yield but the sustained yield itself was substantially less than that in the RFA due to an increase in the area of the CAR Reserve System– see comments for Clauses 65, 75 and 76.

³⁶ This milestone specifically relates to developing and publishing policy in relation to the listed topics. That is, it is taken to mean overarching policy, not operating guidelines or management prescriptions. The report refers to a list of documents relevant to ESFM in Appendix 10 of the report. However, the report does not specifically identify the documents in which the relevant policy sits, or the status of any policy contained within any of the documents.

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
Att 5.3	Introducing into the Western Australian Parliament a revised/new Wildlife Conservation Act and, then reviewing nature conservation strategies, taking into account the recommendations of the Independent Expert Advisory Group.	Not specified	Achieved in part	Achieved in part ³⁷	Achieved in part
Att 5.4	Western Australia will introduce into the Western Australian Parliament amendments to the <i>Conservation and Land Management Act 1984</i> (WA) to remove the Executive Director of CALM as a member of the Lands and Forest Commission and the National Parks and Nature Conservation Authority.	By Nov 1999	Achieved		
Att 5.5	Western Australia will update processes to allow a more efficient consideration of social, economic and environmental implications in the development, approval and ongoing audit of compliance with forest management plans.	Prior to FMP	Achieved	Achieved ³⁸	Achieved
Att 5.6	Western Australia will revoke and replace previous ministerial conditions by conditions consistent with the terms of each new Forest Management Plan.	At the time of FMP	Achieved	Achieved ³⁹	Achieved
Att 5.7	Western Australia will update appropriate policy documents related to Mining of forested areas in the Region to reflect a commitment to the principles of ecologically sustainable forest management.	2004	Achieved in part	Achieved in part	Achieved in part ⁴⁰
Att 5.8	Western Australia will review the present strategies and operations to ensure they include formal requirements for conservation or re-establishment of all forest values, including productive capacity, on former Mining sites, consistent with principles of ecologically sustainable forest management.	2004	Achieved in part	Achieved in part	Achieved in part ⁴¹

³⁷ The Biodiversity Conservation Bill 2015 was substantially developed during Period 3 and introduced into WA's Parliament in November 2015.

³⁸ The report *Forest Management Plan 2004–2013 End-of-term audit of performance report* included an assessment of performance measured against a range of KPI targets helped guide and inform the development of the FMP 2014–2023.

³⁹ The ministerial conditions imposed under the EP Act on the FMP 2004–2013 were revoked and replaced in the FMP 2014–2023.

⁴⁰ The parties may wish to consider whether WA should continue to pursue the full achievement of this commitment as currently worded. Mining is subject to the operation of the *Environmental Protection Act 1986*, the objects and principles of which appear to be more directly relevant to mining than the principles of ESFM.

⁴¹ See footnote above for Milestone 7 of Attachment 5.

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
Att 5.9	Western Australia will give consideration to review the CALM fire process at the next review of these processes, in regard to the setting of priorities for the use of prescribed fire and the weighting given to different values.	2000	Achieved	Achieved ⁴²	Achieved
Att 5.10	Western Australia will review the Code of Practice for Timber Harvesting in Western Australia (April 1997), Timber Harvesting in Western Australia (January 1996) with a view to making them easier for field operators and field staff to understand.	2000	Achieved		
Att 5.11	Releasing, where appropriate, draft policy statements for public comment prior to finalisation	On-going	Achieved	Achieved	Achieved
Att 5.12	Western Australia will develop a system of pre-logging fauna assessment to be implemented by the commencement of the next FMP.	2004	Achieved	Achieved	Achieved
Att 5.13	Western Australia will establish a joint CALM and Western Australian Museum committee to jointly assess priorities for collection of fauna data and to maintain a consolidated database.	1999	Achieved in part	Achieved	Achieved in part ⁴³
Att 5.14	Western Australia will develop a formal process to appraise and consider data requirements to support assessment of risks to biodiversity.	2000	Achieved in part	Achieved in part	Achieved in part.
Att 5.15	Western Australia will assess cultural heritage resources and develop databases and integrate the conservation of cultural heritage values into the forest management and planning process.	2000	Achieved	Achieved	Achieved
Att 5.16	In addition to current (about two yearly) internal reviews, implementing periodic (about five yearly) external review of the Code of Practice for Timber Harvesting in Western Australia.	On-going	Achieved	Achieved	Not achieved ⁴⁴

⁴² Major updates were made to guidelines and supporting documents relating to the use of prescribed fire, wildfire threat analysis process, development of regional fire management plans. Upgraded emphasis was given to biodiversity and other forest values including ongoing adaptive management under a drying climate.

⁴³ The joint committee was not formed. However, the Parties report that the intent of the milestone is achieved through ongoing liaison between Parks and Wildlife and the WA Museum regarding data sharing and the assessment of priorities.

⁴⁴ The code covering native forests has not been reviewed – see comments in section 7.3.3 below.

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
Att 5. 17	Implementing processes for the formal involvement of CALM Regional and District staff in setting priorities for research and development, and in planning the implementation of research results in forest management.	On-going	Achieved	Achieved	Achieved
Att 5. 18	Defining water quality more explicitly in the relevant Codes of Practice at the next review of these documents.	On-going	Achieved	Achieved	Achieved.
Att 5. 19	Reviewing skill requirements, staff training, and the contracting of external services to facilitate timely access to the range of skills needed to implement ESFM.	On-going	Achieved	Achieved	Achieved in part ⁴⁵
Att 5. 20	Investigate a cross-agency cultural and natural heritage research program.	On-going	Achieved	Achieved	Achieved ⁴⁶
Att 5. 21	Implementing a regional-level forest health surveillance system (including private forests) to provide early warning of potential pest disease and weed problems, develop an associated action plan, and undertake risk analyses for likely incursions or outbreaks.	On-going	Achieved in part	Achieved in part	Achieved in part ⁴⁷
Att 5. 22	Completing and using soil and landform assessment methods, and developing guidelines for using this information in planning in the southern forests.	On-going	Achieved	Achieved	Achieved
Att 5. 23	Collating and maintaining a database on forest soils (including soil nutrients) and carbon, using data from researchers within and outside CALM.	On-going	Not achieved	Achieved in part ⁴⁸	Achieved in part
Att 5. 24	Developing mechanisms in consultation with harvesting operators for fostering research and development in harvesting techniques and promoting the transfer of new technology.	On-going	Achieved	Achieved	Achieved

⁴⁵ The report outlines the corporate commitments to skills development and provides data on enrolments for technical level training at certificate and diploma levels. It does not provide any information with respect to reviewing skill requirements and staff training at other levels, including managerial and specialists, or discuss gaps/trends etc. in the range of skills needed to implement ESFM.

⁴⁶ There is no formal mechanism in place but collaborative work is done across different agencies

⁴⁷ Private forests are not specifically captured in the forest health surveillance systems

⁴⁸ Soil landform maps continued to be used to inform harvest planning and the management of erosion and soil compaction risks through a two-stage approvals process. While there is no formal process in place to update soil data, field assessment continues to inform continual improvement in the understanding of soil disturbance and timber harvesting.

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
Att 5.25	Furthering the development of CALM's social and economic research program.	On-going	Achieved	Achieved	Achieved in part ⁴⁹

7.3.2. Issues raised in submissions

Five submissions (5, 6, 7, 9, 10) put forward the view that the FMP does not deliver ESFM or adequately consider climate change (Issue 13).

Five submissions (1, 5, 6, 9, 10) argued that the WA RFA and FMP are not being adequately implemented or enforced (Issue 7). These submissions raised concerns about issues such as- recurring multiple breaches of the FMP; failure of government agencies to comply with their own management systems; inadequate penalties for breaches and a lack of enforcement powers for third-parties. One of these submissions alleged that (some) relationships between government and industry involved conflict of interest and/or corruption however no evidence was submitted to support this allegation.

7.3.3. Reviewer's comments

General issues relevant to ESFM are discussed in section 6.1.2 of this report. Comments on specific issues are below.

Climate change

Several submissions raised concerns about the interaction between climate change and forest management. The Independent Reviewer for the report on Periods 1 & 2 recommended that the Parties ensure that climatic trends are considered in future forest management planning and management (see Table 3). The Joint Government Response submitted that planning for climate trends is effectively accounted for in 10-yearly intervals through the development of the forest management plan. The report for Period 3 indicates that climate change vulnerability is being addressed through research and monitoring (e.g. *FORESTCHECK* monitoring program) and through reviews that contributed to the formulation of the FMP (e.g. the report *Vulnerability of Forests in South-West Western Australia to Timber Harvesting under the Influence of Climate Change*⁵⁰).

Compliance framework

Several submissions articulated a marked lack of confidence in the state's audit and compliance framework. The FPC has achieved the requirements of the WA RFA with respect to environmental management system certification under ISO14001. Furthermore, it gained forest management certification under the Australian Forestry Standard (AFS) (AS4708—2007) in 2009 and received Forest Stewardship Council (FSC) Controlled Wood certification for karri forest harvesting and regeneration in 2014. External audits are undertaken under the above certifications. In addition, various governmental audits are carried out by the Department of Parks and Wildlife (DPaW) and the Conservation Commission. The Department of Parks and Wildlife generally deals with non-

⁴⁹ The Parks and Wildlife Social Research Unit has a coordinated and comprehensive approach to social research in relation to Parks and Wildlife-managed land and waters. The report cites research into the socio-economic situation relevant to changes in the forest industry that was published in 2008. There appears to have been no further research relevant to this sector during Period 3.

⁵⁰ (Maher, McCaw, L., & Yates, C., 2010)

conformances with the FMP by issuing Work Improvement Notices. Performance reports are submitted to the Conservation Commission, which reports to the Environment Minister.

The view of the Independent Reviewer is that WA has a very comprehensive system in place to monitor forestry operations. However, there are certain aspects of the compliance framework that could be reviewed to address some of the concerns raised in submissions, as follows-

- *Roles and responsibilities of organisations* – The FPC, DPaW and the Conservation Commission are all involved in monitoring and reporting at varying levels. The methodology used is comprehensive but much of it is not publicly accessible. The role and hierarchical relationship of each level of monitoring should be clarified in an easy to understand format for the public and published in departmental websites and annual reports.
- *Consolidation of monitoring procedures and reports* – The outcomes of monitoring by the various government bodies are not collated into an overall monitoring report. The findings of the independent auditors under the AFS are not published on the FPC website, although a request for a summary of the audit results can be submitted to FPC.
- *Clarification of enforcement procedures and reporting* – The WA RFA and FMP are virtually silent on enforcement procedures for the FMP. The corporate policy of the DPaW is to adopt a ‘cooperative compliance model of regulation’ for the forest products industry⁵¹, with an emphasis on encouraging compliance through providing information and education⁵². This approach to regulation is not inappropriate but it does contribute to the perception of some that the enforcement of the FMP is light-handed. This perception is not helped by the paucity of public reporting of the number of investigations undertaken into alleged offences related to the FMP and the outcomes of such investigations and actions taken.

Recommendation 12 - WA considers reviewing its regulatory framework to-

1. Develop an annual consolidated compliance monitoring report for the FMP, to clearly outline: the respective roles and responsibilities of organisations; the methodology for monitoring; the periodicity of reporting (e.g. annual and five-yearly); and the consolidated results of monitoring, including trend data from previous reports.

2. Improve the manner in which the nature, number and outcomes of investigations, including enforcement actions, are transparently reported in publicly-available reports (e.g. annual and five-yearly reports).

Codes of Practice

Point 16 of Attachment 5 of the WA RFA provides for “periodic (about five yearly) external review of the Code of Practice for Timber Harvesting in Western Australia”. The code (versions in 1997 and 1999), and the associated Manual of Management Guidelines for Timber Harvesting in Western Australia (versions 1996 and 1999) cover both native forests and plantations. Both documents are very dated and are no longer in use (although their demise has not been formally noted in departmental websites or in the progress report for Period 3 of the WA RFA). The plantation sections of the code were revised in 2006 into a new *Code of Practice for Timber Plantations in WA*, which is a voluntary code produced by the Forest Industries Federation (WA). The CSIRO review of 2012, mentioned in the report, only dealt with the plantation code.

⁵¹ (Department of Parks and Wildlife, 2015)

⁵² (Department of Parks and Wildlife, 2016)

The elements of the original codes that are relevant to native forests are now covered by the FMP and a set of comprehensive guidance documents (procedures) for planning and implementing field activities. The documents are issued to logging contractors and their knowledge of the documents is checked during the audit process. The scope of the current review did not allow the Independent Reviewer to assess the practicality of these documents for field operators, however, experience in other jurisdictions highlights the benefit of translating such management guidelines into a form suitable for the relevant demographic, particularly for groups with varying levels of education, language and literacy.

Recommendation 13 – WA considers the need to translate the forest management guidance documents into a condensed and practical form suitable for use by forest contractors and operators.

Skills needed to implement ESFM

Attachment 5 (Point 19) provides for the ongoing review of “skill requirements, staff training, and the contracting of external services to facilitate timely access to the range of skills needed to implement ESFM”. The report outlines the corporate commitments to skills development and provides data on enrolments for technical level training at certificate and diploma levels. However, it does not provide any information with respect to reviewing skill requirements and staff training at other levels, including managerial and specialists, or discuss gaps/trends etc. in the range of skills needed to implement ESFM under the FMP.

Australia’s State of the Forests Report⁵³ shows that direct employment in the forest sector declined by 14.3% across the nation between 2006 and 2011. There are no data on trends for the forest sector in WA or any breakdown on the human resources involved in ESFM across the forest estate, including employment in conservation reserves, forest-based tourism etc. This deficiency is significant given the importance of employment as a key indicator of ESFM and a key factor in the debate about the socio-economic benefits or otherwise of alternate forest uses, as reflected in the arguments made in the public submissions on the report for Period 3.

Recommendation 14 - The Parties consider how trends in employment and skills that are directly and indirectly related to activities under the FMP can be better captured for reporting under the ESFM framework.

Impact of mining on the ESFM framework

Milestones 7 and 8 of Attachment 5 provide that the mining of forested areas should reflect a commitment to the principles of ecologically sustainable forest management, including formal requirements for conservation or re-establishment of all forest values, including productive capacity.

Mining in WA affects large areas of the forest estate, leaving many areas in a substantially altered state. The report for Period 3 does not comment on the degree to which the rehabilitation of mining sites contributes to the principles of ESFM and the long-term maintenance of forest values. The reviewer notes that mining is subject to the operation of the *Environmental Protection Act 1986*, the objects and principles of which appear to be more directly relevant to mining than the principles of ESFM.

⁵³ (Montréal Process Implementation Group for Australia and National Forest Inventory Steering Committee, 2013)

Recommendation 15 – The Parties clarify the extent to which mining sites, following rehabilitation, are expected to contribute to the principles of ESFM and to the long-term maintenance of forest values and ecological health.

Private forests

See comments in section 7.7.3 of this report.

7.4. Monitoring, Reporting and Consultative Mechanisms

7.4.1. Progress

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
46	Western Australia will report on the results of monitoring of sustainability indicators as a part of each five-yearly review/report on performance.	2004	Achieved in part		
		2009	Achieved in part		
		2014		Achieved in part	Achieved in part ⁵⁴
47	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.	On-going	Achieved	Achieved	Achieved. Also, see comments for Attachment 4 below.
Att 4.1	Western Australia will review the processes for the involvement of communities in planning for cultural heritage conservation.	2002	Achieved	Achieved ⁵⁵	Achieved
Att 4.2 and 4.3	2. Western Australia intends to consult a peak stakeholder committee, comprising a wide range of interests, on research priorities within CALM. 3. Western Australia will establish 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.	1999	Achieved ⁵⁶	Achieved ⁵⁷	Achieved in general ⁵⁸

⁵⁴ The report for Period 3 contains an outline of the reporting mechanisms for sustainability indicators. However, the results of monitoring of sustainability indicators were not provided as part of the report for Period 3, other than by reference to the results published in 2012 in the *Forest Management Plan 2004–2013 End-of-term audit of performance report*.

⁵⁵ The Parties continue to review the process for involving the community in planning for cultural heritage and conservation.

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
Att 4.4	Western Australia will extend the use of operational planning on a periodic and integrated basis and introduce the opportunity for public examination of “look ahead” plans.	2002	Achieved	Achieved	Achieved
Att 4.5	Western Australia will consider publishing medium-term fire management plans which include an outline of the ecological basis for burning regimes.	2000	Achieved	Achieved	Achieved ⁵⁹

7.4.2. Issues raised in submissions

There were no specific issues raised in submissions.

7.4.3. Reviewer’s comments

The Independent Reviewer for Periods 1 & 2 recommended a review of the WA ESFM indicators to ensure that they adequately address the Montréal Process Criteria. This was done and the report for Period 3 outlines how WA’s reporting aligns with the national indicators, primarily through 24 KPIs within the FMP 2014-23, as well as FPC key effectiveness indicators and other sources. However, a consolidated set of indicators were not provided as part of the report for Period 3.

The FMP requires two performance reports on the KPIs at the mid and end points of the FMP’s duration. The most recent performance report on the KPIs in the FMP was published in 2012⁶⁰, two years before the end of WA RFA Period 3. Parks and Wildlife and the FPC report annually on a range of indicators. However, the various indicators from these sources are not collated into a single report.

See Recommendation 7.

⁵⁶ The Independent Reviewer noted: “Milestones 2 and 3 below appear to overlap but achieved for most of Period 2....not clear that the Research Advisory Committee was active at the end of Period 2”).

⁵⁷ The Research Advisory Committee established in 2004 is no longer active. The intent of the milestone is being met through other processes such as external reports and collaboration with universities and CRCs.

⁵⁸ See comments for recommendations 4 and 10 in Table 3 of this report.

⁵⁹ An outline of the ecological basis for burning regimes is not specifically included in the fire management plans but this information is available elsewhere in the system.

⁶⁰ (Conservation Commission of Western Australia, 2012)

7.5. Accreditation

7.5.1. Progress

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
48	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.	On-going	Achieved	Achieved	Largely achieved ⁶¹
50	Western Australia will address the improvements recommended in the Turner Report prior to the development of the next Forest Management Plan.	Prior to the FMP	Achieved		
50	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 be maintained and yield and planning databases and systems, as amended by this Agreement, will be enhanced.	2004 and on-going	Achieved	Achieved ⁶²	Achieved ⁶³

7.5.2. Issues raised in submissions

See the issues raised in section 7.3.2 above.

7.5.3. Reviewer's comments

See the comments in section 7.3.3 above.

⁶¹ Most, but not all, of the improvements have been made. See comments for Attachments 5 and 6.

⁶² Methods used to calculate the sustained yield were reviewed by independent experts for the FMP 2004-13 and FMP 2014-2023.

⁶³ Mensuration processes were comprehensively enhanced during Period 3.

7.6. Sustainability Indicators

7.6.1. Progress

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
51	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.	On-going	Achieved	Achieved	Achieved
52	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.	2004	Achieved		

7.6.2. Issues raised in submissions

There were no specific issues raised in submissions.

7.6.3. Reviewer's comments

The sustainability indicators were reviewed during Period 3. However, the results from the monitoring of the various sustainability indicators were not provided as part of the report for Period 3 – see section 7.4.3 above.

7.7. Private Land

7.7.1. Progress

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
53	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.	On-going	Achieved	Achieved ⁶⁴	Achieved
54	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.	On-going	Achieved	Achieved	Achieved in part ⁶⁵
55	Western Australia will adopt the strategy and principles outlined in Attachment 6 in relation to Private Land.	On-going	Achieved	Achieved	Achieved in part (see Att 6 below)
Att 6	<p>Strategy for Improving Ecologically Sustainable Forest Management on Private Land</p> <p>Western Australia will seek to ensure that ecologically sustainable forest management of native vegetation on private land is managed through:</p> <ul style="list-style-type: none"> a) encouraging industry to implement the Codes of Practice on a voluntary basis on Private Land b) continuing to improve the efficiency and effectiveness of instruments and mechanisms for promoting ecologically sustainable forest management of remnant native vegetation on private land; c) publishing a brochure or information sheet for landowners that briefly describe the Forest Management System for private land. This document will encompass both native forests and plantations and the points of contact for the various mechanisms and instruments. 	On-going	Achieved	Achieved ⁶⁶	<p>Achieved in part.</p> <p>Government programs and resources to promote ESFM on private land have declined.</p>

⁶⁴ The clearing or logging of native vegetation on private land continues to be regulated under the *Environmental Protection Act* and the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*.

⁶⁵ Government programs and resources to promote these measures on private land have declined.

⁶⁶ A booklet, *Managing private native forests and woodlands in the south-west of Western Australia: combining wood production and conservation* was published in 2005.

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
	Principles for the Protection of CAR Values on Private Land <i>(This section lists the principles and elements of the strategy for the protection of CAR values on private land. It includes the key objective- 'to seek to increase the level of protection for forest ecosystems where achievement of the JANIS targets is not possible on Public Land').</i>	On-going	Achieved	Achieved	Achieved

7.7.2. Issues raised in submissions

There were no specific issues raised in submissions.

7.7.3. Reviewer's comments

Overall, government programs and resources to promote ESFM on private land have declined during Period 3, as evidenced by the following-

- *Lack of accurate updated mapping of the private forest estate* (see section 7.9.3 of this report). The lack of updated mapping implies a commensurate lack of data about the natural and cultural values on forested private land, which is likely to be an ongoing constraint on the achievement of ESFM across the full landscape.
- *Lack of recognition of the contribution of private land to the CAR Reserve System.* Attachment 6 of the WA RFA contains specific objectives for the protection of CAR values on private land, including the need to increase the protection of five forest ecosystems where the achievement of the JANIS targets was not possible on public land. The progress report (Table 12 in Appendix 1) shows that the targets have been generally achieved in the five forest ecosystems. However, the report contains no specific information or commentary with respect to the relative contribution of private land to meeting those targets.
- *Lack of strategic management plan for the private forest estate.* The FMP 2014-2023 only covers lands vested in the Conservation Commission⁶⁷. A booklet *Managing private native forests and woodlands in the south-west of Western Australia: combining wood production and conservation* was published in 2005 with the aim of assisting landowners develop management plans for their native forests. However, the reviewer could not find a copy of this booklet on any government website, or any other information relating to the management of private forests other than two programs: *Land for Wildlife* and the *Nature Conservation Covenant Program*. There appears to be no overall strategic plan to foster ESFM on private land.
- *Reduction in programs and services* - The report for Period 3 advises that some programs relevant to private forests have ceased. The WA RFA (Attachment 6) refers to *the Farm Forestry Advisory Service* and the progress report for 1999-2009 (Periods 1 & 2) states – *The FPC provided further assistance to private forestry through farm forestry development officers. The role of these officers was to give information and practical help to support farmers with integrated farm planning, species selection, plantation establishment and silviculture. These*

⁶⁷ (Conservation Commission of Western Australia, 2013)

officers helped ensure all management was based around sound environmental principles and that all codes of practice were followed to ensure a sustainable system. The reviewer understands that the FPC no longer employs these officers or conducts such advisory programs.

Recommendation 16 – WA clarifies the role and contribution of private forests to the objectives of the WA RFA and the current mechanisms for fostering ESFM on private land, including the mapping of forest ecosystems and inventory of known or predicted values.

7.8. Threatened Flora and Fauna

7.8.1. Progress

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
56	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	On-going	Achieved (re-affirmed)	Achieved in part	Achieved ⁶⁸
57	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).	On-going	Achieved	Achieved ⁶⁹	Achieved

⁶⁸ Clause 56 is a statement, not an action. The statement has been ‘achieved’ (or ‘re-affirmed’) to the extent that the Parties continued to agree with the intent of this clause

⁶⁹ Threatened species recovery plans (including replacement recovery plans) were approved for 17 species by WA and adopted at a national level under the EPBC Act in Period 3. A further three plans were adopted in 2014 outside of the reporting period. Threatened species interim recovery plans (including replacement recovery plans) were approved for 17 species by WA for Period 3. Not all were considered for adoption under the EPBC Act as not all were required to have a recovery plan.

58	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).	On-going	Achieved	Achieved ⁷⁰	Achieved
59	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.	On-going	Achieved	Achieved ⁷¹	Achieved
60	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 WA RFA).	On-going	Achieved	Achieved ⁷²	Achieved
61	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 the Recovery Plans.	On-going	Achieved	Achieved ⁷³	Achieved

⁷⁰ Recovery plans or conservation advice for 13 threatened ecological communities were approved in Period 3. Four national Threat Abatement Plans were in place or under review during Period 3.

⁷¹ One cross-jurisdictional threatened species recovery plan was approved in Period 3.

⁷² The parties agreed to establish new listing procedures during Period 3.

⁷³ The parties reviewed the implementation of actions from eight recovery plans in Period 3.

62	The Parties note and Western Australia reaffirms its commitment to implement plant disease, weed and feral animal control strategies, including monitoring and evaluation procedures, in accordance with Western Australia's Forest Management System.	On-going	Achieved	Achieved	Achieved. Significant advances were made in Period 3.
63	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.	On-going	Achieved	Achieved	Achieved. Significant advances were made in Period 3.

7.8.2. Issues raised in submissions

Five submissions (1, 5, 6, 10, 11) argued that the WA RFA had failed to protect biodiversity and that the exemption from the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* should be removed (Issue 8).

7.8.3. Reviewer's comments

The commitments relating to threatened flora and fauna were achieved. The submissions above essentially contend that the rationale for Clause 56 is flawed, that is, the submitters do not accept the premise that the "CAR Reserve System, actions under the *Wildlife Conservation Act 1950 (WA)* and the *Endangered Species Protection Act 1992 (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". It is relevant to note that the WA RFA does not require the Parties to demonstrate that these values are [in fact] protected. Rather, the WA RFA simply states that the Parties agree that the mechanisms in Clause 56 provide for their protection⁷⁴.

In addition to natural disturbance regimes, anthropogenic activities have an impact on biodiversity to varying degrees and scales in time and space. It is outside the brief of the current review to evaluate the extent to which the provisions of Clause 56 of the WA RFA protect threatened species and ecological communities. However, the submissions demonstrate that there are widely differing interpretations and expectations with respect to the role of the WA RFA in providing protection, and specifically, the relative contribution that should be made to the conservation of these values from forests outside of reserves, including private land.

See discussion and recommendations under section 6.1.2 of this report.

⁷⁴ This interpretation is based on the decision of the Full Court of the Federal Court (*Forestry Tasmania v Brown* [2007] (Federal Court of Australia Full Court, 2007))

7.9. The CAR Reserve System

7.9.1. Progress

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
64	The Parties agree that the primary function of the CAR Reserve System is to ensure the conservation and protection of environmental and heritage values.	On-going	Achieved	Achieved	Achieved
65	The Parties agree that the CAR Reserve System established in accordance with this Agreement will comprise: (a) On Public Land as described in Attachment 1 and Map 1: (i) Formal Reserves; and (ii) CAR Informal reserves as described in Attachment 1; and (b) On Private Land as described in Attachment 1: (i) lands with CAR Values protected under secure management arrangement by agreement with private landholders; (c) On State-owned freehold land and Commonwealth land as described in Attachment 1: (i) lands with CAR Values protected under secure management arrangement by the landholders or managing authority.	On-going	Achieved ⁷⁵	Achieved	Not achieved ⁷⁶
66	The Parties agree that the CAR Reserve System established under this Agreement meets the JANIS Reserve Criteria as defined in Clause 2.	On-going	Re-affirmed	Achieved	Achieved to the extent that the Parties did not make any changes to the wording of this clause.

⁷⁵ The Independent Reviewer commented- “Achieved with additional reservation beyond that agreed in the RFA although it has not been possible to meet reservation targets for some small ecosystems under represented on public land”.

⁷⁶ The report shows that, in general, the levels of reservation exceeded, and were therefore not in agreement with, those agreed by the Parties in the RFA. See comments in section 7.9.3 below.

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
67	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.	On-going	Achieved ⁷⁷	Achieved	Not achieved ⁷⁸
68	The Parties note that a reconfiguration of the stream reserve system has been recommended by the Western Australian Water and Rivers Commission. 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.	On-going	Achieved ⁷⁹	Achieved	Achieved
69	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.	On-going	Achieved	Achieved	Achieved
Att 1, par 1-5 and 16	Western Australia will finalise reserve boundaries on 1:25,000 maps to enable gazettal.	By Oct 1999	Achieved	Achieved	Achieved, but also see comments for Clause 95(a).

⁷⁷ The Independent Reviewer made the following assessment- "Achieved in part. The CAR reserve system agreed in the RFA was implemented plus additional forest reservation unilaterally enacted by WA".

⁷⁸ Changes were made to the CAR Reserve System that did not comply with this clause (see comments for Clause 65).

⁷⁹ The Independent Reviewer made the following assessment- "Achieved. Review was undertaken but no changes made in the FMP 2004-2013".

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
Att 1, par 6-9	WA will <ul style="list-style-type: none"> - retain the classification of reserves in the FMP that are not subject to changes in the WA RFA - continue to manage State forest proposed as formal reserve in the FMP 1994-2003, but now intended to remain as state forest, as reserve until a new FMP is gazetted - prepare interim management guidelines for CALM-managed lands within 12 months of the date of this Agreement. 	May 2000	Achieved in part	Achieved in part	Achieved in part. See comments for clauses 70 and 95(a).
Att 1, par 10-20	<i>(various commitments relating to the management of CAR informal reserves in State forest)</i>	On-going	Achieved in part	Achieved	Achieved
Att 1, par 21-23	<i>(various commitments relating to the management of CAR informal reserves on Commonwealth land)</i>	On-going	Achieved in part	Achieved in part	Achieved in part
Att 1, par 24	The Commonwealth will include CAR Informal Reserves in future Environmental Management Plans (EMP) for the Bindoon Training Area. A revised EMP including this CAR Informal Reserve will be prepared with public participation, by the year 2003, subject to national security considerations.	2003	Achieved		

7.9.2. Issues raised in submissions

Three submissions (4, 8, 12) argued that the CAR Reserve System had not been achieved as laid down in the WA RFA because it exceeded the agreed levels, resulting in a significant reduction in the sustained wood yield available to industry (Issue 10).

7.9.3. Reviewer's comments

The report does not clearly set out the progressive changes in each of the elements of the CAR Reserve System against the commitments of the WA RFA over time. There are some anomalies in the data that require correction/clarification. For example, Attachment 1 of the WA RFA provides that the CAR Reserve System will total 1,047,201 ha. Appendix 1 of the progress report states that "As at December 2014, the CAR reserve system totalled 1,292,454 ha", i.e. an increase of 245,253 ha above the level agreed in the WA RFA. In Table 12 the total CAR is given as 1,291,774 ha⁸⁰, i.e. an increase of 244,573 ha. However, the response under clause 67 of the report states – "The CAR reserve system, as outlined in Attachment 1 of the WA RFA, was enhanced by 187,250 ha of additional reserves".

⁸⁰ WA has subsequently advised the Independent Reviewer that the correct figure is 1,292,454 ha

The data in Table 12 of the report are constrained by the lack of accurate forest areas for private land. The footnote to Table 12 reads- “The extant area of each forest ecosystem was derived for the 1999 WA RFA by adding an estimated area on private land to a spatially represented area on public land. In 2014, present areas are provided for public land only in the absence of recalculated estimates for private land”. The area of public land shown in the report is 11% less than the area of public and private land shown in the WA RFA (Table 1, Attachment 1) with differences of up to 45% for individual forest ecosystems. Hence, whilst the report shows that the CAR reservation targets have been achieved or exceeded, it does not provide data on the coverage of forest ecosystems on private land or the levels of reservation as a percentage of the total area of each ecosystem.

The report for Periods 1 and 2 shows that, in general, the levels of reservation exceed those agreed by the Parties in the WA RFA. A further 21,884 ha were added to the CAR Reserve System in Period 3. For some elements, e.g. old growth forest, the reservation levels are 36% above the area agreed in the WA RFA. Whilst the additional reservation may be viewed in a positive light as an ‘over-achievement’ for the CAR Reserve System, it is technically non-compliant with the WA RFA since there was no agreement between the Parties to amend Clause 65 or Attachment 1 pursuant to Clause 8 of the WA RFA. Furthermore, the additional reservation had consequences for the achievement of other commitments, particularly those relating to the supply of wood (see comments for Clauses 71-80).

7.10. Action to establish and manage reserves

7.10.1. Progress

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
70 (a)	The State undertakes to manage the areas in the CAR Reserve System identified in Attachment 1, 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	On-going	Achieved	Achieved	Achieved ⁸¹

⁸¹ The areas were mapped and treated as reserves through internal operational procedures

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
70 (b)	Western Australia will within one year of the date of this Agreement, subject to section 9(2) of the CALM Act, establish new formal reserves under the <i>Land Administration Act 1997</i> (WA) where: (i) they were proposed in the Forest Management Plan 1994-2003; and (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)	By May 2000	Achieved (outside proposed timeline) ⁸²	Achieved (outside proposed timeline)	Achieved in part ⁸³
70 (c)	Western Australia will, within 6 months from the date of this Agreement, classify all proposed Formal reserves other than those in (b) above as "Forest Conservation Zones" under Section 62 of the CALM Act, where: these areas are State forest or timber reserves; this will be the final classification; or this will be an interim classification prior to classification under the <i>Land Administration Act 1997</i> (WA).	By Nov 1999	As above for 70 (b)		
70 (d)	Western Australia will, 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.	By Aug 1999	Achieved		
70 (e)	Western Australia will introduce an amendment to the CALM Act into the Western Australian Parliament by 31 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	31 Dec 1999	Achieved		
70 (f)	Western Australia will establish the proposed new informal reserves, as identified in Attachment 1, in the next Forest Management Plan.	2004	Achieved		

⁸² The Independent Reviewer made the following assessment "Categorisation of forest reserves did not occur during Period 1 or 2 but the intent remains".

⁸³ 88% of the reserve area was established as at the time of the end of term report on the FMP (2004-2013) and the Independent Reviewer understands that there has been little change since then.

7.10.2. Issues raised in submissions

No substantive issues were raised in submissions.

7.10.3. Reviewer's comments

As noted in the footnote to Clause 70(b), the end of term report on the FMP (2004-2013)⁸⁴ showed that 88% of the reserve area was established by 2012, with 12% outstanding at the end of Period 3.

7.11. Industry Development and Assistance

7.11.1. Progress

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
71	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.	On-going	Achieved in part	Achieved in part. Proposed additions to the CAR reserve system were not available for timber harvest.	Not achieved to the extent that not all areas outside of the CAR Reserve System (as agreed under the WA RFA) were available for harvest. ⁸⁵
72	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.	On-going	Not achieved ⁸⁶	Not achieved	Not achieved due to the continuation of changes to sustained yield made in Periods 1 & 2. ⁸⁷

⁸⁴ (Conservation Commission of Western Australia, 2012)

⁸⁵ See comments for Clause 65.

⁸⁶ The additions to the reserve system reduced the available sawlogs by 54 per cent for jarrah resource and 70 per cent for karri resource, relative to the agreed figures in Clause 75 of the WA RFA. (NB The Independent Reviewer noted that these reductions resulted in "significant industry restructuring and downsizing together with impacts on timber dependent communities").

⁸⁷ No further changes were made in Period 3. See comments for Clause 65.

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
73	<p>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 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. The Agreement will facilitate industry development including:</p> <p>(a) new investment, plantation development, reforestation, downstream processing, value-adding and jobs growth in wood-based manufacturing industries;</p> <p>(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;</p> <p>(c) investment in Mineral and Petroleum Exploration, Mining and Mineral processing and Petroleum Operations; and</p> <p>(d) tourism and recreation investment.</p>	On-going	Achieved in part	Achieved in part	Achieved in part. This clause was not achieved for the timber industry. Achieved to some degree for non-timber sectors.
74	<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>	On-going	Achieved	Achieved	Achieved

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
75	<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, 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>	On-going	Not achieved	<p>Not achieved.</p> <p>The sustained yield settings and area of native forest available for timber harvest were substantially reduced during the first two terms of the Agreement.</p>	Not achieved
76	<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>	On-going	Not achieved	<p>Not achieved.</p> <p>(as for Clause 75 above)</p>	Not achieved

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
77	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.	On-going	Achieved in part	Achieved in part. ⁸⁸	Achieved in part
78	Wherever possible Western Australia will continue to enhance silvicultural programs and reforestation works to improve the productive capacity of State forests.	On-going	Achieved	Achieved	Achieved ⁸⁹
79	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).	On-going	Achieved ⁹⁰	Achieved	Achieved in part (see comments for Attachment 14 below).
80	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.	On-going	Achieved in part	Achieved in part ⁹¹	Achieved in part ⁹²

⁸⁸ Sawlog specifications were reviewed in Period 3 and provision has been made for both bole and sawlog sales

⁸⁹ However, the area of jarrah and karri regrowth forest thinned was less than the area provisionally scheduled for thinning in Period 3 due to reduced market for low grade wood. These necessitated adjustments to the sustained yield for the FMP 2014–2023.

⁹⁰ The Independent Reviewer assessed this commitment as “Achieved in part”.

⁹¹ The wood contracts remain locked in to the 10-year period of a FMP. Some level of security is provided though the option of Investment Security Guarantees (ISGs), which give a capacity to seek compensation if contracted supply is reduced by changes in government policy.

⁹² Mechanisms were explored (ISGs). However, resource security remains a major concern for the forest industry.

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
Att 14	Implementation of the Forest Employment and Industries Development strategy and joint Commonwealth- WA Forest Industry Structural Adjustment Program (WA FISAP) [as detailed in the Attachment].	On-going	Achieved in part	Achieved in part	Achieved in part ⁹³
98	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.	On-going	Achieved	Achieved	Achieved

7.11.2. Issues raised in submissions

Three submissions (4, 8, 12) argued that the WA RFA has not provided resource security or fostered industry development (Issue 9). One submission (3) recommended that the report should be amended to correct some details relating to the mining and petroleum sectors (refer to section 7.2.3 above and to Recommendation 8 and Recommendation 10). Two submissions (7, 12) argued that the funding of tourism and recreation is directed towards national parks at the expense of other forest areas (Issue 16).

7.11.3. Reviewer's comments

There was little evidence of new investment or forest industry development during Period 3. The plantation estate declined by 41,700ha (9.8 per cent) during the period due to the collapse of companies using Managed Investment Schemes and due to a decision by the government not to replant some areas of harvested pine at Gngangara, Pinjar and Wanneroo. There was limited introduction of new technology or improved utilisation of lower grade wood. The low availability of residue markets continues to restrict the capacity of FPC to achieve optimal silvicultural outcomes, particularly for the thinning of jarrah and karri regrowth, which was well below the levels planned in Period 3 (see Clause 78).

The report shows continued investment in the extractive industries but there is no evidence of any significant additional development during the period. WA continues to provide significant funding for tourism and recreation, much of which has been invested in programs and facilities to support the use of national parks created under the FMP 2004–2013. Two submissions put forward the view

⁹³ The report by the parties shows that further progress has been made with respect to actions relevant to the Strategy and WA FISAP. However, the information provided in the report does not fully or systematically address all of the measures that were to be given priority in implementing the WA FISAP or to the agreed additional research, development and marketing activities identified in Attachment 14.

that the priority given to national parks has made it difficult to attract funding for recreational developments in other forests. These submissions contended that State forests do not provide adequate support for recreation and tourism and, because of this, they argued that State forests should be re-classified as national parks.

The key issue for the forest industry was the failure of the WA RFA to deliver the agreed wood supply, resulting in negative outcomes for industry investment and development. The wood contracts remain locked in to the 10-year period of a FMP. Some level of security was provided though the option of Investment Security Guarantees (ISGs). An ISG was provided to Auswest in 2014. This is a rollover of the existing ISG and addresses possible compensation if a contract is not offered for the period 2024 -2033. However, the forest industry submits that uncertainty over access to resource is hampering investment in the industry.

See Recommendation 6.

7.12. Indigenous Heritage

7.12.1. Progress

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
81	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.	On-going	Achieved	Achieved ⁹⁴	Achieved in modified form. See comments below for Attachment 10.
Att 10.1	Western Australia will develop formal consultation processes with Aboriginal people about policy and procedures for the protection of Aboriginal heritage values on CALM-managed lands	2000	Achieved	Achieved	Achieved
Att 10.2	Western Australia will consult with Aboriginal people on the establishment of mechanisms to enable more effective involvement of Aboriginal people in the protection of culturally significant sites, and the provision of training and employment opportunities.	2000	Achieved	Achieved	Achieved
Att 10.3	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.	1999	Achieved	Achieved	Achieved ⁹⁵

⁹⁴ However, consultation with Aboriginal people on the appropriate management of cultural and heritage values occurs in a modified approach to that envisaged in Attachment 10 of the WA RFA.

⁹⁵ Formal protocols were not developed but processes are in place to meet the objective of this clause.

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
Att 10.4	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 and afford them relevant protection.	2000	Achieved	Achieved	Achieved
Att 10.5	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 lands.	2001	Achieved in part	Achieved in part	Achieved (outside proposed timeline) ⁹⁶
Att 10.6	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.	On-going	Achieved	Achieved	Achieved
Att 10.7	CALM will facilitate the access to and use of CALM-managed forests by Noongars for culturally important activities.	On-going	Achieved	Achieved	Achieved
Att 10.8	CALM will facilitate cross cultural awareness and interpretive activities to inform and educate the wider community about Noongar values and links to the South-West Forest Region.	On-going	Achieved	Achieved	Achieved
Att 10.9	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.	On-going	Achieved	Achieved	Achieved
Att 10.10	CALM field activities will be monitored in relation to protection of Aboriginal sites.	On-going	Achieved	Achieved	Achieved

7.12.2. Issues raised in submissions

One submission (2) advised that progress has been made on the development and execution of Indigenous Land Use Agreements (Issue 11) (refer to sections 7.1.3 above and 7.2.3 above and to Recommendation 8 and Recommendation 10). Two submissions (5, 6) questioned whether local assessments of heritage values were being undertaken before logging (Issue 13).

⁹⁶ The *Conservation Legislation Amendment Act 2011* came into effect in Period 3. This Act provides for joint management of lands and waters between Parks and Wildlife and other parties, including traditional owners. Other sections of the Act enable Aboriginal people to fulfil longstanding aspirations to undertake customary activities such as food gathering, traditional medicine, artistic, ceremonial and other cultural activities on Parks and Wildlife-managed lands and waters.

7.12.3. Reviewer's comments

Progress continues to be made with respect to the commitments. Processes are in place with respect to consultation with the Aboriginal community and procedures for field assessments and management of cultural heritage.

7.13. Other Forest Uses

7.13.1. Progress

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
84	The Parties agree that Forest uses other than timber production will be determined in accordance with Western Australian legislation with due regard for protection of environmental and heritage values.	On-going	Achieved	Achieved	Achieved ⁹⁷
85	The Parties acknowledge that under State arrangements Mineral and Petroleum Exploration, Mining Operations, Petroleum Operations and the establishment of all related infrastructure (including access and transport) is permitted in the CAR Reserve System subject to relevant State approval processes. Western Australia will ensure that environmental assessment procedures will protect and maintain identified CAR Values in a regional context where feasible.	On-going	Achieved	Achieved	Achieved ⁹⁸
86	The parties note that rehabilitation of any Mining site will be in accordance with the provisions of the <i>Mining Act 1978</i> (WA) and will aim to achieve world's best practice.	On-going	Achieved	Achieved	Achieved ⁹⁹

7.13.2. Issues raised in submissions

One submission (3) advised that petroleum activities (as well as mining) were subject to compliance with the State's approval processes, which include the rehabilitation of mine sites (Issue 12).

7.13.3. Reviewer's comments

See section 7.3.3 of this report regarding comments relating to the role of mining etc. in the ESFM framework.

These clauses of the WA RFA contain terms such as 'due regard for protection of environmental and

⁹⁷ The specific meaning of 'due regard for protection of environmental and heritage values' is not clearly defined.

⁹⁸ The assessment process covers CAR values but it is not clear to what extent these activities can be undertaken in a manner that 'will protect and maintain identified CAR values in a regional context where feasible'.

⁹⁹ It is not clear how 'world's best practice' has been defined and assessed

heritage values’ and ‘world’s best practice’, which are not defined and are therefore difficult to assess. The rule-set for determining the level of constraint that may be applied to mining etc. activities in order to ‘protect and maintain identified CAR values in a regional context where feasible’ is not clear (see discussion in section 6.1.2 of this report).

7.14. Competition Principles

7.14.1. Progress

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
87	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.	On-going	Achieved	Achieved	Achieved

7.14.2. Issues raised in submissions

No specific issues were raised in relation to the Competition Principles Agreement, however, six submissions (1, 5, 6, 7, 9, 10) raised concerns about the sustainability of wood production from native forests, including issues related to financial accounting and [lack of] profitability (Issue 6).

7.14.3. Reviewer’s comments

See Recommendation 3.

7.15. Research

7.15.1. Progress

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
88	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 research priorities in Attachment 11.	On-going	Achieved	Achieved	Relevant progress was achieved ¹⁰⁰

¹⁰⁰ See comments for Attachment 11.

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
89	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.	On-going	Achieved ¹⁰¹	Achieved	Achieved to the extent that there are ongoing informal discussions between state and federal bureaucrats
90	The Parties agree to make publicly available, wherever possible, research reports relevant to this Agreement.	On-going	Achieved	Achieved	Achieved
Att 11	Priority areas of research	On-going	Achieved	Achieved	Achieved in part ¹⁰²

7.15.2. Issues raised in submissions

Two submissions (6, 12) suggested that forest research is not adequate and/or that research capacity had declined (Issue 15).

7.15.3. Reviewer's comments

Appendix 6 of the report provides a summary of relevant research that has been conducted. However, it does not systematically or fully address each of the "priority areas of research" listed in Attachment 11 of the WA RFA.

There is no doubt that WA has a very good track record of forest-related research over many years. However, it is not clear from the report whether the research capacity has been maintained, or whether it has declined in recent years as is the case across most of Australia at the national, state and territory levels of government, and within CSIRO and academic institutions¹⁰³. Australia's State of the Forests Report (2013)¹⁰⁴ does not contain a detailed break-down of research capacity by institutions within WA, although it reports that the capacity of the (then) WA Department of Environment and Conservation (DEC) was relatively stable during the period 2005-11 (averaging 20-25 FTEs relevant to sustainable forest management).

The Independent Reviewer for the report on Periods 1 & 2 recommended that "The Government of Western Australia agrees on the mechanism to achieve external input into Research and

¹⁰¹ The Independent Reviewer commented- "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)".

¹⁰² The report refers to relevant research that has been conducted. However, it does not systematically or fully address each of the research topics listed in Attachment 11.

¹⁰³ (Montréal Process Implementation Group for Australia and National Forest Inventory Steering Committee, 2013)

¹⁰⁴ (Montréal Process Implementation Group for Australia and National Forest Inventory Steering Committee, 2013)

Development (R&D) priorities and opportunities to expand cooperative research programmes” (Recommendation 4, Table 3). The Joint Government Response indicated that the existing consultative mechanisms under the FMP and departmental practices took account of input from external parties.

The Independent Reviewer for the combined report for Periods 1 and 2 noted that there had been “relatively steady investment and delivery of [research] outputs but what is lacking is any analysis of the adoption of research into management practice and the impacts of adoption over time”. The reviewer recommended that “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” (see Table 3). In the Joint Government Response, the Parties agreed that such an analysis would be beneficial and WA agreed to assess the adoption of research outputs into management practices as part of the process to determine future research priorities. This action has been addressed in general. The *Science Guidelines*¹⁰⁵ address the translation of research outputs into management practices. Appendix 12 of the report for Period 3 provides very good examples of research findings that have supported the continuing improvement of management practices. In principle, it would be useful to undertake regular review and reporting on the outcomes of all forest-related research projects with respect to the degree of relevance to, and uptake by, forest managers over time.

Recommendation 17 - WA considers undertaking regular review and reporting on the purpose and outcomes of all forest-related research projects with respect to the degree of relevance to, and uptake by, forest managers over time.

7.16. Data Use and Access

7.16.1. Progress

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
91	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.	On-going	Achieved	Achieved	Achieved
92	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.				
93	The Parties will lodge archival copies of CRA data.	By Nov 1999	Achieved		

¹⁰⁵ (Department of Parks and Wildlife, 2015)

7.16.2. Issues raised in submissions

There were no specific issues raised in submissions.

7.16.3. Reviewer's comments

The Independent Reviewer for the report on Periods 1 & 2 recommended that the Parties consider reviewing the historical data sets supporting the WA RFA and take appropriate steps to update these data sets and ensure ongoing access. This action is underway. See comments for recommendation 12 in Table 3.

7.17. Forest Management

7.17.1. Progress

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
95	(a) Western Australia will 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.	On-going	Achieved in part ¹⁰⁶	Achieved in part	Not achieved ¹⁰⁷
	(b) Western Australia will make improvements to its Forest Management System including audits as outlined in Clause 42	On-going	Achieved ¹⁰⁸	Achieved	Achieved in part ¹⁰⁹
	(c) Western Australia will undertake reviews in accordance with the Competition Principles Agreement as outlined in Clause 87.	See clause 87 above			
96	The Commonwealth will: (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 (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.	On-going	Achieved	Achieved	Achieved

¹⁰⁶ The Independent Reviewer assessed this commitment as "Achieved with more extensive forest reservation compared with that agreed in the RFA".

¹⁰⁷ Not achieved to the extent that WA implemented a modified (increased) CAR Reserve System to that described in Attachment 1 of the RFA (see comments for Clause 65).

¹⁰⁸ The Independent Reviewer assessed this commitment as "Ongoing commitment achieved in part with some alteration to timelines".

¹⁰⁹ See comments for Attachment 5 above (Section 7.3 of this report)

7.17.2. Issues raised in submissions

Submissions relevant to these clauses are detailed in sections 7.3 and 7.9.

7.17.3. Reviewer's comments

See comments in sections 7.3 and 7.9.

7.18. Compensation

7.18.1. Progress

Cl.	Action	Time-line	Periods 1&2 Report	Period 3 Report	Period 3 Reviewer
97	The WA RFA details the provisions for compensation in 97.1 to 97.20 (text not repeated here).	On-going	Achieved (Not required as no claims were made in Periods 1 and 2).	Achieved	Not required, as no claims were made in Period 3.

7.18.2. Issues raised in submissions

There were no submissions in relation to this commitment.

7.18.3. Reviewer's comments

No comments.

8. Progress with the recommendations of the Independent Reviewer for Periods 1 and 2

The report of the independent review of implementation of the WA RFA for the first and second periods¹¹⁰ contained 13 recommendations, to which the Parties responded in the Joint Government Response¹¹¹.

The status of actions arising from the Joint Government Response is summarised in Table 3.

¹¹⁰ (Kile, 2013)

¹¹¹ (Government of Western Australia and the Government of Australia, 2014)

Table 3. Actions on the recommendations of the Independent Reviewer for Periods 1 and 2

Recommendation	Joint Government Response	Status as per report for Period 3	Comments of Independent Reviewer for Period 3
1: The Parties clarify some matters in <i>A Report on Progress with the Implementation of the Regional Forest Agreement for the South–West Region of Western Australia</i> in a revised published (online) version.	The Parties have addressed this recommendation, attached as an addendum to the Joint Government Response.	Completed as reported in the Joint Government Response, November 2014	Amendments to the report were made by way of an addendum to the Joint Government Response, rather than as a revised on-line version. See section 7.2.3 and Recommendation 8 of this report.
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.	The Parties have addressed this recommendation, attached as an addendum to the Joint Government Response.	Completed as reported in the Joint Government Response, November 2014	Completed as an annex to the Joint Government Response. The annex deals with changes up to 2014. It is a very useful document that is highly relevant to the ongoing reviews of the WA RFA. See section 7.2.3 and Recommendation 11 of this report.
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 WA RFA is progressively implemented.	The Parties commit to undertaking the next five-yearly review and expect it to commence in early 2015.	Underway. Preparation of this progress report commenced in 2015.	The third five-yearly review is underway but well outside the timeframe prescribed in the WA RFA. See section 7.2.3 and Recommendation 9 of this report.
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.	Western Australia has an existing mechanism in place and will continue to seek opportunities for external input into research and development.	Completed as reported in the Joint Government Response, November 2014.	Completed

Recommendation	Joint Government Response	Status as per report for Period 3	Comments of Independent Reviewer for Period 3
5: The Government of Western Australia continues to periodically review the sustained yield in relation to the changing biotic and abiotic risk factors.	The Parties commit to continued periodic reviews of the sustained yield, taking into account changing biotic and abiotic risk factors, through the preparation of Forest Management Plans as required every 10 years by the <i>Conservation and Land Management Act 1984</i> .	Completed as reported in the Joint Government Response, November 2014.	Completed
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 Montréal Process Criteria.	The Parties agree to consider the indicators used for ecologically sustainable forest management in the Forest Management Plan 2014-2023, against the suite of criteria and indicators adopted by Australia under the Montréal Process and committed to in the Western Australian RFA.	Completed	Completed
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.	The Parties submit that the intent of this recommendation is met through the legislative requirement to prepare a forest management plan in accordance with the CALM Act and related subsidiary documents and associated compliance requirements of the plan.	Underway. FPC continues to maintain Environmental Management System (ISO14001:2004) and Australian Forestry Standard (previously AS4708—2007 and currently AS4708—2013) certification of all of its forest operations. In addition, the FPC achieved FSC Controlled Wood certification for its karri forest operations in 2014.	This work is still in progress. Policy statements on forest industry regulation (Policy 11) and compliance and enforcement (Policy 38) were published by the Department of Parks and Wildlife outside of the review period, in August 2015 and August 2016 respectively. See Recommendation 12 of this report.

Recommendation	Joint Government Response	Status as per report for Period 3	Comments of Independent Reviewer for Period 3
8: The Government of Western Australia considers the development of a comprehensive forest health assessment system.	Western Australia submits that native forest ecosystem health is recognised as a key issue in the Forest Management Plan 2014-2023.	Completed as reported in the Joint Government Response, November 2014.	Completed
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.	The Parties propose that planning for climate trends is effectively accounted for in 10-yearly intervals with the development of a forest management plan in accordance with the CALM Act, covering publicly managed south-west native forests.	Completed as reported in the Joint Government Response, November 2014.	Completed
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.	Western Australia agrees to assess the adoption of research outputs into management practices as part of the process to determine future research priorities.	Completed	Completed in general. See comments in section 7.15.3 above and Recommendation 17 of this report.

Recommendation	Joint Government Response	Status as per report for Period 3	Comments of Independent Reviewer for Period 3
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.	<p>The Parties support the full and sustainable utilisation of wood products harvested from the Western Australian RFA area.</p> <p>The Forest Management Plan 2014-2023 requires the FPC to prepare a timber industry development strategy to align future industry opportunities with the location and log quality mix made available under the plan, and likely future plans based on woodflow modelling.</p>	<p>Underway</p> <p>While outside the reporting period, the Australian Government established the Forest Industry Advisory Council (FIAC) in October 2014 to provide advice from a cross-section of industry participants on issues affecting Australia's forestry sector.</p>	Underway
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.	The Parties agree to review and establish a master register of key data sets which satisfy relevant criteria in terms of ongoing implementation of the Western Australian RFA.	<p>Underway.</p> <p>The Parties are reviewing the datasets used to develop and support the WA RFA, identifying historical and current custodian, accessibility and currency of the datasets.</p>	Underway

Recommendation	Joint Government Response	Status as per report for Period 3	Comments of Independent Reviewer for Period 3
<p>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:</p> <ul style="list-style-type: none"> 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 	<p>The Parties agree that the intent of this recommendation will be considered in the scope of the next five-year review of the Western Australian RFA.</p>	<p>Completed.</p> <p>The preparation of the FMP 2014-2023 gave full consideration and continuation of the commitments in the WA RFA to measures to protect threatened flora and fauna and the delivery of Ecologically Sustainable Forest Management.</p>	<p>Completed in general.</p> <p>The preamble to the Independent Reviewer's recommendation was that "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". The Scoping Agreement for the third five-yearly review provides for a review of all ongoing commitments and obligations, i.e. without any particular focus on (a) to (c) of the reviewer's recommendation.</p>

9. Submissions on the Progress Report for Period 3

9.1. Submissions received

A total of 12 submissions was received as detailed in Table 4. Two of these submissions were received five calendar days after the closing date. The Independent Reviewer accepted these two submissions in good faith on the basis that they were only late by three working days and that the period for public submissions occurred within a peak holiday season for many people and organisations.

Table 4. Submissions received on the progress report for Period 3

Number	Date of submission	Submitter
1	25/11/2016	Sallie Coulson, Secretary, Preston Environment Group
2	16/12/2016	Jeremy Elliott (Heritage), Director South West Settlement, WA Department of Aboriginal Affairs
3	22/12/2016	Michelle Andrews, Acting Director General, WA Department of Mines and Petroleum
4	11/1/2017	Melissa Haslam, Executive Director, Forest Industries Federation (WA) Inc (FIFWA)
5	12/1/2017	Jess Beckerling, Convener, WA Forest Alliance
6	12/1/2017	Julieanne Hilbers
7	12/1/2017	Promote Preston (WA)
8	13/1/2017	Ross Hampton, CEO, Australian Forest Products Association
9	13/1/2017	Sherry Thomas, Cycletrek (WA)
10	13/1/2017	Beth Schultz on behalf of the South-West Forests Defence Foundation Inc
11	18/1/2017*	Margaret Blakers
12	18/1/2017*	Peter Gunson, Liaison Officer, W.A. Forest Communities Network (WA.FCN)

*submission received after the closing date of 13/1/17

9.2. Main issues

The main issues raised in the submissions are summarised in Table 5.

Table 5. Main issues raised in the submissions on the progress report for Period 3

Issue		Submission(s)	Relevant clause(s) of RFA ¹
1	The WA RFA process has failed in part or in whole and the WA RFA should not be renewed or should be comprehensively overhauled	5, 6, 10, 11	Clause 6
2	The extension of the WA RFA is supported but economic and social objectives, including resource security, employment and investment, must be given equal weight as environmental objectives	4, 8, 12	Clause 6
3	The progress report is late, contains little focus on non-timber uses of the forests and the process for engagement with the community is poor	5, 6, 7, 10, 11	Clauses 36-39
4	The progress report has no credibility as it is a self-assessment, prepared by the people implementing the WA RFA	10	Clauses 36-39
5	The report primarily deals with actions against the commitments and it does not adequately assess performance. Similarly, KPIs in the FMP are process as opposed to outcome driven	6, 11,	Clause 43
6	Logging of native forest is not environmentally, socially or economically sustainable and it should be phased out and the forests should be managed for conservation and other uses	6	Clauses 40, 42-45
7	The WA RFA and FMP are not being adequately implemented or enforced	1, 5, 6, 9, 10	Clauses 43, 94, 95
8	The WA RFA has failed to protect biodiversity	1, 5, 6, 10, 11	Clauses 56-63
9	The WA RFA has not provided resource security or fostered industry development	4, 8, 12	Clauses 71-80
10	The CAR Reserve targets have been exceeded with significant impact on the level of sustained yield to industry	4, 8, 12	Clauses 19 and 65
11	Progress has been made on the development and execution of Indigenous Land Use Agreements	2	Clause 81
12	The report should be amended to correct some details relating to the mining and petroleum sectors	3	Clause 73
13	The FMP does not deliver ESFM or adequately consider climate change	5, 6, 10, 11	Clauses 40, 42-45, 48
14	There is no evidence of local assessments of heritage values before logging	5, 6	Clause 81

Issue		Submission(s)	Relevant clause(s) of RFA ¹
15	Forest research has declined/is not adequate	6, 12	Clauses 88-89
16	The funding of tourism and recreation is directed towards national parks at the expense of other forest areas	7, 12	Clauses 73(d), 84

¹ Reference to Clause(s) includes attachments in the WA RFA where relevant

9.3. Summary of issues

Submission 1 – Preston Environment Group

- This submission comprised a short video entitled “Costing us the earth”. The video was produced in 2013, three years before the release of the progress report on Period 3 of the WA RFA. It makes no reference to any specific provisions of the WA RFA.
- The video presents a perspective that argues that W.A.’s forests are facing ecological collapse, due primarily to logging and frequent burning, and that the forests are of much more value left intact as carbon stores to help combat climate change. The narrator calls for an end to all logging of native forests. The narrator puts forward the view that government agencies are failing in their duty to look after the forests and that there are inappropriate relationships between governmental and industry players.

Submission 2 - WA Department of Aboriginal Affairs

- The submission notes that on 8 June 2015 six identical Indigenous Land Use Agreements (ILUAs) were executed across the South West by the Western Australian Government and, respectively, the Yued, Whadjuk People, Gnaala Karla Booja, Ballardong People, South West Boorah #2 and Wagyl Kaip & Southern Noongar groups, and the South West Aboriginal Land and Sea Council (SWALSC). *[Reviewer’s note - This information is highly relevant to Clause 81 and Attachment 10 of the WA RFA. However, the execution of the ILUAs falls outside the reporting timeframe for Period 3.]*
- Noted that the ‘Statement of Commitment’ mentioned in Appendix 6 of the report may require review to ensure they meet the obligations in the South West Settlement ILUAs and the Noongar Standard Heritage Agreement (NSHA).
- Noted that the last paragraph of Appendix 6 of the report may require review to take into account the execution of the six ILUAs on 8 June 2015 and the subsequent implementation of the Noongar Standard Heritage Agreement (NSHA), as well as arrangements the State Government, SWALSC and Noongar people have agreed to formalise arrangements in a number of key areas including joint management of the conservation estate, access to state lands for customary purposes and use of natural resources for customary purposes.

Submission 3 - WA Department of Mines and Petroleum

- The submission notes that the progress report’s description of the mining and petroleum sectors is generally appropriate but there are some suggested amendments to enhance the report, as follows-

- Clause 73 (Extractive industries)
 - Reference to the *Petroleum Act 1967* should be replaced with the *Petroleum and Geothermal Energy Resources Act 1967*.
 - Clarification that petroleum activities (as well as mining) were subject to compliance with the State's approval processes, which include the rehabilitation of mine sites.
 - The value of mineral production in the SW Forest Region should include the value of bauxite, silver, copper and basic raw materials.
- Appendix 10 (Attachment 1 -State legislation)
 - Suggested changes to the wording of the 'purpose' of the listed Acts to better reflect their relevance to the WA RFA.
 - Correct the entry for the *Petroleum and Geothermal Energy Resources Act 1967* to read 'all tenures'.

Submission 4 - Forest Industries Federation (WA) Inc (FIFWA)

- FIFWA remains committed to the original intent and purpose of the WA RFA, but it is concerned that many of the industry development clauses were so easily undermined by a change in State Government policy. If the Parties wish to secure a stable and sustainable native forest industry in Western Australia it is imperative a renewed WA RFA is based on genuine and binding commitments to deliver certainty and security of supply of resource to the industry.
- A renewed WA RFA must embrace the following characteristics- (1) Binding commitments between the Parties which provide security of access to resource for the forest based industry for the life of the Agreement. (2) Introduce bankable mechanisms to provide long term supply contracts (beyond the term of the current FMP) for the industry. (3) Facilitate markets for non-sawlog lower grade material to enable industry access to the full volumes allowable under the FMP. (4) Facilitate new investment in softwood plantation expansion. (5) Introduce 'Milestones' against strong industry development commitments. (6) Introduce rolling 20 year WA RFA terms, underpinned by an updated relevant National Forest Policy Statement.
- Does not agree with the report's assessment that *Clause 19* (of the WA RFA) was achieved because the introduction of the WA State's 'Protecting our Old Growth Forests Policy' undermined the overall purpose and intent of the WA RFA, by exceeding the Comprehensive, Adequate and Representative (CAR) reserve system and reducing the sustained yield available to industry.
- Does not agree with the report's assessment that *Clause 43* was achieved, as the 'importance of WA RFA certainty' was never taken into account and the full suite of commitments made under the Agreement were not implemented through the 2004-2013 nor the 2014-2023 Forest Management Plan(s) (FMP), undermining the durability and certainty of commitments made to the industry.
- Does not agree with the report's assessment that *Clauses 56 and 66* were achieved, as the JANIS criteria were 'exceeded', not 'met'.
- Agrees with the report's assessment that *Clause 72* has been achieved.
- Does not agree with the report's assessment that *Clause 73* has been achieved in part. New

investment in plantation expansion during the reporting period has not been achieved. Industry development achieved during the reporting period can be attributed to the resilience and tenacity of the industry and is not an outcome specifically facilitated by the Agreement. Further, the statement the 'FPC continued to engage with industry, including as a member of the Forest Industries Federation of Western Australia' is incorrect. The FPC are not FIFWA members.

- Agrees with the report's assessment that *Clauses 75 and 76* have not been achieved. There is a range of new and emerging market opportunities for native forest timber including markets utilising lower quality log resource and forest residues (such as markets for biomass and engineered wood products). However, the Parties to the Agreement have not facilitated the opportunity for industry to optimise the full volumes available under the WA RFA through the FMP.
- Notes that under *Clause 80*, Investment security Guarantees were not renewed at the commencement of the 2014-2023 FMP despite continuous requests from the industry to do so. The industry remains largely unsecured leading into the next contract period and this uncertainty is hampering much needed new investment in the industry.

Submission 5- WA Forest Alliance

- WAFA strenuously opposes the renewal of the Regional Forest Agreements (RFAs) as they have failed to ensure the environmental protection of native forests including failing in the conservation of biodiversity and the protection of endangered species. The RFA process has even failed to comply with its own reporting and reviewing requirements and these either have been carried out after the specified time or have provided recommendations that are vague and/or unenforceable.
- The WA RFA has failed to be an adequate substitute for Commonwealth environmental protection laws.
- The FMP is not legally binding and in spite of recommendations submitted by some experts and some members of the community the Minister imposed no legally binding conditions.
- WAFA contends that the RFAs should not be renewed for three reasons: (1) They do not adequately provide for ecologically sustainable forest management. (2) They are not implemented properly. The State has not complied with its obligations. The Commonwealth, which is supposed to ensure that the State complies with its obligations, has not been monitoring this and has failed to act to ensure that the State complies. (3) They are not legally enforceable by third parties.
- If, despite its flaws, the WA RFA is renewed, it needs to be fundamentally changed. There are five key areas for reform: (1) The EPBC Act exemption for RFA forestry activities must be removed. (2) The RFAs must clearly define the State's legally binding obligations. (3) The obligations in the WA RFA must be legally enforceable by third parties. (4) The compensation provisions of the WA RFA must be scrapped. (5) The process for making an WA RFA needs to be based on up to date data. The Comprehensive Regional Assessments were inadequate and climate change has rendered these assessments obsolete.
- The FMP 2014-2023 does not provide for the South-West forests to be managed in accordance with the principles of ESFM.
- The FMP does not adequately protect threatened flora and fauna. The actions prescribed in

the previous FMP to protect threatened flora and fauna have not been complied with. There must be binding procedures for protection of threatened species where their presence is identified.

- Logging of native forests is environmentally unsustainable; it destroys biodiversity and undermines our forests' role in global carbon cycles. It is unnecessary, as we currently have enough plantation timber to meet industry needs.
- DPaW, FPC and FPC contractors are not complying with the FMP, numerous breaches are occurring and DPaW is not imposing appropriate sanctions.
- No comprehensive assessment of the forests under FMP management for Aboriginal heritage has been conducted. An assessment of Aboriginal heritage values of South West forests should be undertaken prior to scheduling disturbance activities, to ensure that obligations are met to conserve Aboriginal heritage.
- The native forest products industry in Western Australia is no longer financially viable having posted declining profits over the past 7 years and cumulative losses of \$34 million over the past 4 years. The dire economic situation is due to the global over-supply of wood chips, changing consumer trends, substitute products, and declining forest health and productivity.
- The submission attached a paper *Barking up the wrong tree* by the Australia Institute (2016), which concludes that FPC's native forestry operations have posted repeated losses and that forest productivity and sawlog recovery rates have declined. The native forests are worth more to the state left standing for alternative uses, such as tourism, carbon abatement, wildflower harvesting and honey production.
- The submission attached a paper *The need for a comprehensive reassessment of the Regional Forest Agreements in Australia* by Lindenmayer, Blair, McBurney and Banks (2015). These authors conclude "In some respects, the Regional Forest Agreements must be viewed as being the antithesis of economic and environmental success". They advocate a comprehensive overhaul of RFAs to: (1) accommodate new scientific information including new knowledge on existing and new threats, such as climate change and invasive species; (2) accommodate new values of forests such as their importance for long-term carbon storage; (3) employ proper resource and financial accounting, such as widely accepted SEEA accounting methods; and (4) reduce levels of sustained yield to account for the extent of forest loss associated with disturbances such as wildfires and climate-change-derived impacts on stand growth and productivity.
- The submission attached a paper *Submission on the Draft Forest Management Plan 2014 – 2023. Office of Giz Watson MLC, Member for North Metropolitan Region*, dated 2012. This paper contains information and arguments that were repeated in the Wafa submission.

Submission 6 - Julieanne Hilbers

- Biodiversity is greater in protected areas
- Logging is not the optimal use of public native forests economically, environmentally or socially.
- Provides extracts from *Barking up the wrong tree* by the Australia Institute (2016) (see comments for Submission 5).
- Concern about the number and severity of breaches by contractors, impact of mechanised

logging on soils and forest health, the use of glyphosphate and the under-classification of stream reserves.

- Apparent lack of empirical evidence to drive practices and a lack of consideration of climate change as an added pressure on landscape and species.
- The KPIs as reported in forest management plans in the main are vague and are process as opposed to outcome driven.
- No evidence of local assessments of heritage values being undertaken before undertaking logging.
- The timing for seeking input, length and presentation of the report does not make it easily accessible for people to understand or comment on.
- 'Community engagement' appears to focus more on 'selling' the WA RFA rather than 'listening' or acting upon what the general community wants.
- The submission attached a report - *Regional Forest Agreements in NSW: Have they achieved their aims* (2016) by the National Parks Association of NSW, which concludes- that "RFAs have failed to substantially meet their goals either wholly or in part".

Submission 7 - Promote Preston (WA)

- The focus of the WA RFA and this report is predominantly on the use of native forests for logging. There is little focus on other uses of the forests – for example tourism, carbon abatement, wildflower harvesting, honey production and sport and recreation.
- There is no reference to how the WA RFA intersects with local communities and economies.
- Logging is not the optimal use of public native forests economically, environmentally or socially. A commitment to stimulate regional industries, including the profitable plantation industry, adventure tourism and recreation and forest management for biodiversity, water and carbon outcomes offer better opportunities for regional businesses, jobs and revenue.
- Our community has come together to create a vision where the Preston Valley becomes the southern gateway of an expanded Wellington National Park and for the Greater Wellington National Park becomes a world class eco-tourism destination.
- Preston Valley is evidence that without a national park status tourism based opportunities do not eventuate. Although recreation activities are permitted in state forests the infrastructure is often of poor quality as providing for recreation is a secondary function of state forests.
- National Parks enhance tourism, recreation, public health, species recovery, climate change mitigation, fire management and water quality.
- Provides extracts from *Barking up the wrong tree* by the Australia Institute (2016) (see comments for Submission 5).

Submission 8 - Australian Forest Products Association

- The forest industry welcomes the WA and Federal Governments' commitment to establish a 20-year rolling extension to the WA RFA for the South West Region of WA.
- It is critically important that an extended WA RFA delivers on economic, social and

environmental outcomes, particularly the maintenance of investment and resource supply certainty for our internationally competitive forest-based industries.

- In an extended WA RFA, future reviews should focus not just on environmental outcomes inside the forest area managed for wood production, but should assess the performance across all associated and relevant land tenures, and the Parties should give equal consideration to industry development clauses alongside the environmental objectives.
- Forest reservation has increased considerably since 1999, exceeding the commitments contained in the WA RFA and significantly reducing the level of sustained timber yield available to industry.
- Without the WA Government's support of market opportunities for non-sawlog lower grade materials (such as markets for biomass or engineered wood products), industry is unable to optimise the full volumes available under the WA RFA through the Forest Management Plan.
- AFPA supports the original intent of the WA RFA. However, commitments in the WA RFA aimed at providing industry with the level of continuity and confidence in long-term resource supply to sustain activity and to drive investment and growth have been undermined in favour of the conservation objectives. These shortcomings must be given serious consideration during the renewal process.
- Clause 19 of the WA RFA states, "Neither Party will seek to use existing or future legislation or a Government agreement to undermine or impede this Agreement". AFPA does not agree with the progress report's conclusion that this clause was achieved in Period 1, Period 2 and Period 3 of the WA RFA. The introduction by the WA Government of the *Protecting Our Old-Growth Forests Policy* in 2001 greatly undermined the security the WA RFA was intended to provide industry, reducing the area of jarrah forest available for timber production by 32 per cent and the area of karri forest available for harvesting by 36 per cent. This policy effectively overrode the WA RFA, expanding the CAR reserves system, with a consequent decrease in sustained yield and wood supply to industry.
- Future WA RFA reviews should give equal weight to economic and social objectives, such as annual investment in upgrading existing and developing new processing capacity, forest industry employment, innovation and R&D, and the economic health of communities dependent on forest industries.

Submission 9 - Cycletrek (WA)

- The WA RFA has outlived its usefulness as it is based on outdated assumptions.
- Jobs, forest health and utilisation have declined. The native timber industry is operating at a financial loss.
- Compliance procedures are inadequate, with no penalties for perpetrators of breaches.
- It is now time to transition out of the current native timber industry to one where the only extraction is for a high-end product for the building, furniture and craft industries with a royalty to reflect its high value.
- Plantation timber production needs to be increased. Alternative uses for our forests are readily found including tourism, nature play and adventure sports, honey production, seed collection for the nursery industry, wildflower collection and carbon sequestration.

Submission 10- South-West Forests Defence Foundation Inc

- The WA Regional Forest Agreement is a dismal failure. It must not be extended or renewed.
- This report lacks credibility and it does not recognise that the WA Regional Forest Agreement has failed to meet any of its three objectives. It should not be used as justification to extend or renew the WA Regional Forest Agreement.
- Like its predecessor, this report is late. It covers the period 2009 to 2014 but wasn't published until October 2016, 18 months overdue. This failure to comply with timelines is typical of the cavalier approach taken to the WA RFA and the WA Forest Management Plans (FMP) and the subsidiary guidelines produced to implement it.
- The Report has no credibility. It is a self-assessment. The very people responsible for implementing the WA RFA and the FMP have prepared this report on their own implementation.
- WA's current reserve system is due to the policy of the Gallop Government, elected in 2001, not the WA RFA. Some irreplaceable high conservation value forest is still available for logging and needs urgent protection.
- Management of conservation reserves under the WA RFA is not conserving these areas. Every Forest Management Plan Performance Assessment carried out by the Conservation Commission and the Environmental Protection Authority has identified a long list of breaches of the FMP and its subsidiary guidelines.
- The FMP 2014-2023 does not provide for ESFM. It sets unsustainable levels of logging and endorses practices inimical to forest ecology (e.g., 'salvage logging', frequent extensive prescribed burning).
- The government agencies responsible for delivering ESFM have a bad track record. Since 1999, the Conservation Commission has audited some of the operations of the Department of Conservation and Land Management (CALM), the Department of Environment and Conservation (DEC) and DPaW. These audits found multiple failures on the part of the agencies to comply with their own management plans and guidelines.
- The Environment Minister did not impose any conditions on his approval of the FMP's implementation so compliance with the provisions of the FMP is discretionary as there is no authority with the power to enforce them. NGOs have tried and failed.
- DEC identified serious breaches of the FMP by the FPC and its contractors, including 'undertaking harvesting without approval' and 'machine incursion into fauna habitat zones'. The FPC recorded 200 breaches by its contractors. Even for serious breaches, DEC did not impose appropriate sanctions.
- Under the WA RFA, forest biodiversity has not been protected. Since 1999, the number of WA forest species listed as endangered or that have become more endangered has increased.
- Exemption of forests under an RFA from the provisions of the *Environment Protection and Biodiversity Conservation Act 1999* for 20 years is an inexcusable concession given to a destructive, irresponsible industry. It must not be retained.
- The native forest logging industry has suffered a significant decline under the WA RFA. Its demise is imminent and the WA RFA has failed to prevent the collapse.
- The submission attached a paper *Barking up the wrong tree* by the Australia Institute (2016),

which concludes that FPC's native forestry operations have posted repeated losses and that forest productivity and sawlog recovery rates have declined. The native forests are worth more to the state left standing for alternative uses, such as tourism, carbon abatement, wildflower harvesting and honey production.

Submission - 11- Margaret Blakers

- The performance review of the WA RFA should include an assessment - with evidence - of how the WA RFA as a whole is performing. It should identify and respond to new information and critiques. The 'tick a box' section should be more than a recital of activities, lacking any criteria against which to determine whether the milestone has been met. The Progress Report does none of these in a systematic and credible manner.
- Further action on the Progress Report should be put on hold until an overall assessment of the performance of the WA RFA is completed, including an evaluation against the goals and objectives of the NFPS. This should be on a 'whole of forest' basis as well as in relation to each of the matters of national environmental significance under the EPBC Act.
- The review should be timely. This one is more than two and a half years late.
- Continued special treatment of RFAs under the EPBC Act should be contingent on satisfactory performance and that the performance requirements should be legislated.
- The Report lists threatened flora and fauna - how many, their status, whether they have a recovery plan and so on. But there is no evaluation of whether these plants and animals are holding their own, declining or recovering.
- The Parties' claims to have met the following commitments are not substantiated and should be rejected.
 - o Clause 56 - that the CAR reserve system and Forest Management Systems provide for the protection of rare or threatened flora and fauna species and ecological communities
 - o Clause 61 - actions will be completed or significantly advanced in accordance with Recovery Plans.
- The world has changed greatly in the more than 17 years that has elapsed since the WA RFA was signed, particularly with respect to climate change and the transition of the wood products industry from native forests to plantations.
- RFAs were never 'agreed'. They should certainly not be extended. RFAs should be abolished.

Submission 12 – W.A. Forest Communities Network (WA.FCN)

- WA.FCN supports the original principles of this agreement, however contend that important parts of the original intent, in particular "certainty of resource access to the forest industry", have not been achieved.
- Considerable focus has been placed within the adoption and review of the WA RFA on conservation, regulation and several 'soft' aspects and values, not on triggers for regional employment and investment, and growth and development of forest and wood based industries.
- The Old Growth Forests Policy undermined the overall purpose and intent of the WA RFA, by

exceeding the CAR reserve system established through the Comprehensive Regional Assessment.

- The reserve system for almost every forest type now greatly exceeds the standard (15% of pre-1750 forested) area set under the 'Nationally Agreed Criteria for the Establishment of a Comprehensive, Adequate and Representative Reserve System' for forests in Australia.
- WA.FCN does support most recent efforts by the FPC to work with industry on specific sawmilling efficiency and jarrah residue recovery - hence helping the overall log turnover.
- It appears that Investment Security Guarantees (ISGs) were not renewed in line with the intent of Clause 80 of the WA RFA at the commencement of the 2014-2023 FMP despite continuous requests from the industry to do so. This could be hampering new investment and thus opportunity for specific forestry dependent communities.
- WA.FCN acknowledges the tourism and recreation initiatives outlined in the report (page 57) however most of the large monetary investment is in national parks, and not much toward adaptive and multiple use of state forest for these purposes. The Big Brook forest is a good example of where recreation can be integrated with forestry.
- There has been a rapid decline in state commitment and capacity to boost or even maintain forest research in areas that are available for resource production, regeneration and productive silviculture.
- it is imperative a renewed WA RFA is based on genuine and binding commitments to deliver certainty and security of supply, along with sustained support to the industry [*Independent Reviewer's note- the submission lists the recommended characteristics for an extended WA RFA as listed in Submission 4*].

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

**Scoping Agreement for the review of progress
with the implementation of the
Regional Forest Agreement for the
South-West Forest Region of Western Australia**

**The Commonwealth of Australia
and
The State of Western Australia**

**Third Five-Yearly Review
November 2015**

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1. Preamble

The purpose of this Scoping Agreement is to set out the arrangements agreed by the Western Australian Government and the Australian Government (the Parties) for undertaking the third five-yearly review to assess the progress of performance against the milestones, commitments and obligations of the Regional Forest Agreement for the South-West Forest Region of Western Australia (WA RFA).

The review will cover the 2009 to 2014 five-yearly period. For practicality, this WA RFA review will build on the review periods previously established in the combined first (1999 to 2004) and second (2004 to 2009) five-yearly review report (July 2013).

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

This review will occur in accordance with:

- clauses 36, 37, 38 and 39 of the WA RFA; and
- relevant actions undertaken by the Parties, in response to recommendations, from the joint government response report to the combined first and second five-yearly review.

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.

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

2. Background

The WA RFA was developed as one of a series of Regional Forest Agreements (RFA) between the Commonwealth of Australia and the Governments of New South Wales, Tasmania, Victoria and Western Australia. While all the RFAs have their own unique elements, they have all been drawn up under the NFPS and all have requirements for five-yearly reviews of performance.

The State of Western Australia and the Commonwealth of Australia entered into the WA RFA on 4 May 1999.

The duration of the WA RFA is 20 years, from 1999 to 2019, and it can be extended with the agreement of both Parties (clause 6).

The WA RFA establishes the framework for the management of forests within the South-West forest region as the WA RFA region. The Parties are committed to ensuring the WA RFA is durable and delivers on the milestones, commitments and obligations contained within the agreement to ensure effective forest management, forest industry and conservation outcomes.

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

3. The requirement for a five-yearly review

As stated in clauses 36, 37, 38 and 39 of the WA RFA:

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 the 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.*

The purpose of the third five-yearly review is to assess progress against the specified milestones, commitments and obligations and will include:

- the extent to which milestones, commitments and obligations have been met, including management of the National Estate
- the results of monitoring of sustainability indicators
- inviting public comments on the Report on Progress with Implementation of the Western Australia Regional Forest Agreement - Period 3: 2009-2014.

The review will also include an assessment of the performance by the Parties to the WA RFA against agreed actions that arose out of the Joint Government Response to the combined first and second five-yearly review conducted in 2013.

The review may make recommendations in regard to the past implementation of the WA RFA. The review may also make suggestions on the future implementation of the WA RFA, as it exists in its current format, which may be amended by the extension process to take the WA RFA beyond its current twenty year life.

4. Principles for conduct of the review

The WA RFA is a 20-year agreement that requires performance reporting every five years. The review will cover the third five-yearly period from 2009 to 2014.

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

The review:

- will be conducted in accordance with clauses 36, 37, 38 and 39 of the WA RFA
- will be conducted in a manner that is open and transparent
- will invite public comment on the Report on Progress with Implementation of the Regional Forest Agreement for the South-West Forest Region of Western Australia with respect to the milestones, commitments and obligations and, recognising the commitment to extend the WA RFA, and invite public comment relevant to the proposed extension of the WA RFA
- will consider the agreed actions from the Joint Australian and Western Australian Government Response to the Review of the Implementation of the regional Forest Agreement for the South-West Forest Region of Western Australia for the Period 1999-2009
- will be completed in accordance with the process outlined in section 7 of this Scoping Agreement
- will be cognisant of other Western Australian state and national forest reporting processes and requirements
- does not open up the WA RFA to re-negotiation
- will provide outcomes which will be made publicly available in a report that outlines the review process used by the Independent Reviewer and the findings and recommendations of the Independent Reviewer.

The Parties note that, as per clause 6 of the WA RFA, this review will include the Parties agreeing on the process to extend the WA RFA. The Parties intend to negotiate an agreed position on extending the WA RFA through a bilateral process informed by, but separate from, this third five-yearly review.

5. Items for review

The Parties agree that:

- (a) the third five-yearly review will assess and report on progress made against the implementation of the milestones, commitments and obligations specified in Attachment 1 of this Scoping Agreement.
 - In instances where milestones, commitments and obligations have been completed and reported against in an earlier five-yearly review report, they need not be reported on again—rather, reference should be made to the previous review report.
- (b) the review will provide an update of the actions undertaken by the Parties in addressing the responses to the recommendations from the combined first and second five-yearly review.
- (c) the review fulfils the requirement in the WA RFA to report on the results of monitoring sustainability indicators.

6. Governance

(a) Joint Working Group

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

The Joint Working Group will comprise two nominees of the Western Australian Government and two nominees of the Australian Government. It will be co-chaired by a representative of the Australian Government Department of Agriculture and Water Resources and a representative of the Western Australian Department of Parks and Wildlife (which will provide supporting secretariat duties).

The Joint Working Group is responsible for:

- allocating resources to undertake the third five-yearly review, including collating submissions, supporting the Independent Reviewer and publishing the Joint Government Response to the report by the Independent Reviewer
- inviting public comment on the Report on Progress with Implementation of the Regional Forest Agreement for the South-West Forest Region of Western Australia with respect to the milestones, commitments and obligations of the WA RFA and, recognising the commitment to extend the WA RFA, on the scope of the proposed extension of the agreement
- publication and tabling of the Joint Government Response to the report by the Independent reviewer of the third five-yearly review.

(b) Joint Working Group Support Team

A Joint Working Group Support Team will comprise officers from both the Western Australian and Australian Governments, as tasked by each Party. Its membership will be dynamic so as to respond to the focus, priorities and workloads of the Joint Working Group.

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

- day to day implementation of this Scoping Agreement
- preparing a Report on Progress with Implementation of the WA RFA with Western Australia taking the lead role
- supporting the Independent Reviewer in their review of both the report and the public submissions on the Report on Progress with Implementation of the Regional Forest Agreement for the South-West Forest Region of Western Australia, in accordance with the Terms of Reference for the Independent Reviewer at Attachment 2 of this Agreement
- preparing the Joint Government Response to the report by the Independent Reviewer of the third five-yearly review.

Support to be provided to the Independent Reviewer by the Parties will include provision of the report and relevant documents, collation and supply of public submissions and facilitation of any meetings with the Parties. Support will not include secretariat services or drafting of reports.

(c) Ministerial

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

Western Australia:

The Hon. Albert Jacob MLA
Minister for Environment; Heritage

Commonwealth:

Senator the Hon. Anne Ruston
Parliamentary Secretary to the Minister for Agriculture and Water Resources

The Ministers shall approve the:

- appointment of the Independent Reviewer
- Joint Government Response to the report by the Independent Reviewer of the third five-yearly review.

7. Process for conducting the Review

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

(a) Preparation – By end March 2016, the:

- Report on Progress with Implementation of the Regional Forest Agreement for the South-West Forest Region of Western Australia is prepared by the Parties
- Independent Reviewer is appointed
- Parties agree the high-level process for extending the duration of the WA RFA.

(b) Public consultation – duration 6 weeks

- public comments are sought on the Report on Progress with Implementation of the Regional Forest Agreement for the South-West Forest Region of Western Australia with respect to the milestones, commitments and obligations of the WA RFA and in the context of the proposed extension of the WA RFA
- the Parties collate written public submissions and provide them to the Independent Reviewer.

(c) Review – anticipated duration 3 months

- the Independent Reviewer reviews the Report on Progress with Implementation of the Regional Forest Agreement for the South-West Forest Region of Western Australia, the public comments and submissions, extra information provided by the Parties with respect to issues raised in the public comments, as required, or any further information provided by the Parties
- a report is prepared and delivered to the Parties by the Independent Reviewer within three months of the close of the public comment period, including a synthesis of public comments and submissions on the implementation of the WA RFA. The report, to all practicable extent, will group comments into themes, including identifying those comments that may be particularly relevant to the commitment to extend the WA RFA.

(d) Joint government response – anticipated duration 3 months

- the Independent Reviewer's report is tabled in the Australian Parliament
- the Parties jointly respond to the report prepared by the Independent Reviewer for the third five-yearly review of progress with implementation of the WA RFA and make publicly available the Joint Australian and Western Australian Government Response following tabling in the Australian Parliament

- this Joint Government Response will note the WA RFA extension process as agreed by the Parties as part of the third five-yearly review.

8. Reporting protocols

The Joint Working Group shall report to the responsible Ministers:

- on an 'as needs' basis through the co-chairs
- who shall consider the report of the Independent Reviewer and agree a formal Joint Government Response report from the Parties with the intention of making both reports publicly available.

9. Communication protocols

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

10. Financial issues

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

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

- i. advertising public notices in relevant media for the third five-yearly review which calls for public comment and submissions on the Report on Progress with Implementation of the Regional Forest Agreement for the South-West Forest Region of Western Australia and the scope of the proposed extension of the WA RFA
- ii. the Independent Reviewer's agreed fee including their associated travel costs to attend meetings with the Parties (as required)
- iii. the preparation, publication and distribution of reports generated by the third five-yearly review.

11. Signing page

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

the **28** day of **January** in the year **2016**

Signed for and on behalf of the
Commonwealth of Australia by Senator the
Hon. Anne Ruston, Parliamentary Secretary to
the Minister for Agriculture and Water
Resources

(Sgd) Sara Bray

Signature of witness

(Sgd) Anne Ruston

Signature of representative

SARA BRAY

Name of witness (print)

ANNE RUSTON

Name of representative (print)

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

(Sgd) Jason Foster

Signature of witness

(Sgd) Albert Jacob

Signature of representative

JASON FOSTER

Name of witness (print)

ALBERT JACOB

Name of representative (print)

Items for the Review

Milestones, commitments and obligations contained in the following clauses and attachments of the WA RFA are, or have been regarded as ongoing items, to be subject to the third five-yearly review.

Only those milestones, commitments and obligations that are ongoing or not yet completed as indicated in the table below will be reported on in this third five-yearly review as well as those commitments and obligations which are considered significant by the Parties to the implementation of the WA RFA.

Where a milestone, commitment or obligation has already been achieved, the relevant review report will be referred to in the body of the Report on Progress with Implementation of the Western Australia Regional Forest Agreement – Period 3: 2009-2014 to provide for reporting integrity for all RFA clauses. Where a milestone, commitment or obligation has been overtaken by events, or is no longer relevant, will also be indicated.

Milestone/Commitments	Clause	Status
PART 1		
Duration of Agreement	6	Ongoing
PART 2		
Relationship to Statutory Obligations	19, 21, 25-30, 32-33	Ongoing
Milestones	34-35	Ongoing
Five-yearly review/report on performance	36-39	Ongoing
Ecologically Sustainable Forest Management	40, 42-45	Ongoing
Monitoring, Reporting and Consultative Mechanisms	46-47	Ongoing
Accreditation	48, 50	Ongoing
Sustainability Indicators	51-52	Ongoing
Private Land	53-55	Ongoing
Threatened flora and fauna	56-63	Ongoing
CAR reserve system	64-69	Ongoing
Action to establish and manage reserves	70	Ongoing
Industry development	71-80	Ongoing
Indigenous heritage	81	Ongoing
Other forest uses	84-86	Ongoing
Competition principles	87	Ongoing
Research	88-90	Ongoing
Data use and access	91-93	
PART 3		
Forest Management	95-96	Ongoing
Compensation	97	Ongoing
Industry assistance	98	
	Attachment	
CAR reserve system	1	Ongoing
Public reporting and consultative mechanisms	4	Ongoing
Improvements to Western Australia's forest management systems on public land	5	Ongoing
Protection and management of forests on private land	6	Ongoing
Threatened flora and fauna	8	Ongoing
Aboriginal heritage and consultation	10	Ongoing
Priority areas of research	11	Ongoing
Forest employment and industries development strategy	14	Ongoing

Terms of Reference for the Independent Reviewer

Background

The Australian and Western Australian Governments (the Parties) signed the Regional Forest Agreement for the South-West Forest Region of Western Australia (WA RFA) on 4 May 1999.

The WA RFA establishes the framework for the management of forests within the South-West forest region i.e. the WA RFA region. The duration of the WA RFA is 20 years from its date of signing.

As provided under clause 6 of the WA RFA, it is the intent of the Parties to agree to an extension process for the agreement as part of the third five-yearly review.

An important element of the WA RFA is the requirement to review the performance of the WA RFA. A Regional Forest Agreement (RFA) review is an assessment or evaluation of progress made against the implementation of milestones, commitments and obligations specified in the WA RFA.

Clause 36 of the WA RFA requires that:

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 public consultation processes. The Commonwealth the State will jointly report on performance before the end of the second five year period of this Agreement.

The review is to be conducted:

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

The review will:

- (iii) invite and take account of public comments and submissions on the Report on Progress with Implementation of the Regional Forest Agreement for the South-West Forest Region of Western Australia – Period 3: 2009-2014 and the proposed framework for the extension of the WA RFA
- (iv) use and take account of the Sustainability Indicators including trends
- (vi) be completed within three months of its commencement
- (vii) develop a report detailing the review process and its findings.

The Parties may extend the review period to ensure a rigorous and robust process.

Terms of Reference

The role of the Independent Reviewer will be to review the Report on Progress with Implementation of the Regional Forest Agreement for the South-West Forest Region of Western Australia – Period 3: 2009-2014 and associated written public comments and submissions, and provide a report to the Joint Working Group. The review will cover the 2009 to 2014 five-yearly period, using data compiled from the resources of the Parties.

The Independent Reviewer is required to:

1. Receive written comments and submissions from the public on the Report on Progress with Implementation of the Regional Forest Agreement for the South-West Forest Region of Western Australia – Period 3: 2009-2014 with respect to milestones, commitments and obligations of the WA RFA and, recognising the commitment to extend the WA RFA,

receive public comments relevant to, and within the scope of, the proposed framework for the extension of the WA RFA.

2. Review written public submissions and undertake further targeted consultation with organisations or individuals as required to clarify any issues raised in the written submissions.
3. Provide a written report to the Australian and Western Australian ministers responsible for RFAs, which:
 - provides comment on the Report on Progress with Implementation of the Regional Forest Agreement for the South-West Forest Region of Western Australia – Period 3: 2009-2014, and any specific recommendations on implementation of the WA RFA, considering the written public submissions received
 - summarises the key issues identified in the written public submissions
 - noting the policy framework as established by the National Forest Policy Statement, identifies any additional issues that could be considered for the continued implementation of the RFA in the context of the proposed extension of the agreement, including minor improvements that strengthen the overall RFA framework
 - lists the names of the individuals and organisations who made written public submissions.
4. Deliver all written submissions and information used by the Independent Reviewer to the Joint Working Group with their written report.

Timing

The Independent Reviewer must submit their report to the Australian and Western Australian ministers responsible for RFAs within three months of the closure of the public comment period.

General

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