



Forests Assessment  
Natural Resources Commission  
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## **SUBMISSION ON RED GUM FORESTS ASSESSMENT**

Thank you for the opportunity to comment on the Terms of Reference. The National Parks Association provides the comments below. We intend to follow this submission with more comprehensive background information shortly.

### **Urgency**

It is crucial that the regional assessment is completed as rapidly as possible. The extent of the environmental crisis facing River Red Gum is well-documented and indisputable. The changes in river regulation have led to extensive tree stress and decline, and this is being severely exacerbated by logging, grazing and inappropriate recreation. Therefore, we believe it is essential that the Natural Resources Commission meets the timelines set down in the Terms of Reference. A decision on the future of the Red Gum forests needs to be implemented by the end of this year.

We hold grave concerns that the NSW Government intends to allow patch-clearfelling to continue in River Red Gum forests over the course of the assessment. The Federal Government has stated in Parliament that such logging is having a significant impact on matters of national environmental significance. It is unacceptable to have this demonstrably unlawful practice continue whilst the assessment is occurring. It is effectively foreclosing options for conservation outcomes in important areas by causing irreparable environmental damage. The practice should be banned for the duration of the assessment.

### **Expertise**

We encourage the Natural Resources Commission to use the best available ecological expertise to inform this assessment. In particular, recognised experts in systematic conservation planning and forest ecology should be engaged to provide the community confidence that the outcomes are environmentally rigorous.

### **Commitment to National Park creation**

The first sentence in the Terms of Reference should be changed to read that the NSW Government intends to make a forest agreement 'in order to develop a Comprehensive, Adequate and Representative reserve system and create large new National Parks' rather than simply referring to determining 'conservation outcomes'. As presently drafted the Terms of Reference appear unduly biased towards enabling on-going exploitation of the forests without making a clear and unequivocal

commitment to large new National Parks. Regional assessments are designed to deliver National Parks and that is what all previous assessments have done. Such an outcome is widely expected from this process and it should be clearly stated from the outset.

It is important that it is recognised in the assessment that there is currently no core reserve system in the Riverina region. The most basic building blocks of a conservation regime are not in place. Large new National Parks, which protect areas from logging, mining, grazing and all other damaging uses, are required in the region to provide the backbone of a conservation system. Only National Parks provide the security and permanency that is needed, and lesser forms of reserves or management are not appropriate for core reserves in such a threatened region.

### **Application of the Precautionary Principle**

Both the National Forest Policy Statement and the NSW Biodiversity Strategy commit the NSW Government to the use of the precautionary principle. The application of the precautionary principle is required by the NSW Biodiversity Strategy as follows:

*“Lack of full knowledge should not be used as an excuse for postponing action. In applying the precautionary principle, public and private decisions should be guided by careful evaluation to avoid, wherever possible, serious or irreversible damage to biodiversity through an assessment of the risk-weighted consequences of various options”.*

The application of the precautionary principle to the assessment process is crucial to a sound environmental outcome. There is no systematic or comprehensive biological database for the region. There is not even a reliable vegetation map across all tenures. It is one of the most poorly known and poorly surveyed regions in NSW. It is absolutely critical that the assessment of conservation priorities and the implementation of reserve outcomes must include a strict and transparent adherence to the precautionary principle as required by existing policy to make up for these deficiencies.

The high level of ecosystem destruction and threat within the Riverina region in particular presents a special challenge and dictates that conservation planning must include adequate preservation of all ecosystems and species, including those that are currently not listed as being of high conservation priority. Immediate steps are required to prevent further decline of currently common species towards threatened status.

Much remains to be learnt about faunal communities and the ecology of individual species in the region. Such information will not be available because reserve strategies must be established immediately, in the face of intense contemporary threats. A precautionary application of basic ecological principles must be used to guide reserve selection.

### **Conservation Criteria**

All relevant conservation criteria should be fully and objectively applied in the assessment, including criteria for the development of a CAR reserve system and criteria relating to biodiversity and climate change. In particular, the extraordinary conservation significance of River Red Gum forests as the only remaining large refuges for species from drought and a warming climate needs to be recognized.

The aim should be to develop a strong conservation benchmark that explicitly and fully applies all of the relevant environment policies, targets and criteria in a scientific manner. It is crucial that the scientific imperative for conservation in the region is fully and objectively documented and recommendations made that reflect that.

The starting point for the assessment must be the consideration of landscape-scale resilience and what is required to maintain ecosystem process and adaptation to climate change in such a heavily cleared landscape. This must be the driver for the assessment of conservation priorities and the adequacy of proposed reserve outcomes.

Specifically, the NSW Biodiversity and Climate Change Adaptation Framework and the National Biodiversity and Climate Change Action Plan, plus the findings from the CSIRO report on Climate Change and the National Reserve System, require reservation of natural refuges and habitat linkages, and identification and protection of ecosystems and species that are vulnerable to climate change.

These should be underpinned by the NRS and JANIS criteria designed to address adequacy in such a fragmented landscape. These must not be reduced only to basic quantitative ecosystem targets, but must address all criteria including refugia, remnants, and high quality habitat for priority species. Undoubtedly, any objective application of the criteria will demand major Red Gum reservation because of their inherent values as moist refugia in a semi-arid climate and as the largest remnants in the most heavily fragmented landscape in Australia.

A list and some short comments on a number of the conservation criteria that should be applied is provided below:

#### National Forest Policy Statement and the JANIS Criteria

The National Forest Policy Statement was signed by all State and Federal Governments in 1991. It set up a process for the development of a Comprehensive, Adequate and Representative reserve system in forested areas. It identified the following four objectives for biodiversity conservation:

1. *To maintain ecological processes and the dynamics of forest ecosystems in their landscape context;*
2. *To maintain viable examples of forest ecosystems throughout their natural ranges;*
3. *To maintain viable populations of native forest species throughout their natural ranges; and*
4. *To maintain the genetic diversity of native forest species*

The JANIS criteria set out guidelines for applying the National Forest Policy Statement to forested areas on a bioregional basis. They were developed with coastal regions with relatively continuous forest cover in mind. It is widely recognised that the JANIS criteria are inadequate for application in western areas where the extent of fragmentation and ecosystem degradation are far more severe than coastal forests, and where recovery potential and growth rates are much reduced. The inadequacy of the JANIS criteria for application in western regions was outlined in detail in a report to the then National Parks and Wildlife Service for the Brigalow Belt South Western Regional Assessment in 2002, which was prepared by Henry Nix and Brendan Mackay.

The report provided the following explanation as to why the National Reserve Criteria designed for coastal forests are inappropriate:

- Trees take longer to develop hollows suitable for nesting and shelter, particularly for larger vertebrates

- Stands produce smaller volumes of food (foliage, nectar etc), hence a larger area is needed to support a given sized population of herbivores and hence the prey species
- Slower decomposition rates means that nutrient cycles operate over longer time periods
- It follows that ecological processes take longer to recover from perturbations, ie . they have a smaller buffering capacity and a longer response time.

Nix & Mackay noted that the 15% target for forest ecosystems set down in the National Reserve Criteria *“has no scientific foundation”*. They review potential alternatives and point out that *“tree clearing legislation in Queensland recognises an important threshold at 30% retention. Theoretical considerations, backed up by field experimentation provide strong indications that 40% is a critical threshold”*. Nix & Mackay conclude that *“in highly fragmented landscapes all remnants are valuable and should be protected across all land tenures and land uses. The proportion of Dedicated Reserves should be maximised.”*

There is also a strong argument to suggest that Red Gum ecosystems meet the definition of vulnerable ecosystems under the JANIS criteria because they are *‘subject to continuing and significant threatening processes which will reduce their extent’*, in the form of water stress and dieback. As vulnerable ecosystems they would warrant a target of 60% of their current extent under JANIS.

#### NSW Biodiversity Strategy 1999

One of the major guiding principles of the NSW Biodiversity Strategy is that *“central to biodiversity conservation is the establishment of a comprehensive, adequate and representative reserve system in conjunction with actions to conserve biodiversity across the entire landscape”*.

The Strategy also sets out a clear goal for western and central NSW, in recognition of the extreme level of threat which they face, which involves expanding protected area systems through bioregional planning immediately and developing longer-term planning processes concurrently. The specified goals are to:

- *“Expand the protected area system in NSW, targeting central and western NSW as they contain ecological features currently poorly represented in the reserve system, as part of the ongoing development of a comprehensive, adequate and representative reserve system”*.
- *“This will include the establishment of new parks and reserves as well as additions to existing parks. The emphasis will be on priority bioregions and targeting poorly conserved ecosystems which are most under threat of serious decline”*.
- *“Existing and proposed bioregional assessments will provide the fundamental mechanism for establishing the priorities for expansion of the reserve system.*

#### Intergovernmental Agreement on Murray Darling Basin Reform 2008

Preamble, points (2) and (12):

*The parties recognise that the extreme drought has exacerbated the Basin’s environmental stress. Continued low flows and lack of natural flooding to Ramsar and other important environmental sites, including the Lower Lakes, Coorong, the Murray Mouth and the Murray Red Gum Forests, are resulting in serious environmental degradation.*

*The Basin Plan will, among other things, seek to improve the environmental health of all Ramsar and other key environmental sites in the Basin and secure important environmental outcomes, such as increasing environmental flows, healthier wetlands, and protection of floodplain areas and River Red Gums.*

#### Caring for Our Country Program 2008

Red Gum forests meet the criteria for four of the six national priority areas;

*Biodiversity and Natural Icons* – Red Gum forests contain nationally threatened species habitats and the two largest stands are recognised as Significant Ecological Assets

*A National Reserve System* – The Riverina bioregion is a national high priority for new reserves (NRMCC 2005, NLWRA 2002, WWF 2008)

*Critical Aquatic Habitats* – Red Gum forests are internationally significant wetlands on both the Ramsar list and the Directory of Important Wetlands of Australia

*Community Skills, Knowledge and Engagement* – Red Gum forests have outstanding and well-recognised cultural significance and contemporary cultural importance to Indigenous nations.

#### National Biodiversity and Climate Change Action Plan 2004-2007

Strategy 3.3 is to “*maximise the resilience of inland aquatic and semi-aquatic ecosystems to manage the impacts of changes in catchment hydrology resulting from climate change.*”

Strategy 3.4 commits to “*Reviewing reserve acquisitions to strengthen the capacity of the reserve system to act as refuges for vulnerable inland aquatic and semi-aquatic species and communities and to encompass bioclimatic gradients*”

#### Federal Labor Indigenous Economic Development Strategy 2007

Includes commitments to employ up to an additional 300 Indigenous rangers on Indigenous lands, to expand the successful Indigenous Protected Areas program, and to develop an Indigenous emissions trading program, all of which may be applicable to Indigenous outcomes from a Red Gum reserve process.

#### Directions for the National Reserve System 2005

Requires the development of a Comprehensive, Adequate and Representative reserve system sought first from public lands. Recognises the Riverina bioregion as a nationally high priority region for the creation of new reserves (only 3.1% of bioregion protected) as does the *Australian Terrestrial Biodiversity Assessment* (NLWRA 2002) and *Building Nature's Safety Net* (WWF 2008).

#### Intergovernmental Agreement on the National Water Initiative 2004

The Parties' water management framework stated that they will “*identify and acknowledge surface and ground water systems of high conservation values, and manage these systems to protect and enhance those values*” (s25x).

#### The Living Murray Initiative 2002

Barmah-Millewa and Koondrook-Perricoota-Gunbower Red Gum State Forests are recognized as Significant Ecological Assets under The Living Murray

Initiative, and TLM Business Plan commits to traditional owner involvement in management of icon sites.

The science behind the Living Murray First Step decision is clear in its advice on the importance complementary terrestrial management. It states:

*'the health of the River Murray system has been impacted by many factors other than changed flow regime. These include...desnagging, bank erosion, over-grazing of the floodplain and wetland vegetation, logging of forests, construction of levees.... The full benefits that can potentially be derived from a recovery in water for the environment cannot be realised unless these other impacts are also addressed. (MDBC 2004).*

The Murray Darling Basin Commission acknowledges that improved land management of Icon sites, such as new national parks, will improve ecological outcomes from environmental watering of icon sites. In its submission to the Victorian Environmental Assessment Council draft reserve proposals for River Red Gum wetland forest in Victoria, the MDBC states, *'It is reasonable to expect that some of the proposed changes may increase the chances of meeting the ecological objectives at Victorian icon sites. Whilst the focus of The Living Murray has been watering and works to deliver water to sites it is widely acknowledged that many complementary management activities will be required to secure the health of these sites.'*

#### Environment Protection and Biodiversity Conservation Act 1999

Activities in Red Gum forests trigger the *Environment Protection and Biodiversity Conservation Act 1999* because they contain Ramsar listed wetlands and harbour nationally threatened species and migratory birds that are listed under the CAMBA/JAMBA conventions.

#### NSW National Parks Establishment Plan 2008

*"The following factors will be considered in assessing the adequacy of the reserve system in each sub-region:*

- JANIS targets (Commonwealth of Australia 1997)*
- the extent and distribution of remaining native vegetation in each sub-bioregion*
- the area of each sub-bioregion already reserved*
- the level of representativeness of current public reserves in each sub-bioregion*
- the configuration and placement in the landscape of existing public reserves*
- the likely impact of climate change on the resilience of the reserve system*
- the nature of surrounding land uses".*

*"...the following poorly reserved environments will receive high priority for better protection within reserves over the next decade:*

- riverine forest communities of the lower Murray, Murrumbidgee, Lachlan and Darling rivers*
- important existing and future climate change refuges".*

*"Priorities for protection in the next 10 years will include:*

- *icon wetlands in western NSW along the upper Darling and its tributaries, the Murray and Murrumbidgee rivers, and on the tablelands, coastal floodplains and estuaries”*

### **Data Collection and Availability**

The mapping of ecosystems or surrogates for biodiversity is crucial. However, there is currently no vegetation map available for the region, and it is not possible to derive an accurate extant and pre-1750 vegetation map in the timeframes. Therefore, we propose that Mitchell landscapes are used as a primary biodiversity surrogate, to which quantitative targets are applied, in lieu of vegetation mapping. Finer scale vegetation mapping, where it is available, may be used to assess other criteria or as a complement, but given its lack of readiness and reliability it should not be used as the primary and only surrogate.

A list of regionally significant species should be prepared for the region. The schema used for determining conservation significance that was used during the coastal Regional Forest Assessments should be applied. It requires all species to be assessed and categorised according to whether they are: Presumed Extinct, Endangered, Vulnerable, Potentially Threatened, Rare, Uncommon, Declining Regionally, Poorly Known, Regionally Endemic, Regionally Uncommon, or Disjunct Distribution or at the Edge of their Range. Notably, the JANIS criteria require that reserves should be large enough to maintain the viability, quality and integrity of populations, and the emphasis should be on ensuring such a result for threatened and regionally significant species as a priority.

An expert panel should be convened to objectively address all elements of the conservation criteria for which existing data is not available. In particular, such a panel should identify priority areas for adaptation to climate change, including the identification of refugia, corridors, and species likely to be impacted and their habitats. It should also identify other important habitats specified in various conservation criteria, including areas of high species diversity as well as an expert based map of water stress and/or future water availability.

The Environmental Impact Statement released by Forests NSW in June contained some data, but it should only be used with the greatest caution. Many of the techniques used were flawed and much of the analysis was incorrect or inappropriate. The Natural Resources Commission should take care when using this data, and should only make use of the raw data from which it can draw its own conclusions. However, it is important to audit the data and check that the data is valid and only use that which is found to be so.

There have been many inflated claims made by the logging industry and a few politicians about the number of jobs engaged in the Red Gum timber industry. However, the hard data about the number of jobs is scanty. The EIS relied entirely on self-reporting by the timber industry and Forests NSW and it did not provide credible estimates. The outcomes of the VEAC process have shown that the predictions of the timber industry with regards to jobs were dramatically inflated. In fact, whilst the industry suggested that ‘hundreds’ of jobs were at stake, in fact only 32 workers have applied for a redundancy. Similar exaggeration has been applied to the value of the industry to the regional economy. It is important that independent and accurate data is collected to inform the assessment.

In all previous regional assessments, the NSW Government has provided all of the data, including the wood resources model (FRAMES), to the community as part of its commitment to an open and transparent decision-making process. We request that the same process is conducted as part of this assessment, and that all data

products, including the wood model, is provided to stakeholders when they become available. Failure to provide such information will inevitably lead to disputes and questions about the process and may lead to a biased result.

### **Federal Legislative Requirements**

The Terms of Reference should be more specific with regards to how the requirements of the EPBC Act 1999 will be met. It needs to clearly set out what process is going to be used to meet those requirements – ie will the regional assessment qualify as a strategic assessment under the EPBC Act, or will some other mechanism be used. Such an important component of the assessment should not be left unresolved at the outset.

Following on from that, the Federal Government should be given a clear and formal role in approving the outcomes of the assessment (both on and off-reserve) in order for that assessment to meet its requirements. The Terms of Reference should clearly state that the Federal Government will have such a role.

### **Traditional Owner Engagement**

We believe that the Terms of Reference should be stronger with regard to indigenous Traditional Owners. Rather than merely identifying ‘opportunities for indigenous involvement in forest management’ it should require consultation on the aspirations of indigenous Traditional Owners for the future tenure and management regimes on all public lands in the region. It should commit to engage Traditional Owners on an informed consent basis. The process also needs to clearly address state, national and international policies relating to land justice for Traditional Owners, including the United Nations Declaration on the Rights of Indigenous Peoples.

River red gum forests are the ancestral domain of Indigenous Traditional Owners who maintain strong connections with their Country and its resources. In the Riverina, red gum-dominated state forests are often of high significance to Traditional Owners both because they are accessible and because as islands of remnant vegetation they retain natural resources and features of the cultural landscape that have elsewhere been destroyed.

New red gum protected areas should be established with the informed consent of Indigenous Traditional Owners and where they desire, their involvement in the management must be maximised through the use of joint management agreements or similar arrangements. A number of International agreements and standards either mandate this approach or recognise it as best practice, and it is inline with the Commonwealth and State policies.

Indigenous involvement in the management of red gum protected areas will enhance social economic and environmental outcomes of these areas by:

- ensuring that biodiversity conservation strategies incorporate traditional knowledge;
- promoting reconciliation and fostering greater understanding and respect for local Indigenous cultures in the community;
- delivering socio-economic outcomes to local Indigenous communities

A 2006 Australian Government review of the Indigenous Protected Areas Programme found that the programme’s involvement of Indigenous communities in conservation activities had delivered “considerable social and cultural outcomes,” including improved economic participation and development benefits; early childhood

development benefits; improved early school engagement; reduction of substance abuse; and reinforced family and community structures.

### International Policies and Agreements

Through a range of policies and standards, the IUCN recognise the need for protected areas to be compatible with Indigenous rights to use and access land, and be involved in decision-making. In 2003 the *Vth IUCN World Parks Congress* developed the Durban Action Plan, a “checklist of the activities needed to increase the benefits of protected areas to society and to improve their coverage and management.” Of its fifteen *main targets*, three were directed at meeting this need:

1. *All existing and future protected areas are established and managed in full compliance with the rights of indigenous peoples, including mobile indigenous peoples, and local communities by the time of the next IUCN World Parks Congress*
2. *The management of all relevant protected areas involves representatives chosen by indigenous peoples, including mobile indigenous peoples, and local communities proportionate to their rights and interests, by the time of the next IUCN World Parks Congress, and*
3. *Participatory mechanisms for the restitution of indigenous peoples’ traditional lands and territories that were incorporated in protected areas without their free and informed consent are established and implemented by the time of the next IUCN World Parks Congress*

In 1999, the Conference of Contracting Parties to the *Ramsar Convention* called upon contracting parties to encourage ‘active and informed participation, and the assumption of responsibility, by local communities and indigenous people in the management of Ramsar-listed sites’ in adopting the *Guidelines for establishing and strengthening local communities’ and indigenous people’s participation in the management of wetlands*.<sup>1</sup> The Guidelines now form a major part of the *Ramsar Strategic Plan 2003-2008*.

A range of other International treaties and agreements reinforce the need to protect Indigenous rights to land and natural resources, including:

- *UN Declaration on the Rights of Indigenous Peoples (2007)*
- *UN Convention on Biological Diversity (1992)*, (esp. articles 8(j) and 10(c))
- *UN International Covenant on Civil and Political Rights (1966)*, (esp Article 27)
- *International Labour Organisation Convention 169*

### National Obligations

#### a) *EPBC Act*

Objects of the Act include:

- to promote a co-operative approach to the protection and management of the environment involving governments, the community, land-holders and indigenous peoples
- to recognise the role of indigenous people in the conservation and ecologically sustainable use of Australia’s biodiversity;
- to promote the use of indigenous peoples’ knowledge of biodiversity with the involvement of, and in co-operation with, the owners of the knowledge.

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<sup>1</sup> 7th Meeting of the Conference of the Contracting Parties to the Convention on Wetlands (Ramsar, Iran, 1971), San José, Costa Rica, 10-18 May 1999. Resolution VII.8

b) Caring for Our Country initiative

One objective of the Commonwealth's new *Caring for Our Country* initiative is to expand the Indigenous Protected Area network. In the Murray-Darling, where the majority of land is alienated and thus unavailable for land claims, the best way to meet this objective will be through the creation of jointly-managed protected areas on public land. The Commonwealth can facilitate this by releasing funds to the states under the Indigenous Protected Areas – Co-Management program.

c) Murray-Darling Basin Authority

The then MDBC signed an MoU with the Murray Lower Darling Rivers Indigenous Nations to "promote the meaningful involvement and engagement of, the Indigenous nations in the natural resource management of the Murray and Darling River valleys."<sup>2</sup> A key outcome of this relationship has been the *Living Murray – Indigenous Partnership Program* to ensure Indigenous input into the management of *Living Murray Icon Sites* (Significant Ecological Assets), including the red gum forests of Barmah-Millewa and Gunbower-Koondrook-Pericoota. The creation of jointly managed national parks would enhance the ability of the *Living Murray – Indigenous Partnership Program* to deliver its objectives.

**Water**

We strongly support the inclusion in the terms of reference of water management and the impacts of climate change on future water availability. It is important that the outcome of the assessment is a strong commitment to the recovery of healthy River Red Gum ecosystems long into the future, and that this is pursued through much increased allocations of environmental water which are allocated to key River Red Gum reserves.

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<sup>2</sup> Memorandum of Understanding between Murray Lower Darling Rivers Indigenous Nations and Murray-Darling Basin Commission, March 2006.