



**22 June 2018**

## **AgForce Queensland Farmers Ltd Submission**

**EPBC Act Review**





## AgForce Queensland Farmers Limited

ABN 57 611 736 700

Second Floor, 110 Mary Street, Brisbane, Qld, 4000  
PO Box 13186, North Bank Plaza, cnr Ann & George Sts, Brisbane Qld 4003

Ph: (07) 3236 3100  
Fax: (07) 3236 3077  
Email: [agforce@agforceqld.org.au](mailto:agforce@agforceqld.org.au)  
Web: [www.agforceqld.org.au](http://www.agforceqld.org.au)

MG/GL/GG071

25 June 2018

Dr Wendy Craik  
Agriculture Review (Aither)  
Level 2, 45 Exhibition St  
Melbourne  
VIC 3000

By Email: [agreview@aither.com.au](mailto:agreview@aither.com.au)

Dear Dr Craik

Further to verbal submissions made by Dr Greg Leach (Senior Policy Officer, AgForce), Paul Ryan (AgForce member) and your contact with other suggested AgForce members, we appreciate the opportunity to provide a written submission to the Department of Environment's (DoE's) *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) review.

AgForce Queensland Farmers (AgForce) is the peak rural group representing beef, sheep & wool and grain producers in Queensland. The broadacre beef, sheep and grains industries in Queensland generated around \$6.8 billion in gross farm-gate value of production in 2015-16. AgForce exists to facilitate the long-term growth, viability, competitiveness and profitability of these industries. The producers who support AgForce provide high-quality food and fibre to Australian and overseas consumers, manage around 40% of the Queensland agricultural landscape and contribute significantly to the social fabric of rural and remote communities.

Broadacre agriculture in Queensland is affected by over 75 Acts and regulations, covering over 17,500 pages at a state level alone. This cumulative burden is exacerbated by the interaction with other regulation at federal and local government levels and adds to the overall drag on small business productivity and profitability. The Productivity Commission in its review of the Regulation of Australian Agriculture<sup>1</sup> recommended fundamental change in native vegetation and biodiversity conservation regulation, including considering economic and social factors. The Commission's 2004 report<sup>2</sup> contained a detailed list of impacts to landholders of the regulation to native vegetation, including flow on effects to regional communities. These impacts included;

- Negative impacts on farm practices and returns
- Restricting available land
- Cost of management of vegetation
- Impacts on property values
- Investment patterns and financier attitudes

<sup>1</sup> <https://www.pc.gov.au/inquiries/completed/agriculture>

<sup>2</sup> [http://www.pc.gov.au/data/assets/pdf\\_file/0005/49235/nativevegetation.pdf](http://www.pc.gov.au/data/assets/pdf_file/0005/49235/nativevegetation.pdf)

- Compliance costs
- Breakdown in landholders' trust in dealing with government.

This need for streamlining and reducing the burden of regulation is a key reason for AgForce's strong support for this review and our expectation that significant reform will be its result. Lifting productivity whilst concurrently strengthening environmental and biodiversity outcomes driven by good science and on farm practice change is in AgForce's view critical to the industry, Australian landscape and regional and rural communities.

AgForce has been participating as a key contributor of AgForce member issues to the National Farmers Federation (NFF) submission for the EPBC Act review. We would refer the review committee to that submission for a broader perspective of nationally-significant EPBC Act issues. In principle, we generally endorse the NFF recommendations.

Additional issues to report, specific to the Queensland context, relate to the issues of:

1. Poor landholder awareness of the Act and their obligations
2. The complex interrelationship between Federal, State and Local Government legislation
3. Confusion about referral requirements
4. Indecisive responses and recommendations when engaging with DoE staff about EPBC Act
5. Heavy handed conduct in compliance actions
6. The proposal of a new paradigm for ecosystem preservation, as outlined by the NFF in the joint industry submission.

AgForce members have consistently indicated through surveys and direct contact, their concerns in relation to their limited awareness and understanding of the EPBC Act and their compliance requirements. Investment is required in improved extension, education and capacity building to improve landholder understanding of the EPBC Act. It would be more effective and efficient if this awareness building could be conducted through the same or similar channels to awareness building efforts by the Queensland State Government in relation to recent changes to the Vegetation Management Act (VMA)<sup>3</sup> as well as their protected plants framework under the *Nature Conservation Act 1992*<sup>4</sup>.

In Queensland particularly, there is considerable concern about government overreach through federal, state and local government controls over vegetation and ecosystem management on rural properties. In 2016, there was a primary example of confusion between the federal EPBC Act and the State VMA. In Queensland a High Value Agriculture (HVA)/Irrigated High Value Agriculture (IHVA) instrument had been included within the VMA from 2013 and several landholders had applied for and received approval for clearing for property development. With a change of State government in late 2015, many of these properties were referred by the incoming administration to former Environment Minister Greg Hunt with a request to instigate compliance investigations and actions under the EPBC Act. This created significant concern and stress for over 60 landholders who were caught up in the subsequent compliance action, many with little understanding of what the breach was or how they were implicated.

A major issue our members have expressed is confusion around the requirements to self-refer when they may be undertaking a controlled action or having impacts on matters of national significance. Improved extension, education and capacity building may assist to address this as previously highlighted. As an illustration of the confusion between federal and state government legislation introduced in the preceding paragraph, landholder contact with Queensland Department of Natural Resources, Mines & Energy (DNRME) when preparing applications for HVA/IHVA permits, saw different State Government staff verbally advise that the applicant had *no need to refer* to DoE and

<sup>3</sup> <https://www.dnrme.qld.gov.au/land-water/initiatives/vegetation-management-laws>

<sup>4</sup> <https://www.legislation.qld.gov.au/view/html/inforce/current/act-1992-020>



the EPBC Act. It appeared that the state government staff had very little understanding of the EPBC Act. The issue of referral was further complicated on one property when EPBC staff from Canberra, who visited the property on two separate occasions, chose not to give indication to the landholder as to why he should refer and would not answer questions about which part of the property or which animals or plants were in question. The landholder understood that while he was not obliged to self-refer, the DoE staff were asking him to do so without providing reasoned advice as to why. In the landholder's words:

*"This has resulted in a Mexican standoff with neither party making any move to resolve the situation – progress on development has halted and investor confidence has evaporated."*

The indecisiveness of DoE staff engagement and interactions with landholders in relation to responses, advice and recommendations on EPBC Act matters has been problematic for AgForce members, including holding up property development and management and reducing investor and bank confidence in projects. One AgForce member conveyed that:

*"The staff are OK to deal with, but we always feel there is an agenda there. In negotiations when I communicated with staff in Canberra, I offered to remove one half of the project, but they said no. I asked them to mark on the map the areas they are concerned about and they would not do it. Reports from consultants employed by DoE to provide evidence on matters of interest were poor, lacking in scientific rigor and inconclusive. The project seemed to be stalled or used as a political pawn between the federal and state governments – this has resulted in my investment partner withdrawing due to project uncertainty. Nothing is definitive – in the last meeting I was told that it could take from six to twelve months for the DoE to conduct investigations, with further time required for determining whether the project will constitute an action that has or will have a significant impact on a matter of national environmental significance."*

Other AgForce members have questioned whether agriculture needs to be included as a relevant 'action' in the EPBC Act alongside others such as building infrastructure or facilities, industrial processes, mineral and petroleum resource exploration and extraction, storage or transport of hazardous materials, or waste disposal.

In relation to the compliance actions, several landholders, as well as their associated consultants who had assisted in their HVA/IHVA application process, were heavily scrutinized by a departmental EPBC Act compliance team who flew to Queensland to meet with parties involved in possible or alleged breaches. The conduct of officers in this compliance team was brought to AgForce's attention on many occasions, particularly regarding interactions with the consultants. Feedback from landholders and consultants included concerns about breaching of confidentiality, conducting property inspections when targeting of producers who hired particular consultants, allegations of leaked landholder information to radio broadcasters and hiring of experts whose advice has been questioned by landholders with on-ground knowledge.

The longer-term outcomes from this process have included formal complaints which involved contact by aggrieved consultants, landholders and other parties (such as Greg Leach) by David Macgill with CPM Reviews, the company employed by the department to help respond to complaints. We respect that these complaints have been dealt with using accepted processes however, AgForce would like to see safeguards put in place so that such compliance enforcement conduct issues will not be a feature of future EPBC Act compliance actions.

The new paradigm on ecosystems services covered in the joint NFF submission deserves special mention in relation to Queensland. The instigation of the \$500 million Land Restoration Fund (LRF) by the Queensland Government places this State in an ideal position for trialing and implementing governance systems, value attribution mechanisms and market facilitation for ecosystem stewardship payments to landholders. AgForce is intending to work as a contributor within government, industry

and community networks in the rollout of the LRF program and contribute to further development in the ecosystem services payment paradigm nationally.

AgForce is strongly supportive of the instigation of this EPBC review and appreciates the opportunity to provide additional comments.

For any additional advice on the contents of this submission please contact Dr Greg Leach, Senior Policy Officer on (07) 3236 3100 or via email: [leachg@agforceqld.org.au](mailto:leachg@agforceqld.org.au).

Yours sincerely,

A handwritten signature in black ink, appearing to read 'MG', with a long horizontal flourish extending to the right.

Michael Guerin  
Chief Executive Officer