

Review of the interaction between the *Environment Protection and Biodiversity Conservation Act 1999* and agriculture and food production

This submission from the Threatened Species Scientific Committee (TSSC) supplements the personal submission from the Chair of the Committee, Helene Marsh, and should be read in conjunction with the Marsh submission.

This submission refers to a subset of the Terms of Reference as outlined below.

- 3) **Outline options to improve how the agriculture and food production sector is regulated under the EPBC Act and reduce the regulatory burden faced by farmers and applicants, including but not limited to:**
- a. Making recommendations in relation to environmental referrals, assessment and approval requirements, and **listing and delisting processes for species and ecological communities under the EPBC Act**

Comment:

As required by the EPBC Act, the TSSC makes scientific recommendations to the Minister with regard to the listing and delisting of species and ecological communities under the Act. The Act is prescriptive about the categories and criteria to be used and the Committee adheres to these requirements in their assessments using a rigorous, scientific, evidentiary approach.

Listing and delisting processes for species

The EPBC categories and criteria for species are very similar (but not identical) to those developed by the International Union for the Conservation of Nature (IUCN), the accepted best practice international standard. Thus the approach prescribed by the EPBC Act enables robust international comparisons across countries and over time. The Committee considers that it is very important that this capacity for the Australian situation to be monitored in an international context is maintained.

The Intergovernmental Memorandum of Understanding, which has now been signed by the Commonwealth and most of the states (Common Assessment Method MoU), is gradually leading to harmonisation of listing categories and criteria based on IUCN standards across the Australian jurisdictions as a necessary pre-cursor to a consistent scientific approach to the assessment and listing of nationally threatened species across these jurisdictions. Thus the legislative changes required for the implementation of the CAM are leading to the adoption of best practice listing and delisting processes for species across all Australian jurisdictions.

The legislative modifications to the EPBC Act required to fully align the process for listing and delisting species with the IUCN standards are relatively minor and should be introduced when the Act is revised. Such revision would reduce stakeholder confusion about threatened species listing because the IUCN listing and the Australian listing should then be the same for Australian endemics and the federal and state listings should also be similar.

The CAM reforms are also cost effective because they:

- remove double (or even triple) assessment processes, and thus reduces the regulatory burden for agriculture and other sectors of the community;
- enable IUCN processes to be used to inform Australian listings by taking account of the work done by expert groups to undertake status review assessments of a particular taxon or group of species for IUCN e.g. recent assessments of Australian birds, mammals and reptiles.

Listing and delisting processes for ecological communities

The CAM MOU can also include ecological communities but currently only NSW and the ACT have signed onto this aspect. Both those jurisdictions recently updated their legislation regarding ecological communities and NSW has already adopted the IUCN standard for listing ecological communities in legislation. Other jurisdictions (including the Commonwealth) require legislative change to comply with the IUCN best practice standards and adopt the CAM for ecological communities.

The TSSC recommends that the EPBC Act be amended so that the processes of listing and delisting of species and ecological communities align with the IUCN best practice standards to reduce the regulatory burden faced by farmers and other applicants seeking environmental referrals, assessments and approvals. The Committee considers that it would be important to retain the category of Conservation Dependent¹ to enable the conservation management of commercially harvested fish that are eligible for listing as threatened. The Committee considers that the best opportunity for statutory change will be as part of the comprehensive and coordinated changes that are likely occur as a result of the regular decadal review cycle for the EPBC Act, which comes up by October 2019.

b. Identify opportunities for harmonisation between the EPBC Act and each state and territories' native vegetation management regimes.

As noted above, the CAM MoU has opt-in clauses to promote harmonisation of listing methods for ecological communities, most of which reflect vegetation types. The continuing use provisions of the EPBC Act mean that listed ecological communities typically have no negative impact on the day-to-day operations of the agricultural sector. However, the Committee appreciates that some in the agricultural sector find it difficult to disentangle their concerns about the perceived impacts of the EPBC Act from their concerns about the perceived impacts of state legislation. This situation has likely been exacerbated by the withdrawal of funding for a joint position between the Environment and Energy Department and the National Farmers' Federation (NFF) several years ago.

The TSSC suggests that an Intergovernmental MOU could be used to enable increased collaboration between the federal and state governments (and the NFF) with respect to extension for the agricultural sector. This approach could help stakeholders differentiate the EPBC Act's requirements with those resulting from state legislation. Explaining these complexities could also form part of an expanded role for the Threatened Species Commissioner's Office. This approach could also explain how listing species and ecological communities can improve access to Commonwealth natural resource management funding to address threats that impact on both threatened biodiversity and agriculture.

4) In making recommendations and advising on new initiatives, take into account the objects of the EPBC Act.

The Committee is planning a suite of expert workshops designed to inform the upcoming review of the EPBC Act.

The proposed expert workshops include:

1. A workshop to explore how listed species, ecological communities and other biota of conservation concern could be recovered effectively and efficiently through coordinated planning and management at ecologically relevant (regional) scales:
 - a) in the current statutory framework

¹ IUCN no longer uses the category of Conservation Dependent

b) with suggested changes to the statutory framework.

The workshop will consider the advantages, disadvantages and opportunities of such an approach in the context of:

- Minimizing the risk of extinction of native species and ecological communities
- Promoting the recovery of native species and ecological communities of conservation concern
- Defining, selecting and prioritizing management units
- Ensuring that public funds are spent cost effectively on conservation and recovery in the context of adaptive management and monitoring
- Leveraging off current investments in threats to Agriculture, Water Resources, Biosecurity.
- Engaging the local community in recovery efforts
- How such an approach could be delivered under the present EBPC Act and its regulations and whether the approach would be enhanced by an agreement (e.g. MoU) with the states
- How such an approach could be facilitated by changes to the EBPC Act and its regulations.

2. A workshop to explore: (1) the opportunities provided by synergies between threats to biodiversity and threats to Agriculture, Water Resources, and Biosecurity, and (2) the development of better coordination with the organisations working on these problems by considering:

- Synergies and overlaps between organisations working on threats to biodiversity with organisations working on threats to Agriculture, Water Resources, and Biosecurity
- The advantages of partnering with stakeholders and organisations with the relevant knowledge and common interests in threat abatement
- A process of prioritising Key Threatening Processes (KTPS) and Threat Abatement Plans (TAPs)
- Changes to the EPBC Act that would facilitate and enhance the effectiveness of KTPs and TAPs
- New ways of abating threats (potentially supported by new legislation).

The Terms of Reference for these proposed workshops will be finalised at the Committee's next meeting in early September with a view to holding them as soon as possible in association with our scheduled meetings.

Please contact me if you have further queries about this submission.

Helene Marsh
Chair Threatened Species Scientific Committee
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